

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)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

RICHARD J. THORND
ATTORNEY GENERAL



GEORGE C WEST
DEPUTY ATTORNEY GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA

January 4, 1966

Honorable Richard Broderick
Chairman, Executive Council
State House
Augusta, Maine.

Dear Mr. Broderick:

This is in reply to your request for an opinion concerning the nomination by the Governor of Gordon W. Drew of Augusta as a member of the Maine State Liquor Commission. You have asked my opinion as to Mr. Drew's eligibility for this appointment in view of the provisions of M.R.S.A. Title 28, section 52. This section provides, "No person shall be eligible for appointment as a member of the commission . . . who has any connection with, official, professional or otherwise, or who owns any stock in a corporation interested either directly or indirectly in the manufacture or sale of liquor"

I requested the Maine State Liquor Commission to furnish me with whatever factual information they could make available which would bear on this question. The Commission has furnished me with certain documentary evidence which would indicate the following factual situation with respect to the application of the foregoing statutory provisions to Mr. Drew's eligibility.

From the annual corporate return filed with the Secretary of State in compliance with Maine statutes on May 12, 1964 and on June 2, 1965, it appears that Gordon W. Drew, 283 State Street, Augusta, Maine, is a member of the Board of Directors and is Treasurer of Lewiston-Gorham Raceways, Inc. It is my understanding that Mr. Drew also made this information readily available to you and the Council at the time of his nomination. His attorney, Brooks Brown, Jr., Esquire, further advises me that he owns approximately 7% of the outstanding stock of Lewiston-Gorham Raceways, Inc. and that he is one of some 300 stockholders.

Lewiston-Gorham Raceways, Inc. is the owner and operator of the harness racing establishment at Lewiston, Maine, and the physical facilities there include the Lewiston Fair Grounds hotel and restaurant. The hotel, restaurant, and bar facilities at the Lewiston race track are leased by Lewiston-Gorham Raceways, Inc. to one William P. Dumais by lease dated May 4, 1964. Under the provisions of this lease rent is computed on a percentage of the lessee's gross sales from the restaurant and the bar. Examination of the lessee's financial records for 1964 and 1965 indicate that he paid substantial rental to Lewiston-Gorham Raceways, Inc. in each of those years computed on the percentage of gross sales provided by the lease.

The application of William P. Dumais to the Maine State Liquor Commission for hotel liquor licenses indicate that an estimated 65% of his gross income from the operation of the licensed premises leased to him is from the sale of liquor.

In view of the foregoing, it would seem clear that Mr. Drew as a stockholder and principal officer of Lewiston-Gorham Raceways, Inc. would have an official connection and would own stock in a corporation interested at least indirectly in the sale of liquor. He would, therefore, not be eligible for appointment as a member of the Commission in view of the provisions of section 52 quoted above. I am further advised by his attorney that he is also an endorser on a note from Lewiston-Gorham Raceways, Inc. to Depositors Trust Company along with the other directors of the corporation, which would appear to be a further interest within the statutory prohibition.

I must call your attention to the fact that Mr. Brown, as attorney for Mr. Drew, has submitted to me a memorandum indicating that if Mr. Drew's appointment is confirmed, he will resign as a Director and as Treasurer of Lewiston-Gorham Raceways, Inc. and will convey all the stock which he owns in the corporation in trust to the Depositors Trust Company. Mr. Brown further states that it is his belief that Mr. Drew could be removed as an endorser of the corporation's note. He has also submitted to me a copy of a proposed trust agreement known as the "Gordon W. Drew Trust" which would effectively transfer Mr. Drew's stock in Lewiston-Gorham Raceways, Inc. to the Depositors Trust Company in trust. The trust would not be subject to amendment, alteration or revocation so long as he was a member of the State Liquor Commission, but could thereafter be revoked. The income from the trust would be retained by the trustee

January 4, 1966

for investment. Upon revocation, the entire trust would be repaid to Mr. Drew. The trust would cease upon his death and the trust would be paid to his estate. The trustee would have the power to exercise all voting rights and other rights in Lewiston-Gorham Raceways, Inc., except that no shares could be sold without Mr. Drew's consent in writing.

It is apparent that this instrument and the proposed resignations would divest Mr. Drew of any legal title to the stock, but I question whether the statutory conditions are met if the transfers are not, in fact, accomplished prior to the time of appointment and confirmation; and whether there would still not be an indirect interest in view of the provisions for revocation and return of the stock to Mr. Drew at the completion of any service as a member of the Commission.

Yours very truly,

Richard J. Dubord
Attorney General

RJD:H