

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

August 28, 1944

To: State Liquor Commission Dept. State Liquor Commission
From: William H. Niehoff, Asst. Dept. State Liquor Commission
Attorney-General

Subject: Authority to Prohibit Sales of Liquor

Inquiry is made as to the legal authority of the State Liquor Commission to control or prohibit the sale of intoxicating liquors both at the State Stores as well as by licensees in the interest of the public safety and welfare during public celebration or demonstration resulting from the termination of the present war.

Section 5 of Chapter 268 of the Public Laws of 1933 authorizes the State Liquor Commission to "adopt rules and regulations for the administration of this act and for the supervision and regulation of the manufacture, sale and transportation of malt liquors throughout the state." Chapter 301 of the Public Laws enacted at the Special Session in November 1934, Section 2 provides that the State Liquor Commission "shall have all the regulatory powers in connection with licenses for the sale of liquor that are vested in said board, in connection with the sale of malt beverages." Chapter 96 of the Public Laws of 1939 grants to the commission general supervision of manufacturing, importing, storing, transporting and selling liquor. Section 19 of Chapter 237 Public Laws of 1937 grants to the commission "the right to establish regulations for clarifying, carrying out, enforcing and preventing violation of all or any of the laws pertaining to liquor and such regulations shall have the force and effect of law unless and until set aside by some court of competent jurisdiction or revoked by the commission." Section 22 of Chapter 237 Public Laws of 1937 grants to the commission "general supervision of manufacturing, importing, storing, transporting and selling liquor." Chapter 147 Public Laws of 1937 authorizes the commission "to regulate the opening and closing hours of each store (state liquor store) within the provisions of this act."

From the above citations it appears definitely that the commission is authorized to regulate the sale, transportation, etc. of all intoxicating liquor in this state. In order to prohibit the sale, transportation, etc. of liquor during a public demonstration for the purpose of "preventing violation of all or any of the laws pertaining to liquor" the commission should establish some definite rule to cover the situation. This rule should be made applicable to the various types of licensees. The state liquor stores could be closed on a directive order from the commission and no rule is necessary for this purpose.

October 26, 1944

To: Harold B. Emery, Chairman Dept. State Liquor Commission
From: William H. Niehoff, Asst. Dept. State Liquor Commission
Attorney-General

Your memorandum of October 13, 1944, propounds the question concerning the statutory authority of the Maine State Liquor Commission to carry on public relations or educational activities such as the distribution of temperance leaflets, etc.