

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

"3. An industrial plant is located in Bangor where for several years the public sewer provided the means of waste disposal eventually discharging into Kenduskeag Stream. This company built a new plant in 1947 and now discharges waste by public sewer but by a different sewer, the waste now entering a river. Would the following conditions have any special bearing upon the situation:

- "A. The old plant discharged directly to the river with no use of the public sewer.
- B. The new sewer discharge enters the river further upstream.
- C. The new sewer discharge is to the Penobscot River rather than to Kenduskeag Stream."

Answer. It is my opinion that the statement of facts constitutes a new source of pollution under the 1945 statute. Of course the industries will question the authority of the Board at all times if they can get by with it; but in case their sources of pollution constitute a nuisance and complaint is made, the Attorney General can bring action to abate same under the common law powers. I understand that you have legislation pending to take care of some of these technicalities.

RALPH W. FARRIS
Attorney General

March 1, 1949

To Hon. Frederick G. Payne, Governor of Maine
Re: Letter of Major D. J. Smart

The writer of this letter says: "In 1946, I sold my property in Maine, and bought a place in Newburgh, N. Y., but, I went right back in the Army as soon as my terminal leave was up. What I want to know is this, how can I re-establish residence in Maine, which I really want to do, now that I intend to stay in the Army for the next several years."

This statement is not sufficient upon which to base an opinion as to whether a change of domicile was ever effected, as there is nothing in the statement to indicate that he actually established himself in Newburgh, N. Y., after purchasing property there, or whether it was from that place that he re-entered the Army when his terminal leave was up."

Domicile is a question of intent. To acquire a new domicile two things must concur: actual residence in a particular locality and intent to remain there permanently or indefinitely. Thus, if the writer sold his property in Maine and moved from Maine to Newburgh, N. Y., and there established an actual residence with the intent to remain there permanently or indefinitely, Newburgh became the domicile of his choice. As he re-entered the Army and is in service now on foreign soil, Newburgh would still be his domicile until he established a new one; but in order to do that, actual presence in the locality would be required, with an intention to remain permanently or indefinitely. Consequently, he cannot re-establish a domicile in Maine while he is out of the country or out of the State, which I assume he may be for some time, in view of his statement that he intends to stay

in the Army for the next several years. In order to establish a domicile in Maine, he would have to be present here, as actual residence in a particular locality and intent to remain must concur.

I am sorry that I have to go at length into a question which a layman may consider simple, and not be able to answer it in a simple way; but this is because the facts given do not contain the elements necessary to give a direct answer. The best that I can do is to give you the rules by which one may abandon his former domicile and create a new one and again effect a change back to the old domicile.

ABRAHAM BREITBARD
Deputy Attorney General

March 2, 1949

To Honorable Frederick G. Payne, Governor of Maine
Re: Liquor Licenses

This memo is relative to your recent inquiry as to the powers and duties of the Liquor Commission to revoke or suspend licenses for infractions of the liquor laws:

Section 60 of Chapter 57, as amended by P. L. 1947, Chapter 163 and P. L. 1947, Chapter 164, provides:

“The commission may revoke or suspend for a definite period licenses in accordance with the following provisions after notice and hearing. . .”

Subsection II of that section then enumerates the causes for which licenses may be revoked or suspended in the discretion of the Commission and which are as follows:

- “A. Violation of any law relating to alcoholic beverages or substantial infraction of any rule or regulation issued by the commission;
- “B. Knowingly making a false material statement of fact in the application for the license;
- “C. Knowingly making inaccurate and misleading statements as to brands or labels; giving of rebates to a customer for the purpose of influencing a sale;
- “D. Making sales to persons under age as prohibited by law;
- “E. Making sales after the permitted hours of sale;
- “F. Making sales on Sunday;
- “G. The making of sales by hotels, clubs and restaurants for off the premises consumption;
- “H. Making sales of spirituous or vinous liquor on the day of the holding of a general election or state-wide primary;
- “I. Conviction of violation of any law relating to sale of intoxicating liquor to minors.”

Subsection III provides for mandatory revocation in certain enumerated cases. This section begins with the following statement:

“It shall be the duty of the commission to revoke licenses for the following causes: