STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

"This section shall not apply to: . . . ; stores wherein no more than 5 persons, including the proprietor, are employed in the usual and regular conduct of business;"

One to five persons could operate a store of any size on the Lord's Day, assuming this also was the usual complement in "the usual and regular conduct of business." We believe this to mean a regular business day.

3. In answer to — "do the druggist and pharmacist dispensing medicine on Sunday count as employees for the purposes of determining the total number of employees of the store . . . . "

Let's assume that our fictitious store had over 5,000 square feet and its exemption depended on the number of employees. The druggist and pharmacist should be counted as employees to determine its qualification.

The third paragraph of the bill reads in part: "For the purpose of determining qualification, a 'store' shall be deemed to be any operation conducted within one building advertising as, and representing itself to the public to be, one business enterprise regardless of internal departmentalization."

We are of the opinion that this paragraph relates to the "square footage" and "number of employees" qualifications, but this is not entirely clear. In other words, we don't believe the intention to be that the third paragraph apply to the words "drug stores" in the bill, without more. If this were so then LaVerdiere's drug stores or any other large drug store could remain open on the Lord's Day simply by calling itself a drug store and despite the fact that it might employ 10 persons and be of 10,000 square feet of space.

To put it finally — a store such as LaVerdiere's can remain open on the Lord's Day if it —

1) employs 5 persons or less in the usual and regular conduct of its business, *or*
2) contains no more than 5,000 square feet of interior floor space with certain exclusions.

If such a store exceeds both of these qualifications, then we believe that that part of it complying as a "drug store" within the limits defined by the court in *State v. Fantastic Fair, et al.*, 158 Me. 258, could remain open.

We gather from your question you feel that a store to be exempt under the law must qualify as to both square footage and number of employees. We disagree and believe the two qualifications to be separable, as is obvious by our answer.

Very truly yours,

FRANK E. HANCOCK
Attorney General

May 8, 1963

To: Col. Robert Marx, Chief, State Police

Re: Law of the Road as it Relates to Pulpwood Products

In your memorandum of May 2, 1963, you ask whether wood flour, prime wood fiber, and wood chips, come under the weight tolerance of 110% as set forth in Revised Statutes chapter 22, section 111-A.

The question might well be rephrased to be: Are the products of pulpwood — wood flour, prime wood fiber, and wood chips — pulpwood under Revised Statutes chapter 22, section 111-A?

The dictionary definition of pulpwood is: "The soft wood of certain trees, used in making paper; also this wood after being macerated; also the trees so used."

The definition of wood fiber is: "Wood comminuted and reduced to a powdery or dusty mass."

The definition of wood flour is: "Finely powdered wood or sawdust used in preparing explosives, in surgical dressings, etc."

The term "wood chips" is not defined, but would be commonly understood to be the chips from logs produced by cutting. It can be seen, then, that all of these are the products of pulpwood. The question is whether the legislature, in enacting section 111-A, intended to grant a weight tolerance not only to pulpwood but to its by-products.

In addition to "pulpwood," the statute gives the weight tolerance to "firewood," "logs," and "bolts." All of these are sections of trees. None are products in the sense that wood flour, etc., are. If the legislature meant to include such products, it could have done so by the inclusion of a phrase such as "and its products." It did not do so, however, and your question is, therefore, answered in the negative.

LEON V. WALKER, JR.
Assistant Attorney General

May 16, 1963

To: Irl E. Withee, Deputy Bank Commissioner

Re: Stock of a Trust Company as Collateral in Trust Department of that Bank

In your memo of January 17, 1963, you ask two questions. We will state and answer each one separately.

Question 1:

May a trust department of a trust company make a loan that would be secured by the stock of the trust company?

Answer:

No.

R. S. Chapter 59, section 117, provides:

> "Trust companies shall not make loans or discounts on the security of the shares of their own capital stock nor be the purchasers or holders of any such shares unless necessary to prevent loss upon a debt previously contracted in good faith, and all stock so acquired shall, within 1 year after its acquisition, be disposed of at public or private sale; provided, however, that the time for such disposition may be extended by the bank commissioner for good cause shown upon application to him in writing."

The statute is clear that a trust company may not accept its own capital stock as security for a loan nor may it purchase the same except under special circumstances.