

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

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

necessary interchange of activities between instrumentalities of the Canadian Government on the one hand and the United States of America and the various States on the other, you may rebate the gas tax on all past and future sales in the case of emergency purchases made by the Royal Canadian Air Force.

FRANK I. COWAN
Attorney-General

July 7, 1944

Honorable Owen Brewster
United States Senate
Washington, D. C.

Dear Senator:

We are somewhat troubled about the possible invalidity of marriages performed within the confines of Federal reservations where exclusive jurisdiction has been acquired by the Federal government, by ministers acting under authority of State laws. Recent decisions of the United States Supreme Court on the matter of the extent to which the State's jurisdiction can continue to operate and the laws of the State continue to function, make it very possible, in the absence of a Federal marriage law, that all these weddings will be declared invalid.

I am not unaware of the implications in the case of *Stewart vs. Sadrakula*, decided Jan. 29, 1940, and appearing in 309 U. S. 94, 84 L. Ed., 596 but this is a very old decision as decisions go nowadays. Moreover, we cannot avoid noting the fact that the decision in the Stewart case provided compensation in the case of an injured employee, and we cannot feel certain that the Court as today constituted would arrive at the same conclusion if the persons seeking benefit of the State law were not seeking it in that particular category.

I am wondering if it would not be wise for Congress to provide by legislation, in matters where there will be no interference with Federal functions, that State laws will continue in full effect on Federal reservations within the geographical limits of the State until such time as Congress has passed express legislation covering the particular subject.

Sincerely yours,

FRANK I. COWAN
Attorney-General

July 11, 1944

E. E. Roderick, Deputy Commissioner of Education
*Suspension of Pension While One is Teaching under the Provisions of
R. S. 1930, c. 19, §223*

In answer to your memorandum of June 29th, we are of the opinion that the last sentence of Section 223, which reads as follows:

The payments of any pension shall be suspended whenever the person to whom said pension has been granted resumes teaching in any private or public school.

has no reference to temporary or intermittent substitute teaching, and in particular where it is done at the request of a superintendent in order to fill in during the absence of a regular teacher. I am of the