

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

August 22, 1947

To Ralph C. Masterman, Esq.
Passamaquoddy District Authority

. . . An examination of the records here disclosed that you were first appointed on August 9, 1945, to serve for two years. This last appointment is a re-appointment, which under the provisions of the act must be for a term of seven years. Consequently, the fact that you were appointed for a full term would not indicate that you are also the chairman of the board. The act provides that the person designated by the Governor as chairman shall serve the initial term of a director for seven years, and their initial terms were to be determined by lot. It would appear, however, that this procedure was not adopted, but the Governor fixed the initial terms.

Moses B. Pike was appointed for the seven-year term and hence he would be the chairman. I believe, however, that the intention was that the Governor may determine the chairman from the board as constituted. This latter appointment is the Governor's personal appointment and does not require confirmation by the Council. So unless he has, or will designate you as chairman, the mere appointment for a term of seven years does not carry with it the appointment as chairman.

In answer to your other questions I would say that upon your qualification under your re-appointment it would be necessary for you to file a new bond, as these qualification bonds continue only during the term of the appointed official and expire with the expiration of the term. I believe that the premium for this bond would be a part of the actual expenses for which a director would be entitled to reimbursement.

ABRAHAM BREITBARD
Deputy Attorney General

August 25, 1947

To Marion Martin, Commissioner of Labor
Re: Chapter 25, § 24, as amended

With reference to Chapter 25, Section 24, as amended by P. L. 1945, Chapter 278, which in part provides that "no male minor under 16 years of age and no female shall be employed in any . . . hotel . . . more than 54 hours in any one week,":

Your inquiry is whether a sporting camp consisting of a main building where food is served, surrounded by a cluster of camps that are used for sleeping accommodations, would fall within the definition of "hotel."

From what I have read, the courts seem to be inclined to the view that the operation of a business such as is above described would come within the definition of a hotel.

In a case decided in Missouri in 1942 and reported in 164 Southwestern Reporter, 2d Series, at page 613, the Court said:

"It is quite obvious that the business or occupation carried on by plaintiffs through their tourist camp has all the essential characteristics of the business or occupation of keeping a hotel. It would be strange in-

deed if the business or occupation of keeping a hotel conducted through the use of a single building should be subjected to regulation while the same business or occupation conducted through the use of a group of buildings, such as a tourist camp, should be exempt from regulation. A tourist camp is none the less a hotel because the business or occupation is conducted through the use of a group of buildings rather than through the use of one."

I am therefore of the opinion that the above provisions of the statute quoted would be applicable to a sporting camp or a tourist camp.

ABRAHAM BREITBARD
Deputy Attorney General

September 1, 1947

To Harland A. Ladd, Commissioner of Education
Re: Legal Debt Limit of a Town

I have your memo of September 2d, stating that a question has arisen concerning the debt limit of towns. You state that in some instances there is considerable difference between the valuation of a town as determined by its local assessors and as determined by the State Tax Assessor, and you inquire: "Is the legal debt limit of a town (.05 of its valuation) based on local valuation or on State valuation?"

Answer. Article XXXIV, Amendments to the Constitution of Maine, provides:

"No city or town having less than forty thousand inhabitants, according to the last census taken by the United States, shall hereafter create any debt or liability, which single or in the aggregate, with previous debts or liabilities shall exceed five per centum of the last regular valuation of said city or town; . . ."

On a close reading of the Constitution, you will note the words that I have underlined, "the last regular valuation of said city or town," which would be that of April 1, 1947, by the local assessors of the town, rather than the last regular valuation determined by the State Tax Assessor.

RALPH W. FARRIS
Attorney General

September 12, 1947

To W. E. Chase, Director, Division of Tobacco Tax

Your memo of September 12th received, relating to the amendment to the Unfair Sales Act, provided in Chapter 130, P. L. 1947. You call my attention to the fact that this statute defines the term "sub-jobber" as follows:

IX. "The term 'sub-jobber' shall mean and include a wholesaler who purchases cigarettes at wholesale for the purpose of resale to retail dealers,