

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
1951 - 1954

I do believe, however, as I have stated above, that it is perfectly correct and proper that this right of the City of Waterville, which now is not set forth in the insurance policy, should be set forth specifically.

I would suggest that you keep in touch with Mr. Mahoney, and he will be able, undoubtedly, to advise you when the endorsement has been effected, which will bring about the precise words which the City of Waterville is interested in having incorporated into the policy. . . .

DAVID B. SOULE

Assistant Attorney General

November 12, 1952

To Hon. Harold I. Goss, Secretary of State

Re: Meaning of "Member" and "Another Corporation".

You ask for an interpretation of the meaning of section 31 of the general corporation law, which provides:

"Directors must be and remain stockholders, except that a member of another corporation, which owns stock and has a right to vote thereon, may be a director."

The inquiry is, "Does 'member' mean director or stockholder?"

The case of *Curtis v. Harlow*, 53 Mass. 6, is in point, showing that "member" in such case means stockholder, and of course in such case a holder of common stock or a holder of stock permitting him to vote in the corporation which holds the stock to be voted in this corporation.

Then you inquire, "Does 'another corporation' mean another Maine corporation or any duly organized corporation?"

It would appear that section 21 of Chapter 49, R. S., is in point here and that "another corporation" is not restricted in its meaning to "another Maine corporation".

NEAL A. DONAHUE

Assistant Attorney General

November 12, 1952

To Joseph M. Trefethen, State Geologist

Re: Mining Claims

. . . Chapter 36 of the Revised Statutes of Maine, as amended by Chapter 298 of the Public Laws of 1951, is pertinent to the questions you have propounded.

You ask, "Is there any point in the law that governs the orientation of claim boundary lines in staking mineral claims on state lands?"

The answer to this question is, No.

You ask, "Are the dimensions fixed for a single claim, or can a claim of equivalent area with different dimensions be staked?"

The statute provides that a claim may not be more than 600' wide or 1500' long, the point of strike to be somewhere within that area. We interpret

that to mean that an area 600' wide and 1500' long may be superimposed upon the map of the area where a strike is made, the point of strike to be anywhere within such dimensions, and such land as may be included within that area will or may be included in the claim. The point of strike may be at the center of the area, at one end, at one side, in one corner, or anywhere within the area of the claim.

You ask, "Suppose a peninsula be desired to be staked on state land. The shore line is irregular so that full dimensions of a claim are not included in the land area. Can an axis be established along the center of the peninsula and the claim referenced to that?"

This is permissible, and if the point of strike is included and the peninsula is not of larger area than 600' by 1500', all may be included.

You ask, "Or does each stake constitute a corner of a claim?"

The corners are to be shown as near as is practical, but in such case, where the full dimension permitted is not claimed, some of the area permitted being water instead of land, there should be no practical difficulty in establishing the claim by placing stakes on the shore line.

You inquire, "How far into a lake would a claim extend?"

The only provision in the law for the extension of a claim into a lake is found in section 11 of Chapter 36, R. S., where it is provided that whenever it is discovered that a vein or lode in a mine continues from under the land to under water, the owner or owners of the mine shall have the right to follow the vein or lode.

You ask, "If township boundaries coincide with the shoreline can an adjacent claim be staked in the lake bottom, provided it is a great pond?"

The answer is, No. There is no provision in the law for staking any claim or part thereof in a great pond.

You inquire, "What provisions should be made in staking the bed of one of the great ponds?"

The answer is given above.

"How would a claim adjacent to the shoreline be bounded at places where the shore is irregular?"

In such case the maximum of claim may be had by superimposing an area of 600' x 1500' upon the map with the point of strike included within the claim. All land included in that area would be in the claim. Water in a great pond would not be included, unless found to continue a vein, which the law permits to be carried beyond the shore line.

You ask, "In unorganized townships, how many claims may be staked by an individual?"

The answer is, Two claims in any one year in any one unorganized township. Of course two other claims could be staked in another township. Since the license is made to expire on December 31st of each year, this is taken to mean each calendar year.

You ask, "How many claims may be staked by an individual in a great pond?"

The answer is, None. There is no provision for staking claims on great ponds.

You ask, "What are the physical characteristics of staking stakes?"

This has not been provided by statute: but the statute provides that a license may be granted by the Bureau under such terms and conditions as it may require, which would indicate that the Bureau might require a certain type of stake to be used for that purpose.

NEAL A. DONAHUE
Assistant Attorney General

November 21, 1952

To Roland H. Cobb, Commissioner, Inland Fisheries and Game
Re: License of Juvenile Delinquent

In answer to your memo of October 30, 1952, in which you ask if a juvenile delinquent's license to hunt should be revoked on conviction of juvenile delinquency on a charge of negligently shooting a human being while hunting for game, it is our opinion that such license may be revoked by the Commissioner under the provisions of section 64 of Chapter 33 of the Revised Statutes. Such a person has been convicted of a violation of the laws as contemplated by the Act.

JAMES G. FROST
Deputy Attorney General

November 24, 1952

To A. D. Nutting, Forest Commissioner
Re: Reimbursement of Costs of Fire Fighting

You have asked this office if under Chapter 356 of the Public Laws of 1949 the State should "reimburse for medical expenses, medical supplies, and compensation for lost time of fire fighters as a result of working on a forest fire."

Paragraph I of Chapter 356 provides a penalty in the event a person refuses or wilfully fails to render assistance when called upon to suppress a forest fire. The second paragraph of VI, after enumerating several specific expenditures which qualify a town for reimbursement, concludes in this manner, "and other costs approved by a forest fire warden in charge". The last above-quoted phrase, in conjunction with that part of the Act which makes it mandatory for a person to serve if called upon, would imply that any injuries suffered by such a person ought to be reimbursed by the town and ultimately the State according to the formula set out in the Act.

It is definitely our opinion that nothing in the Act prevents such reimbursement, but we would say that whether or not a particular individual should be reimbursed would be a question for administrative decision on the part of the Commissioner, proof being given that such injuries were actually sustained and claim having been made as provided for by the statute. Much difficulty would be present in administering reimbursement for lost time of