

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

in each case and in accordance with the rules and regulations made by the department. This aid shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health, but not exceeding \$40 per month."

In this case I rule the same as I did in the Old Age Assistance case, that the income should not be deducted from the maximum grant in arriving at the amount of relief that each person should receive under this statute.

RALPH W. FARRIS
Attorney General

October 7, 1947

To Hon. Horace Hildreth, Governor of Maine
Re: Letter, Col. Loring F. Stetson, Jr., to Governor Hildreth regarding personnel stationed at Dow Field—hunting licenses

To clarify the situation for the colonel, I think the section of the law applicable would be helpful. Section 58, subsection V, of the Inland Fish and Game Laws, is as follows:

"V. Any citizen of the United States shall be eligible for any resident (fishing or hunting) license required under the provisions of this chapter, providing such person is domiciled in Maine with the intention to reside here, and who has resided in this state during the 3 months next prior to the date an application is filed for any license under the provisions of this chapter."

As used in this statute, domicile with the intention to reside here would be the same as that required in order to be eligible to vote here, except that in the latter case six months must elapse after the domicile is established, while here it is three months. "Domicile" has been defined to mean that place where a person has his fixed habitation with the intention to make it his permanent home. To constitute a permanent residence, the intention must be to remain for an indefinite period.

Applying these principles generally you have a situation where these men are stationed at this airfield in Bangor, which would not be a residence of their choice, but rather selected by the military authorities as the place where they are to be stationed. They come from different parts of the country, where presumably they have their domiciles and intend to return to their domiciles of origin just as soon as their terms of service in the Air Corps expire; or if they are regulars, then wherever they may be transferred. It is thus doubtful whether any of the personnel has formed an intention to remain permanently in Maine. Assuming that there may be some . . . who are married and residing with their families in the city of Bangor or off the government reservation, it is true that the latter may abandon their former domicile and establish a domicile here, by intending to make this their permanent domicile and with the intent to return here, irrespective of where they may be transferred. As to this phase, each case would have to be examined and decided on its own facts.

The problem is purely one for the legislature. It is not for the Governor, or for this department, as we do not legislate. We apply the law as we find it. Thus, by Section 32, subsection II, all employees of the Veterans Administration Facility were classified as residents of the State for the purposes of obtaining fishing licenses; and then later, by amendment in 1947, the area was limited to within five miles of Togus; but the legislature has not provided for military personnel located at government reservations, and hence they must be considered as non-residents, excepting, of course, those who are residents of the State.

ABRAHAM BREITBARD
Deputy Attorney General

October 14, 1947

To Lucius D. Barrows, Chief Engineer, State Highway Commission

I have your letter of October 6th in which you say that the Highway Commission is uncertain as to the interpretation of Section 3 of Chapter 329, P. L. 1947, known as the Town Road Improvement Fund Act. You state that the particular provision upon which an opinion is requested reads as follows: "provided, however, that the above limitation shall not apply to the \$200 referred to in section 42-B." You further state that the Commission assumes that this \$200 can be spent upon improved roads, but in what manner?

"(1) Is the \$200 still subject to the purposes and limitations described in section 2? (Several municipal officers have inquired if it may be spent for gravel stumpage on state aid roads or town roads)."

In answer to question (1) I will say that the \$200 mentioned in Section 3 of the 1947 Act would be subject to the purposes and limitations described in Section 2. Section 2 provides that the various towns shall furnish all local road material, including rocks, sand, gravel, etc. I note that the legislature struck out the authority of the State Highway Commission to allocate money for stabilizing with tar or other material.

"(2) For what purpose may the \$200 be used where the only road is all improved and is being maintained by the Highway Commission?"

My answer to No. 2 is that the \$200 cannot be used in a township where the roads are all improved and being maintained by the State Highway Commission.

"(a) May it be spent for additional maintenance work by the municipal officers or the Highway Commission?"

My answer is, No.

"(b) May it be used as a part of the town's share of the cost of maintenance? (Towns contribute to the state \$70 per mile for maintenance of improved state highways and \$40 per mile for improved state aid highways)."

My answer to subsection (b) is, No.

"(c) Or should it be rescinded in these cases?"