

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

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.

In regard to the phrase, "in a manner and an extent inconsistent with the public interest," this means that when the pollution becomes a public nuisance, the courts can be resorted to. I do not feel that the phrase "or so pollute said waters" has any special significance in this Act. It does not limit the exemption from pollution of the so-called exempted rivers to saw-mill waste, oil and possibly waste from pulp and paper mills, as Chapter 345, P. L. 1945 limits pollution to new sources, which further weakens the enforcement of the statute under consideration.

RALPH W. FARRIS
Attorney General

May 28, 1949

To Raymond C. Mudge, Commissioner of Finance and Budget Officer
Re: Chapter 214, P&SL 1949, §2-A, cost-of-living increase to State Employees

I have your memo of May 24th relating to Chapter 214, P&SL 1949, providing for a salary increase of \$3 per week for all full-time employees for the period July 1, 1949 through June 30, 1950, except those whose salaries are set by the legislature or by the Governor and Council. You state that your attention has been called to the fact that while the first sentence of §2-A provides for a \$3 a week increase to "all full-time state employees or substitutes," the last sentence expresses the intent to provide "a substitute for the so-called \$3-\$4-\$5 increases as granted by the personnel board on October 4, 1948, and continued by chapter 21 of the resolves of 1949," and that these provisions are inconsistent, since the so-called \$3, \$4 and \$5 increases provided only \$1.50 per week increases for employees of institutions who live in. You therefore ask for a ruling on the question whether you shall authorize an increase of \$1.50 per week or \$3 per week for institutional employees who live in.

It is my opinion that it was the intent of the legislature to provide \$1.50 per week increase for those employees in State institutions who live in and have maintenance furnished, as this is, strictly speaking, a cost-of-living increase, and in estimating the amount of money to be used for this purpose, the legislature figured an increase of only \$1.50 per week on the State institution employees who live in. Otherwise, the legislature would have figured on a larger amount for the payment of these institutional employees, to the amount of \$75,000.

You will note in the last part of §2 of Chapter 214 this language: "It is the intent of the legislature under the provisions of this section to provide for the fiscal year ending June 30, 1950 a substitute for the so-called \$3-\$4-\$5 increases as granted by the personnel board on October 4, 1948 and as continued by the provisions of chapter 21 of the resolves of 1949." The Personnel Board granted only \$1.50 per week to State institution employees who live in and to whom maintenance is furnished by the State. Therefore we must follow the intent as stated in the act, and follow out the increases granted by the Personnel Board on October 4, 1948, in so far as the \$3 increases are concerned for State employees who do not live in and \$1.50 for those who do live in.