

MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

This endorsement prevented the Secretary of State from revoking the license then; respondent had the benefit of his license during that period, after which his revocation would go into effect. See *State v. DeBery*, 150 Me. 28, for discussion of revocation and suspension.

Respondent cannot be heard to say that "appeal from the judgment and sentence" gives authority to the trial Judge to permit retention of license pending appeal, thereby preventing revocation, and then, after appeal, that the same clause now means that revocation should have been from date of initial conviction. One cannot take the benefits of a statute and at the same time deny the liabilities of the same statute.

We would also point out that in the next to the last paragraph in Section 150 as amended, revocation is for a period of two years after the conviction of a person violating the provisions of this section. We cannot see how you, administratively, can make a revocation effective for a period of less than two years, except as authorized by statute, or over a period which by judicial action the court has prevented an earlier revocation.

Inasmuch as counsel for respondent has indicated an intention to file a petition for declaratory judgment *re* the matter, in the event of a ruling from this office adverse to respondent's interest, we would add that under the decision of *Steves et al. v. Robie*, 139 Me. 361, such a petition might be improper.

JAMES GLYNN FROST
Deputy Attorney General

August 7, 1956

To George W. Bucknam, Deputy Commissioner, Inland Fisheries and Game
Re: Baxter State Park

. . . You state that a Resolve to simplify the open-water fishing laws by counties was enacted by the 97th Legislature and that under Piscataquis County you have:

"Baxter State Park. Daily limit 5 fish from any of the waters."

You ask whether that means 5 fish in the aggregate from any or all of the waters, or only that it is unlawful to take more than 5 fish from any one of the waters.

It is our opinion that this law means that only 5 fish in the aggregate may be taken from any or all of the waters.

JAMES GLYNN FROST
Deputy Attorney General

August 7, 1956

To Paul A. MacDonald, Deputy Secretary of State
Re: Expenses of Party Headquarters

This is in response to your memo of July 11, 1956, to which you attached a letter from Donald Nicoll, executive secretary of the Maine Democratic Party.

You ask if in our opinion legal expenses incurred in maintaining a year-round Democratic headquarters are a reportable expense in accordance with Chapter 9 of the Revised Statutes.

Sections 5 and 7 of Chapter 9 require that within 15 days after any election every treasurer and every political agent shall file an itemized sworn statement of expenses and that every candidate for public office within 15 days after the election at which he was a candidate shall file an itemized statement of his expenses.

It is with respect to these two sections that you ask if the expenses incurred in maintaining the headquarters should be reported.

It is our opinion that legal expenses incurred in maintaining year-round Democratic headquarters are reportable expenses.

The first paragraph of Section 2 of Chapter 9 defines the term "political committee" to include every committee or a combination of three or more persons to aid or promote the success or defeat of any political party or principal in any such election (primary or other elections) or to aid or take part in the nomination or election of any candidate for public office.

Paragraph 2 of said Section 2 defines the term "treasurer" to include all persons appointed by any political committee to receive or disburse moneys *to aid or promote the success or defeat of any such party, principal or candidate.*

Section 4 of Chapter 9 outlines lawful expenditures incurred by any treasurer or political agent and provides that expenses for any other purposes by the treasurer or political agent are not authorized.

It would appear quite clearly that persons maintaining a year-round Democratic headquarters comprise a political committee as above defined, because the purpose is to aid or promote the success or defeat of a political party, principle or candidate.

Maintaining a Democratic headquarters is either a proper expense of a political committee made in furtherance of aiding the Democratic party, or the expense is such that it is not proper under the last sentence of Section 4. We believe the correct answer to be that a year-round party headquarters is a proper expense of a political committee and that an itemized account, as required by Section 5, must be made.

FRANK F. HARDING
Attorney General

September 7, 1956

To Paul A. MacDonald, Deputy Secretary of State

Re: Togus Residents

We have your memo of August 28, 1956, and the attached copy of a letter, as a result of which you ask the following question:

"Can a person acquire a legal voting residence in Maine in accordance with Section 1 of Article II of the Maine Constitution by residing on the government reservation at Togus for a period of six years, and if such residence can be established in this manner, in what city or town would such person be registered?"