

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

Answer given Mr. Wilkins last year: "Bills for suppression costs must be submitted to the town for which the services were rendered and the equipment furnished, and each town is only liable up to one per cent of its valuation as of April first for the purposes of taxation within the town's own boundaries."

This is in conformity with the present statute. I am sorry that I cannot make any other ruling, as Mr. Farnsworth is right in equity; but the language of our statute does not permit me to give any other answer to the question.

You may call Mr. Farnsworth's attention to Chapter 362 of the Public Laws of 1945, which provide as follows:

"In carrying out the provisions of this section, the state shall reimburse the towns and cities 1/2 of the suppression costs incurred by the forest fire wardens therein, upon approval of the forest commissioner."

This statute is not broad enough to take care of the suppression costs of fires in other towns. However, this can be amended by the legislature and it probably will be, as this law did not take care of the emergency last year and is not satisfactory to anyone concerned.

RALPH W. FARRIS
Attorney General

November 23, 1948

To Marion E. Martin, Commissioner of Labor and Industry

In your memorandum of November 16th you request an interpretation of Section 38 of Chapter 25, R. S. 1944, in particular that part which provides that an employee leaving his or her employment shall be paid in full on demand. In your inquiry, speaking of the employment, you say, "Their employees work on a piece-work basis, frequently more than one employee working on each piece. It takes time to compute what each worker has earned because the workers' production varies from day to day." Your question is, "May they (employers) wait until the pay day following the employee's separation from his employment, or must they pay immediately upon demand?"

The statute under consideration is a criminal statute and under settled rules of law must be strictly construed. As I read it, the purpose of the act primarily was to provide that employees in the industries enumerated, both private and public, shall be paid weekly the wages earned " . . . to within 8 days of the date of such payment." This is followed by the clause reading, ". . . but any employee, leaving his or her employment, shall be paid in full on demand at the office of the employer where payrolls are kept and wages are paid."

I think that the last clause quoted qualifies the right of the employer to hold back the wages for the 8 days preceding the date of payment. An employee upon leaving such employment, if he demands it, shall be paid in full the wages earned up to the time of his leaving. In other words, the employer may not hold back the wages earned within 8 days of such payment, which he could do if the employment continued. It is that failure to pay the employee in full that is made an offense punishable by the prescribed fine.

I also think that a reasonable interpretation would be that the employer or his agent charged with the duty of computing the wages, at least where the person is a piece worker, should know in advance of the employee's leaving his employment. I do not think it would apply in the case of an employee leaving his employment abruptly and without notice and demanding his pay, or that failure on the part of the employer to meet such demand immediately would subject him to the criminal punishment of the statute. I cannot conceive that the legislature would say that the employer commits a crime in not paying wages on demand where the employee leaves his employment without notice and from the circumstances it would require a reasonable length of time, which may be hours or days, to have the earnings up to that time computed. I think that in such a case a reasonable time must elapse before it can be said that the statute has been violated. What is a reasonable time would depend on the circumstances existing in each case. As I said before, a reasonable time may be hours, it may be days. I cannot say that the pay day following would be a reasonable time, although it may be; but the employer would have a reasonable time to respond to the demand.

ABRAHAM BREITBARD
Deputy Attorney General

November 23, 1948

To Charles P. Bradford, Director, Park Commission
Re: Fort Knox

This department acknowledges receipt of your memo of November 10th with regard to the conveyance of Fort Knox to the State of Maine by the United States of America. You quote from a part of the deed, which is a condition annexed to the grant by the Government, providing that the conveyed premises shall be used for public purposes only, and upon cessation of such use the title and right of possession of the premises shall revert to the United States.

This land constitutes one of the State Parks and is open to the general public, and this use of it by the State would satisfy the conditions of the deed that the premises were to be used for public purposes only. The fact that the State charges a fee for the use of certain facilities, or plans to erect a building which it will let out as a concession to some person ". . . to sell sandwiches, tonics, ice cream, souvenirs, etc. . . ." would not in any way detract from its being used for public purposes, since the general public without discrimination may have the use of any of the facilities erected to add to their comfort and enjoyment; nor does the fact that food and refreshments are there sold by a concessionnaire to the general public visiting said park violate the conditions in the deed. In fact, the condition is observed by the furnishing of these facilities.

ABRAHAM BREITBARD
Deputy Attorney General