

MAINE STATE LEGISLATURE

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February 27, 1956

no

To David H. Stevens, Chairman, State Highway Commission
Re: Emergency Permits

You have requested my opinion as to the powers of the Commission under the provisions of Section 89 of Chapter 19 of the Revised Statutes.

My previous opinions of 12/3/53 and 12/11/53 on the Brown Company matter cover this question in part.

You will note that in my opinion of 12/11/53, I found that the facts in that case brought the loads involved within the classification of "particular objects".

The statutes use the words,

"Such permits shall be issued to cover the emergency or purpose stated in the application, etc."

As I stated before, I believe that the Legislature had in mind an unusual or special condition rather than a life or death emergency, and that the Commission has the power to decide whether or not such a condition exists.

The next issue is on the question of the objects to be moved.

The statute says (1) "having a length, or width, or height or weight greater than specified in this chapter", and (2) "that the permit shall be limited to the particular objects to be moved, and the particular ways and bridges which may be used." (Obviously, the permits can lay out the route!)

There are four ways that the object may violate the provisions of the chapter. Your problem involves the weight provision, and in particular the cases where loads can be divided.

It must be remembered that the Legislature has set a weight limit for the protection of the highways. Section 89 was enacted to take care of necessitous conditions that could not be cared for by the law, and the Commission was delegated the duty of determining what conditions qualify. Since these cases are exceptions, they must be unusual. Moreover, "particular objects" seem to be necessary. However, there can be cases, like the Brown Company case, where the objects were certain logs that were already cut.

It would seem that each case must be decided on its merits. Particular objects must be involved, and an unusual situation must exist. The Commission must beside that the situation merits making this exception.

L. Smith Dunnack
Assistant Attorney General