

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

It should be noted that the tax statute does not require that any tax be levied for 1951. The requirement is, "As soon as practicable after April 1, 1951, and on April 1, annually, thereafter", which provision can be taken literally to include a 1952 beginning date or any other subsequent date if assessment is not sooner "practicable".

It being impossible to comply with the law by a 1951 assessment, it is my opinion that the first assessment should be in the following year if then "practicable".

BOYD L. BAILEY
Assistant Attorney General

May 18, 1951

To A. D. Nutting, Forest Commissioner
Re: Slash

This office is in receipt of a letter dated May 17, 1951, from Fred E. Holt, Supervisor, asking a question with respect to disposal of slash, presumably under the provisions of Chapter 363, P. L. 1949. The question asked is as follows:

"A cutting operation is taking place on property adjoining a group of overnight camps. The slash law specifies removal of slash for a distance of 100 feet from dwellings when such slash constitutes an unusual hazard. We are interested to know if the overnight camps, which are leased to the public for a week or so at a time, constitute a dwelling within the meaning of this slash law."

This office is unable to give a categorical answer or rule of thumb as to what constitutes a dwelling house for all purposes of the law. It should also be understood that in interpreting provisions of the statute, the office is only giving an advisory opinion and is not necessarily stating that which a court would undoubtedly find as a result of litigation.

We are of the opinion that if the overnight cabins referred to constitute permanent structures they might well be held to be dwelling houses within the meaning of Chapter 363, Public Laws of 1949. Any permanent structure designed for the occupancy of human beings would constitute a dwelling house.

May we suggest that if there is any question as to the permanency of the overnight cabins, the department might be well advised to proceed under the provisions of the first section, relative to the leaving of slash within 50 ft. of a right of way, provided the slash is within 50 ft. of a right of way, or under a later provision with respect to leaving slash within 25 ft. of a property line. Ordinarily, overnight cabins are so located that it is believed that either of the other sections might more clearly apply.

JOHN S. S. FESSENDEN
Deputy Attorney General