

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

have the further right to remove fire-killed or damaged timber and to take such other measures as may be necessary and desirable to conserve the scenery, etc. Then in Exception #7 of the deed, Mrs. Satterlee agrees that the westerly half of the sand beach may be used by the public for swimming and picnicking under the supervision of the Superintendent of the Park or other duly authorized representative of the United States.

Section 8 of the Exceptions, in my opinion, nullifies the effect of a life estate and deprives Mrs. Satterlee of a freehold estate which would be taxable. This section reads as follows:

"Subject to the foregoing terms and conditions, the party of the first part reserves to herself generally and without manner of limitation, the full use and occupancy of the premises hereby conveyed for her life, without impeachment of waste and without liability for any loss or damage whatsoever thereupon occurring during her life."

For the reasons above stated, the United States Government has title in fee, has full control over the premises, subject to a life tenancy by Mrs. Satterlee, which is not, in my opinion, a conventional life estate such as would be taxable.

I herewith return the copy of the deed from Mrs. Satterlee to the Government.

RALPH W. FARRIS
Attorney General

July 27, 1950

To David H. Stevens, Member, Sanitary Water Board
Re: Permit under Section 6, Chapter 72, R. S., as amended

I acknowledge receipt of your memo of July 25th in which you state that a number of persons having applied for permits to empty sawdust, shavings or other fibrous materials created in the manufacture of lumber or other wood products under the provisions of Section 6 of Chapter 72, R. S. 1944, as amended by Chapter 266, P. L. 1947 and Section 3 of Chapter 332, P. L. 1949, it becomes necessary for the Board to ascertain if the permit authorized under this section is synonymous with or a substitute for the license prescribed in Section 4 of said Chapter 72, R. S., as enacted by Chapter 345, P. L. 1945; and you request me to advise the Board if the permits now requested by various corporations shall be issued only after the payment of the sum of \$50 as prescribed by said Section 4 of Chapter 72, R. S. 1944, for the license required by said section.

Chapter 72, R. S., was amended by Chapter 345, P. L. 1945, which provided that no person . . . should discharge into any stream, river, pond or lake or into tidal waters any waste, refuse, or effluent from any manufacturing, processing or industrial plant, etc., and that if such person, corporation or plant should pollute such waters, they should first apply for a license under Section 4 of said chapter, and after hearing, the Board in its discretion can issue a license to the applicant on the payment of \$50; and that if any person is aggrieved by any order or decision of the Board, he can apply to the Superior Court.

Under the provisions of Chapter 266, P. L. 1947, the legislature repealed Section 57 of Chapter 33, R. S., which was a part of the Fish and Game Laws, relating to deposits of slabs, edgings, sawdust, etc., in streams. Then in Section 2 of said Chapter 266, they renumbered Sections 6, 7, and 8 of Chapter 72, R. S., as enacted by Chapter 345, P. L. 1945, so that the sections are now numbered 7, 8 and 8-A, respectively; and then in Section 3 of Chapter 266, P. L. 1947, they amended Chapter 72 of the Revised Statutes, as amended by Chapter 345, P. L. 1945, by adding thereto a new section to be numbered 6, to which section your memorandum applies.

In this new Section 6 of Chapter 72, R. S., it is provided that no person shall deposit in the inland waters of the State or on the banks thereof or in tidal waters (by amendment in 1949) any slabs, edgings, etc., or fibrous materials created in the manufacture of lumber or other wood products, etc.; and if any person believes it to be necessary to the operation of his business to deposit these fibrous materials in streams or inland waters, he should make application to the Sanitary Water Board and have a hearing and the Board shall have authority to issue an order thereon, granting such permit as it deems advisable, or denying the application. Provision is then made for an appeal as outlined in Section 5 of Chapter 72, R. S.

Therefore it is my considered opinion that Section 6 deals with fibrous materials and Sections 3 and 4 of Chapter 345, P. L. 1945, deal with effluents discharged into any stream, river, pond, etc.; and therefore it is my opinion that there should be no charge to an applicant for a permit under Section 6, such as is prescribed for an applicant for a license under Section 4 to discharge an effluent into any stream, lake, or tidal waters.

RALPH W. FARRIS
Attorney General

July 27, 1950

To E. K. Sawyer, Supervising Inspector of Elevators
Department of Labor and Industry
Re: Tiering and piling machines, P. L. 1949, Chapter 374, § 99-B

Your memo of July 19th received, stating that in the last few lines of the paragraph defining elevators, there is a definition of tiering, piling, feeding or other machines operating within only one story. You state that you have a question whether or not an ordinary elevator with a lift of only a few feet would come under this classification and be exempt. You state that it has been your understanding that only tiering and other similar machines were in this classification, and you ask my interpretation as to whether the definition of a freight elevator would be changed or whether there would be any minimum lift which would exclude it from the freight elevator class.

It seems to me that an elevator with a short lift that does not go a complete story would be exempt under the elevator law. However, if you care to come to my office at a convenient time, I would be glad to discuss this matter with you.

RALPH W. FARRIS
Attorney General