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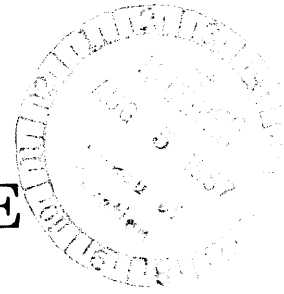
STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

August 18, 1955

To William B. Oliver, State Conservationist

Re: Improvements

. . . You ask if a Soil Conservation District has the authority to carry out, maintain and operate works of improvement as defined by Section 2 of Public Law 566, Chapter 65, H. R. 6788 of the 83rd Congress.

The answer is, Yes. The authority is given to a Soil Conservation District under Section 7 of Chapter 34, R. S. 1954, subsection I, as follows:

> "To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands."

I believe that this paragraph is particularly pertinent and do not quote the subsections conferring other powers upon such districts.

FRANK F. HARDING
Attorney General

August 30, 1955

To Labor and Industry

Re: Employment of Minors in Hotels and Restaurants

. . . You state that routine inspections have turned up two situations on which you would like to have our opinion:

"First, in the case of a hotel dining room which is leased by the hotel ownership to another person who operates said dining room as a restaurant, with no relationship to the hotel except that it is on the premises, should the dining room be considered part of the hotel and subject to a minimum age of 16 years (Sec. 23) or an eating place, subject to a minimum age of 15 years (Sec. 25)?

"Second, where a hotel ownership operates a hotel, that is, sleeping rooms, lobby, etc., in one building and a dining room in another building, next door or across the street, should the dining room be considered strictly an eating place (Sec. 25) or as part of the hotel (Sec. 23)? If it is a question of distance, how far away should the eating place be before it would not be considered part of the hotel?"

In answering these questions the words of the statutes must be considered along with the evil or danger which the legislature, by enacting such statutes, was attempting to avoid.

Section 23 of Chapter 30, R. S. 1954, provides:

> "No minor under 16 years of age shall be employed, permitted or suffered to work in, about or in connection with any . . . hotel."

Section 25 of Chapter 30, R. S. 1954, provides:

> "No child under 15 years of age shall be employed, permitted or suffered to work in, about or in connection with any eating place. . ."

It is obvious from the above quoted portions of the statutes that the legislature believed that the type of work to be done about a hotel required a minor to be of an older age to do such work, whereas employment in an eating place did not contain such possibilities of danger.

In answer to your first question it is our opinion that, where a hotel dining room is leased by the hotel to another person who operates that dining room as a restaurant, such dining room should be considered part of the hotel and be subject to a minimum age of 16 years, under the provisions of Section 23.

With respect to your second question, where the dining room of a hotel is in another building, we are of the opinion that such dining room should be considered an eating place and the 15-year age limit be considered under the provisions of Section 25.

JAMES GLYNN FROST
Deputy Attorney General

August 31, 1955

To Harvey H. Chenevert, Executive Secretary, Maine Milk Commission

Re: Fees on out-of-State Milk

. . . You ask for an opinion concerning the following situation: A dealer in Maine drops his Maine producers and buys milk from a dealer in New Hampshire. Recognizing that you cannot collect a fee from the New Hampshire dealer, you ask whether or not the Maine dealer is the first handler in Maine and therefore subject to the fees set forth in Section 6 of Chapter 33.

It is our opinion that under the situation set forth above, a Maine dealer purchasing from an out-of-State dealer is the first handler and under Section 6 is subject to the 3c per hundredweight monthly payments.

The sixth paragraph of Section 6 reads as follows:

> "Each licensed dealer shall pay to said commission an annual license fee of $1 and the sums of 3c per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area. One and one-half cents per hundredweight may be deducted by dealers from amounts paid by them to producers of such milk; except that the milk, farm-processed into cream for the manufacture of butter, shall not be subject to such sums of 3c per hundredweight."

The paragraph above quoted provides that the dealer shall pay the 3c monthly payment and it provides that he may deduct 1½c per hundredweight from the amounts paid to producers for such milk. We feel that if he cannot deduct such sums from a dealer outside the State, he is still subject to the entire 3c per hundredweight monthly payment.

JAMES GLYNN FROST
Deputy Attorney General

September 6, 1955

To Paul A. MacDonald, Deputy Secretary of State

Re: Voting by Indians

. . . You ask for an opinion relative to the voting rights of Indians as a result of the constitutional amendment adopted by the people on September 13,