

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

car was traveling parallel to the guard rail and about two feet away from it. Mr. Curtis, the operator of the car, says that he stopped his automobile immediately following the impact and it was brought to rest at a point in the main highway parallel with the iron fence and approximately two feet distant therefrom. His statement to the officers was that he pulled out to the right so far he went into an old iron fence and the front of the car broke through and went over the bank. It is not conceivable that the pipe rail, if it was on the ground lying by the side of the road, could have broken through the windshield of the car and injured the passenger. It is more consistent with the statement in the police report that he broke through the guard rail and went over the bank. It also appears that Curtis's breath smelled of alcohol.

If the observation of the officer is correct, there would seem to be no merit in this claim and no reason why the State should submit itself to a suit based on common law principles.

It also seems to me that if this Honorable Committee should feel inclined to report favorably on the Resolve, there ought to be a limitation of liability as to amount; and I think further that the tribunal to be set up should be a Justice or three Justices, in the latter case, two Supreme Court Justices and one Superior Court, to be assigned by the Chief Justice of the Supreme Judicial Court.

Respectfully submitted,

ABRAHAM BREITBARD
Deputy Attorney General

March 22, 1949

To Ernest H. Johnson, State Tax Assessor
Re: Taxation of Unorganized Territory

I have your memo of March 18th, requesting an opinion on the following question:

"If the state tax on cities and towns is not levied by the legislature, can the legislature nevertheless levy a state tax upon the unorganized areas of the state?"

In my opinion the legislature is so prohibited under the provisions of the Constitution, which provides that all taxes upon real and personal estate, assessed by authority of this state, shall be apportioned and assessed equally, according to the just value thereof.

Under this provision no exception is allowed, whether the land is found within or without any particular subdivision of the State's territory. It is my opinion that the legislature cannot discriminate by not taxing the cities and towns and taxing the unorganized territories. This question was touched upon in Opinion of the Justices, 97 Maine 595, where it related to a difference in the rate of taxation between incorporated and unincorporated territory. The same principle applies in this case.

RALPH W. FARRIS
Attorney General