

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

Casualty Insurance Company of Hamilton, Ohio, to be admitted to write casualty insurance in this State, including workmen's compensation.

The statement of facts in your memo and the pamphlet you submitted of Ohio Insurance Laws (annotated) shows that no insurance company, domestic or foreign, is permitted in that State to write workmen's compensation insurance. All employers there contribute to a state fund which is administered by the State and from which benefits are paid to injured employees.

Under provisions of the Ohio Code, its domestic companies may provide in their charters for writing this form of insurance in other States where the same is permitted.

Your inquiry is as follows:

"If the Ohio Casualty Company otherwise qualifies for admission to do business in the State of Maine and in view of the monopolistic laws of Ohio as recited in this memorandum, would this Department under its retaliatory law be within its rights in limiting the business which this Company might write in its other lines of insurance, thus excluding their privilege of writing workmen's compensation in the State of Maine."

My answer is, "Yes."

Sec. 109 of Chapter 60, R. S. 1930 amended by Chapter 103, Laws of 1941, so far as here pertinent, provides:

"When by the laws of any other state of the United States . . . any fines, penalties, licenses, fees, deposits or other obligations or prohibitions *in excess of those imposed by the laws of the state upon foreign insurance companies and their agents*, are imposed on insurance companies of this state and their agents, the same fines, licenses, fees, deposits, obligations or prohibitions shall be imposed upon all insurance companies of such state of the United States . . . and their agents doing business in or applying for admission to this state. . . ."

Under our statutes foreign insurance companies may be admitted to write workmen's compensation insurance in this State.

The absolute prohibition contained in the Ohio laws would thus be "in excess of those imposed by the laws of the (this) state upon foreign insurance companies" and would be a bar to companies of that State from writing such insurance in this State.

ABRAHAM BREITBARD

Deputy Attorney-General

June 7, 1944

F. K. Purinton, Executive Secretary, Executive Department

The council order providing for payment to ***** of the full amount of his salary while he is recovering from the effects of an accident sustained in 1943, until he is able to resume his work, has come before me for attention.

Mr. ***** received his injury, according to the statement of facts, while in the performance of his duties and is entitled to the

fullest benefit of our compensation laws. This will take care of his hospitalization and his doctors' bills and provides for payment to him of a certain minimum amount per week, and is the only provision in our statutes for payment to an employee in the Fish and Game Department outside of "sick leave" and "vacation pay," when said employee is unable to perform the duties of his employment.

It is therefor my opinion that the Department of Inland Fisheries and Game has no legal authority for making regular salary payments to Mr. ***** during the period of his disability.

FRANK I. COWAN

Attorney-General

July 6, 1944

George O. Gray, Division of Sanitary Engineering

I am now confirming what I said to you orally with regard to licenses to be issued to eating and lodging places. I advised you that licenses are to be issued to the person, corporation, firm or copartnership engaged in the business of conducting the eating or lodging place and that consequently the application must be made by the person engaged in the business. Of course, if it be a corporation, the application is made in the name of the corporation by its duly authorized agent, or if it be a partnership, in the name of the partnership by one of the partners. No license can be issued to a person who is the manager of a business, and hence his application cannot be accepted as such. Section 187A of the law specifically provides that the person, corporation, firm or copartnership engaged in the business shall be licensed.

Section 186 does not authorize the issuance of a license in the name of the manager or person in control. This section prohibits the management of an eating place which is not licensed, thus subjecting all persons to the penalty, who participate in the control, management or operation of an unlicensed place; but licenses are not issued to managers, who may be there one day and not there the next. They are issued only to those "engaged in the business of conducting an eating or lodging place. . . ."

In view of what I have said, you are justified in refusing to issue a license to the person who applied as manager of the hotel or lodging place formerly conducted by Mr.

ABRAHAM BREITBARD

Deputy Attorney-General

July 7, 1944

L. E. Griffin, Gasoline Tax Division

Exemption from Maine State Tax of Sales of Gasoline to the Canadian Government

I prefer to give no opinion in this matter that will serve as a precedent for my successors in office. We are handicapped by the fact that this subject is not covered by any treaty between the United States and Canada. Until this office has arrived at a different conclusion, I will say that during the present war emergency, by reason of the