

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

highway fund to be collected during the fiscal year ending June 30, 1952 for matching federal aid apportioned to the State of Maine under the Federal Highway Act of 1948. Then in place of Article I of Chapter 190 of the Private & Special Laws of 1947, the legislature enacted Section 2 of Chapter 208, P&SL 1949, which authorizes the State Highway Commission to match federal funds from the general highway fund surplus with the approval of the Governor and Council, which was not necessary under the 1947 Act.

For this reason I believe that the transfers of money under the 1947 Act followed the intention of the legislature and were legally made from the unappropriated general highway fund surplus account.

RALPH W. FARRIS
Attorney General

May 27, 1949

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

I received your letter of May 12th stating that on October 17th, 1946, a letter was received from Mr. S. advising that he broke the front spring of his car on account of a depression in the floor of the Wiscasset-Edgecomb Bridge. You state that the situation was promptly investigated by R. M. Vickery of your department who reported that the depression was one of the sections where the 1½-inch asphalt plank had broken out. Mr. Vickery called on Mr. S. and no allowance of his claim was made.

You further state that in 1948 Mr. S. took the matter up again and Mr. Wilder advised him that he did not feel that the depression caused by the failure of the asphalt plank justified the allowance of the claim. In January, 1949, Mr. S. reported the matter to Governor Payne and he still feels that he is entitled to payment for this damage.

It is my opinion after having passed over the Wiscasset-Edgecomb bridge several times during the past two years that in order to break a spring in crossing that bridge in any condition that it has been in since October, 1946, a man would have to be exceeding the speed limit. In fact, he would have to be driving very fast for any depression in the flooring of said bridge to cause a front spring of a Ford car to break. It is my opinion that this claim should not be allowed.

I note that there is a speed limit posted on said bridge and that many motorists are passing over the bridge at an excessive rate of speed. If they do so, they are taking their own chances.

RALPH W. FARRIS
Attorney General

May 27, 1949

To Carl L. Treworgy, Secretary, Racing Commission
Re: Chapter 388, P. L. 1949

Your memo of May 19th received, stating that the Commission would like a ruling on the next to the last paragraph of Section 12, which deals with the 8-week night harness racing meets, the question being whether there can be more than one 8-week night racing meet at the same time.

As I stated in my opinion written to the Commission some days ago, the wording of the statute is in the plural number and there can be more than one 8-week night harness racing meet at one time, provided the statutory requirements are complied with.

RALPH W. FARRIS
Attorney General

May 27, 1949

To Charles P. Bradford, Director, Park Commission

I have your memo of May 11th asking for an opinion on Chapter 206, Resolves of 1949, which appropriates \$181,225 for the development and improvement of State Park facilities, to be expended under the supervision of the Maine State Park Commission. This Resolve also designates the various parks and memorials and the amount to be expended in each one.

I wish to state that this is a mandate of the legislature and that it is not necessary for you to obtain the approval of any other State department in carrying out the provisions of Chapter 206 of the Resolves of 1949.

RALPH W. FARRIS
Attorney General

May 27, 1949

To William P. Hinckley, Acting Technical Secretary,
Sanitary Water Board

I have your memo of May 13th calling my attention to Chapter 266 of the Public Laws of 1947. I note that you have talked with County Attorney Hillard Buzzell of Waldo County and that he feels that the phrase, "in a manner and an extent inconsistent with the public interest" is extremely ambiguous and may be a joker which will weaken the law and make it impossible to enforce. You ask my opinion as to what constitutes a breach of the public interest in relation to the deposits of waste and you ask, "Does the phrase 'or so pollute said waters' which appears after the last comma in the sentence in any way temper the legal meaning of the phrase 'in a manner and an extent inconsistent with the public interest?'"

You state in the fourth paragraph of your letter that it seems to you that the change of wording will limit the exemption from pollution of the so-called exempted rivers named in the second paragraph to sawmill waste, oil, and possibly waste from pulp and paper mills, where previously these rivers were legally declared to be receiving waters for all types of waste materials, and you ask if this is the proper interpretation of this change of wording.

In looking over Chapter 332, P. L. 1949, I find that the legislature has inserted the phrase "in a manner and an extent inconsistent with the public interest" in the first part of the first sentence of Section 6 of Chapter 72 of the Revised Statutes, as amended by Chapter 266, P. L. 1947, and struck it out in the last part of said sentence, which in my opinion does not change the meaning of the statute; so the only thing you gain in the amendment in Chapter 332, P. L. 1949, is that it applies to tidal waters. You will have to construe Chapter 266 and administer its provisions the same as you have in the past, since this law became effective on August 13, 1947.