

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

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?"

Answer, Yes. Under Section 4 of Chapter 329, P. L. 1947, a new section is numbered 42-F, and under subdivision III thereof all improved sections of federal, state, state aid, third class and so-called Resolve highways are excepted from the definition.

RALPH W. FARRIS
Attorney General

October 20, 1947

To Hon. Horace Hildreth, Governor

I have been requested by the Chief Warden of the Inland Fisheries and Game Department to advise you whether under our statutes the power is vested in any one to extend the open season in view of the closing of the woods to hunting on account of the long and continuous dry spell which we are now experiencing.

The statutes are very specific in the provisions fixing the periods during which game may be hunted by setting forth the opening and closing days, or by providing for an open season during a specific period and declaring all other time as closed season.

No provision, however, is made to meet a situation when on account of the great fire hazard due to lack of rain, hunting is banned until the danger no longer exists. Nor is anyone vested with the power to change, modify or extend the time for hunting.

While the Governor, by the Public Laws of 1945, Chapter 344, the title of which is AN ACT Relating to the Prevention of Forest Fires, is authorized by proclamation to suspend the open season for hunting and fishing or to prohibit smoking and building fires out of doors in the woods, and to "annul" the suspension when the fire hazard has been eliminated, there is nothing in this act which either expressly or by implication authorizes the Governor to continue the right to hunt during the closed season for the number of days the suspension is operative.

I must, therefore, advise you that the open season for hunting the various types of game cannot be extended beyond the dates specifically fixed in each case by the provisions of the Inland Fish and Game Laws.

I think perhaps that this is a matter that may be referred to the Legislative Research Committee, to study the present legislation and see if the same should not be modified to meet a situation such as now confronts us.

ABRAHAM BREITBARD
Deputy Attorney General

October 31, 1947

To Major Joseph F. Young, Jr., Deputy Chief, Maine State Police

Receipt is acknowledged of your memo of October 15th, wherein you ask this department to advise with regard to Section 116 of Chapter 19 of the motor vehicle laws, as amended by the Public Laws of 1947, Chapter 320. Your inquiry is whether a car may have more than one spotlight, or whether it is limited to one. Doubt has arisen because of the wording of the law, which is: