

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

In handling monies received from the Veterans Administration in this manner, it is considered that the child of a veteran will not be designated as a State ward in the full sense of the word because the child whose father has been a veteran receives the benefit for its care, education and maintenance during minority, and not as accumulation payments to be set aside by the State while the State assumes the entire burden of the child during minority.

RALPH W. FARRIS
Attorney General

April 14, 1949

Hon. Frederick G. Payne, Governor of Maine

I have your memo of April 13th attaching a letter of April 11th received from Mr. Caleb Kimball of Winterport, Maine, relating to the State's right to build a dam on Marsh Stream at West Winterport, to replace an old dam which was destroyed in the flood of 1936.

In reply I wish to advise that under Chapter 115 of the Resolves of 1945, page 976, under sums "To Be Paid From the General Highway Fund," there is this item:

"Marsh River Dam. To aid the town of Winterport and the town of Frankfort in paying a part of the cost of constructing piers or a dam at West Winterport on the Marsh river to protect 3 bridges on said river from damage by ice jams, namely: Tibbetts bridge at West Winterport (a 75-ft. steel bridge on a state aid highway), a 200-ft. cement bridge in Frankfort on Highway #1 and a steel bridge in Frankfort near the mouth of the river; said sum to be expended under the inspection and supervision of the state highway commission."

The sum of \$2500 was appropriated for the fiscal year 1945-46.

Under Section 11 of Chapter 40 of the Revised Statutes every person, firm or corporation before commencing the erection of a dam for the purpose of developing any water power or the creation or improvement of a water storage basin or reservoir must file with the Public Utilities Commission plans of the proposed dam. However, it is my opinion that this provision does not apply to the State Highway Commission in building piers or dams for the protection of the highways and bridges of the State.

I would write Mr. Kimball and tell him that the legislature authorized the building of this dam on Marsh River in 1945 for the protection of these three bridges and that any damage which may accrue to his property therefrom should be taken up with the State Highway Commission, and the Commission will in turn take it up with the two towns. It is my understanding that the Towns of Winterport and Frankfort contributed a part of the cost of construction of this dam for the protection of these bridges.

I wish to call your attention to the location of this dam. When traveling from Belfast to Bangor on Route 1, when you arrive at the town of Frankfort, you make a sharp turn to your right and cross Marsh River bridge. This dam is built near this bridge.

It was called to my attention at the 1945 session of the legislature by the State Highway Commission that when the spring floods came and ice piled up at the site of the old dam and below that site, it overflowed No. 1 highway and washed out considerable of the hard surface and endangered the three bridges mentioned in Chapter 115 of the Resolves of 1945; and that was the reason that the towns of Winterport and Frankfort and the State Highway Commission sought authority from the legislature to construct this dam.

RALPH W. FARRIS
Attorney General

April 14, 1949

To Hon. Frederick G. Payne, Governor of Maine

I have your memo of April 13th, enclosing a letter which you received from Capt. S. E. Peabody of Beals Island, Maine, dated April 11th. You ask me to advise you what should be done about his matter.

He states that transportation between Beals and Jonesport is serviced by a small boat for passengers which will accommodate only fifteen or twenty people at a time and at low tide many times women and children have to climb down over wharves, up over high ladders, or out of the ferry boat into a skiff and walk up through mud to the bank.

Until 1925 Beals was a part of the town of Jonesport. In that year it was set off and incorporated and has since had local government. . .

By way of comment I will say that it has not been the policy of the State to provide ferries for the counties and towns. I remember when the Town of Islesboro was contemplating providing transportation facilities by ferry for passengers and freight they came to the legislature, and the town was authorized and empowered to raise money to provide and maintain such transportation facilities for passengers and freight by boat as may, in the judgment of the municipal authorities, be found necessary for the welfare of the inhabitants of said town.

In view of the fact that the Maine Register of 1948-9 gives the population of Beals as 524 and the estates as \$142,363, it seems to me that the selectmen of Beals and Jonesport should get together and provide transportation facilities for the inhabitants of both towns who commute between said towns.

In order for the towns to raise money for this purpose, they would have to be specially authorized by the legislature. If a bill could be introduced by unanimous consent, the two towns could put in a Private & Special Act authorizing and empowering them to raise money to provide for this transportation across the narrow strip of tide water which lies between them.

I would advise Captain Peabody as to the procedure he might pursue in this regard.

RALPH W. FARRIS
Attorney General