

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

(Portland Office)

October 20, 1941

From:

Frank I. Cowan, Attorney General

To:

Stephen Leo, Chairman, Liquor Commission

Re: *Transfer of licenses* (supplementary to opinion of last week)

Public Laws of 1933, Chapter 268, Section 10, as variously amended and as finally amended by Chapter 220 of the Public Laws of 1941, has to do with locations.

A license issued to X in connection with the operation of a restaurant at location A cannot be used by X in connection with the operation of a restaurant at location B. If X has succeeded in persuading a previous liquor commission to grant him a license in a location where it is unlawful for it to be granted, that fact can be no protection to him. As some courts have stated the matter, "Every man is presumed to know the law." As other courts have stated it, "Ignorance of the law protects no one."

The fact that X or X's attorney has persuaded a previous commission to grant a license to X in a location which the law has expressly declared to be out of bounds would make X no more entitled to protection in his illegal operations than he would be if he had obtained his license by some act of bribery or other evil means. It may very well turn out that the licensee may be without a license for a period of three months while he is establishing himself at a new and legally proper location, but that was a chance he took when he established himself with his license in his original unlawful location.

I might point out that if the license is worthwhile to Mr. X, and he knows that the Commission is going to take a firm attitude and refuse to relicense him at situation A, he may see fit to start a restaurant at situation B and run it for a period of three months before the expiration of his license on situation A. The absurdity of this proceeding is immediately discernible, however. It discloses that the chief reason for his running a restaurant is to have a beer license, and where the chief reason for operating a restaurant is to get a beer license, the Commission is authorized, under the law, to refuse the license. The Statute very expressly provides that "No license . . . shall be issued . . . for any premises except a bona fide hotel, restaurant or club . . ."

If Mr. X desires to live on the thin margin of the law and do business there, he certainly can have no reason for complaining if occasionally he slips over the edge. People who conduct their businesses on the broad plateau of legality never have such troubles.

FRANK I. COWAN

Attorney General