

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

November 5, 1947

To W. Earle Bradbury, Deputy Commissioner Inland Fisheries and Game
Re: Fines and Fees

Your memorandum of October 30th has been received. You inquire whether, under Chapter 33 of the Revised Statutes of 1944, Section 110, which provides that all fees, penalties, officers' costs, and other moneys paid in to the court for violation of the provisions of that chapter (Inland Fisheries and Game Laws) shall accrue to the Treasurer of State, these fees, etc., are payable to the State when the arresting officer is a county sheriff or his deputy or a town constable.

The provision of law, you will notice, is that all fees, costs, etc., shall accrue to the Treasurer of State, for a violation of the provisions of that chapter. It does not then matter whether the offense is prosecuted by officers other than game wardens. Under Section 19 of the Act, sheriffs and their deputies, police officers, and constables are vested with the same powers as game wardens and are entitled to the same fees. The only difference is that in the case of a warden, while the fees are taxed, they are payable to the department, while in the case of a deputy sheriff or constable, he would be entitled to the fees, and the fine or penalty is to be paid by the county treasurer, who receives the same in the first instance, to the Treasurer of State, to be credited to the Department of Inland Fisheries and Game.

ABRAHAM BREITBARD
Deputy Attorney General

November 13, 1947

To Col. Laurence C. Upton, Chief, Maine State Police
Re: Turnpike Authority

The department acknowledges receipt of your memorandum of November 12th relative to the turnpike constructed by the Maine Turnpike Authority, which will soon be opened to public travel between Portland and Kittery.

In your memo you ask: "In order that proper instructions may be issued to our men, will you be kind enough to give us your opinion on the following:

"1. Will the Maine Turnpike be considered a 'public way' as defined in Sec. 1 of Chapter 19 of the Revised Statutes?

"2. If it is not a public way and the general motor vehicle laws do not apply to it, would the State Police have authority to enforce such Rules and Regulations for the governing of the operation of motor vehicles as may be established by the Maine Turnpike Authority?

"3. Will the jurisdiction of the State Police to enforce the general criminal laws be the same on the Turnpike as on other private lands within the State?"

We answer the questions in the order in which they appear.

1. The turnpike road is a public way as defined in Section 1 of Chapter 19 of the Revised Statutes, as it has been established by public authority for

public use. The road is open to every traveler who has the same right to use it, by paying the toll established by the Authority, as he would have to use any other public highway. All provisions of Chapter 19 are applicable to this highway save one exception whereby "The Authority may by regulation prescribe a maximum limitation on the speed of vehicles using said turnpike . . . at any point or place thereon, and . . . to regulate the . . . weight of vehicles admitted to the turnpike." § 11(b), Ch. 69, P. & S. L., 1941. However, unless the Authority does regulate with respect to speed and weight, the provisions of Chapter 19 would be applicable.

2. This has been answered in part by the preceding answer; but in addition the State Police would have authority, if called upon to do so, to enforce such rules and regulations as the Authority may promulgate.

3. The State Police would be authorized under the provisions of law prescribing their powers and duties, to arrest all offenders who violate any criminal law of the State on this highway or who may be fugitives from another State while on this highway.

ABRAHAM BREITBARD
Deputy Attorney General

December 2, 1947

To Honorable Horace Hildreth, Governor of Maine

Re: North Berwick School District

The act creating the North Berwick School District, Chapter 59, P. & S. L. 1947, provided that it shall not take effect unless accepted and approved by a majority vote at a special election to be called or at a regular town meeting not later than three months after the effective date of the act. The act became effective on August 13th and thus acceptance should have been voted on at a town meeting to be held on or before October 13th.

Apparently such a town meeting was held and the act was voted down. Inquiry is now made whether the Governor and Council would have the authority to extend the three-month period. No such authority, of course, exists. The act for all purposes is dead and will have to be re-enacted at another session of the legislature in order to resubmit the same to the inhabitants.

I think I ought to say to you that the criticism made by the inquirer of his inability to obtain the act for any advice thereon has no foundation. The proof of this is that he is the only one who finds himself in that position, whereas of the large number of districts formed—water, sewer, school, and other quasi-municipal corporations—all the others were able to obtain the information so that their meetings were held in due course and their charters acted upon.

Shortly after the legislature adjourned this office had innumerable inquiries from various persons interested in the legislation enacted for the benefit of their towns, and they all received the desired information and any number of conferences were held in this office by attorneys representing various districts, as well as attorneys representing banks to which applications had been made to finance the bonds, etc. That the writer was not diligent is very evident from the fact that although he sponsored the bill, etc., he speaks of the 90-day period. Three months was the time fixed in the bill. There is a difference.

ABRAHAM BREITBARD
Deputy Attorney General