STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1951 - 1954

I might add in closing that the questions propounded and the answers here given in no way change the ruling of the Deputy Attorney General on December 3, 1953.

ROGER A. PUTNAM
Assistant Attorney General

January 27, 1954

To Department of Labor and Industry
Re: "Hotel"

We have your memo of January 13, 1954, in which you request of this office a legal interpretation of what constitutes a "hotel".

It can be generally stated that a "hotel" is a building held out to the public as a place where transient persons who come will be received and entertained as guests for compensation.

"Hotel" is synonymous with "inn". A hotel does not lose its identity by bestowing upon it a different name, such as "The X House", if in fact such place is used as a hotel.

Indicia or elements helpful in determining whether or not such building is a hotel are: Does it have a lobby, a hotel register, some daily accommodations available, and a place for the safe keeping of guests' valuables?

JAMES G. FROST
Deputy Attorney General

January 27, 1954

To Philip A. Annas, Associate Deputy Commissioner, Education
Re: Classification of High Schools under Section 89 of Chapter 37

We have your memo of January 8, 1954, in which you state the following fact situation and pose the following question:

"One of the functions of our department is to classify the high schools according to the description given in Section 89.

"This section permits a junior high school to be maintained as a part of a Class A high school. When this is done, the school consists of grades 7-12 or grades 8-12.

"Question": May a school of this type be classified as a Class A secondary school if the faculty consists of but two teachers?"

This office is of the opinion that, to be a Class A secondary school, there must be at least two teachers employed solely for the purpose of conducting the courses required of such a school (at least one approved course of study through four years of 36 weeks each and of standard grade, together with approved laboratory equipment.).

It would be our further opinion that a school having such a required course of study and employing two teachers is no longer a Class A school if a junior high school is maintained with or is a part of that high school, thereby

adding more students. Under such conditions two teachers can no longer devote their whole time to the course of study required of a Class A school, but have the additional burden of teaching children not normally embraced in the four-year course.

For these reasons we do not believe that under such conditions such school would be classified as a Class A secondary school.

JAMES G. FROST
Deputy Attorney General

January 27, 1954

To Elmer H. Ingraham, Chief Warden, Inland Fisheries and Game
Re: Confiscated Rifle

We have your memo in which you state that on October 27, 1953, one of your wardens seized . . . a semi-automatic rifle having a magazine capacity of 15 cartridges and that the rifle was libeled and declared confiscate. You ask, if, under the provisions of Section 71 of Chapter 33, R. S., as amended, that rifle should have been libeled or should only firearms equipped with silencers be libeled.

It is the opinion of this office that only rifles, pistols or other firearms fitted with silencers or any device for deadening the sound of explosion should be libeled. It will be noted that the first paragraph of Section 71 was enacted in 1943 and this was the only paragraph of that Act. It reads in part as follows:

> "No person shall sell, offer for sale, use or have in his possession any gun, pistol, or other firearms, fitted or contrived with any device for deadening the sound of explosion. Whoever violates any provision of this section shall forfeit such firearm or firearms *and* the device or silencer, and shall further be subject to the penalties of section 119. . ."

It seems clear from a reading of the above quoted provision of law that such firearm and the device or silencer shall be forfeit.

This section of law was further amended in 1945 to include the paragraphs relating to auto-loading firearms and automatic firearms. With respect to such amendments, it can be seen that the possession of such rifle is not clearly prohibited, but the prohibition runs to the effect that no person shall use for hunting or have in his possession at any time in the fields and forests or on the waters of the State such firearms, unless it shall have had its magazine permanently altered so as to contain not more than 5 cartridges.

For these reasons we believe it was the intent of the legislature not to cause to be libeled any firearms except those which have silencers or similar devices.

JAMES G. FROST
Deputy Attorney General