

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

The wording of the statute is:—

"Fixtures for the purposes of this chapter shall be defined as:
Receptacles intended to receive and discharge water, liquid, or
water-carried waste into a drainage system with which they are
connected."

A review of the history of the legislation shows that this definition was placed in the section in order to protect the rural householder who might need to put a new washer in a valve or do some simple piece of repair work which would not justify the expense and trouble of calling a plumber. Apparently the language used was a little more restrictive in appearance than was intended.

In every section of the long chapter containing the codification of the health and welfare laws there is apparent intent to protect the public. The plumbing code which appears as Sections 171-179 has definitely in view the protection of the health and safety of the people of cities and towns where there is a system of water supply or sewerage. Certainly, in view of the history of destruction caused by improperly installed hot-water tanks, there can be no doubt that when the legislature used the expression, "receptacles intended to receive and discharge water," the apparent modification contained in the words "into a drainage system with which they are connected," was an oversight, pure and simple. No such restriction could have been intended.

It therefore becomes necessary for me to state that in my opinion a hot-water storage tank comes within the intent of the definition of fixtures as contained in said Section 175.

FRANK I. COWAN

Attorney-General

March 6, 1944

Oscar L. Whalen, Esq.
Eastport, Maine

By Chapter 269, P. L. 1943, Section 3, the law was amended as to State police officers and provides:

"As arresting officers, or aids, or witnesses in any criminal case, they shall be entitled to the same fee as any sheriff or deputy. Such fee shall be taxed on a bill of costs and shall accrue to the treasurer of the state."

By the same chapter, Section 6, the law was amended relating to fish and game wardens in the enforcement of the fish and game laws, and this also provides that

"All fees, penalties, officers' costs and all other moneys recovered by the court under any provision of this chapter shall accrue to the treasurer* of the state and shall be paid into the treasury of the county where the offence is prosecuted."

With regard to the other inquiries I have got in touch with the various departments, that is, Inland Fisheries and Game and State Liquor Commission, and in each instance I was informed that where a warden or an inspector for the Liquor Commission is a witness in a case outside the scope of the act which he is enforcing, he is required by rule and regulation of that department to receive the witness fee

and turn it over to the department with which he is connected.

I think that by the amendment to which I have referred, the law has been sufficiently clarified so that there should be no misunderstanding as to the disposition of witness fees. In the cases where by rule or regulation the officer is required to turn the money over to his department, he understands the disposition to be made of these fees.

ABRAHAM BREITBARD

Deputy Attorney-General

March 15, 1944

Roscoe L. Mitchell, M. D., Director, Bureau of Health

I have your memorandum of March 8th asking for an interpretation of Section 187-B of the Public Laws of 1935, Chapter 83. The word "dormitory" which appears in said section can apply only to a building used primarily for sleeping quarters. The courts have permitted the word "dormitory," when used in a statute, to cover such a building, even though food may be prepared and eaten in one part of the building. The Missouri courts have extended the use of the word so that they have said that the fact that there are rooms used for athletic exercises does not bar the building in which these rooms appear as incidentals from being classed as dormitories.

Your question, "Would summer recreational camps operated by the Girl Scouts, Boy Scouts and similar organizations be included in the above exception and exempt from the license requirements, etc.?" said exemption being "dormitories of charitable, educational or philanthropic institutions," must, in the form in which the question is asked, be answered in the negative. A summer recreational camp may have dormitories and as a matter of fact the cabins or tents occupied by the patrons are such. When, however, as usually happens, there is a separate building for the preparation and serving of meals, that separate building comes within the provisions of the statute and must be licensed.

FRANK I. COWAN

Attorney-General

March 15, 1944

Hon. Sumner Sewall, Governor of Maine

I have the memo of March 9th asking in regard to the Judicial Council. This was set up by act of the Governor on May 20, 1932. Such a council had been recommended by the Association of Municipal Judges. Governor Gardiner reports that he consulted with the Chief Justice and others and as a result of the conference appointed eleven outstanding men of the State, headed by the Chief Justice. Under date of December 19, 1932, the Council made a report to the Governor suggesting that uniform jurisdiction among the municipal courts of the State be established and going further and recommending the establishment of a District Court system in the various counties. The recommendation further provided that the Chief Justice of the State should have general supervision of the work of the District Courts. Several other recommendations were made and several bills were submitted to