

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)

STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

to such judgments, and is, if preserved in a record, useful to the Legislature in determining whether to adopt the Commission's proposal.

2. It should be borne in mind that the Legislature makes the final decisions on reclassifications. 38 M.R.S.A. § 361 (Supp. 1968). The WAEIC by statute, serves the function of advising and recommending to the Legislature with respect to reclassifications. *Ibid.* But it is the Legislature which decides what the classifications shall be, and it is not bound by the Commission's recommendations or advice. A reclassification statute, therefore, is not invalid because the WAEIC did not hold the public hearing.

ROBERT G. FULLER, JR.
Assistant Attorney General

March 18, 1969

To: Thomas S. Squires, Asst. Director, Sales Tax, Bureau of Taxation

Subject: Sale of "Hulls"

SYLLABUS:

A HULL IS NOT A BOAT FOR THE PURPOSES OF 36 M.R.S.A. § 1760 (25); FURTHER, THE SALE OF A HULL TO A NONRESIDENT FOR COMPLETION INTO A BOAT AT A SECOND MAINE BOATYARD IS NOT EXEMPT FROM THE MAINE SALES AND USE TAX LAW.

FACTS:

Taxpayer manufactures and sells marine hulls 35 feet or longer in length, out of a new form of cement. After completion, the hulls are shipped, according to the buyer's directions, to boatyards, either in state or out of state, where superstructures, cabins, wiring, engines, etc., are added.

The hull is the frame or body of a boat exclusive of superstructure, cabin, engine, masts, wiring, rigging, etc. The reference hulls, without these additions, have little practical use.

QUESTIONS:

1. Is a hull to be considered a boat for the purposes of 36 M.R.S.A. § 1760 (25)?
2. If such a hull is sold to a nonresident and is completed into a boat by a second Maine boatyard is the sale exempt from Maine Sales and Use Tax Law?

ANSWERS:

1. A hull is not a boat within the meaning of 36 M.R.S.A. § 1760 (25).
2. The sale of a hull to a nonresident for completion into a boat at a second Maine boatyard is not exempt from the Maine Sales and Use Tax Law.

REASONS:

1. Case law on what constitutes a hull or boat is sparse. Those decisions which do

exist confront the issue of whether or not a hull and/or boat is completed to such a stage that admiralty courts will have jurisdiction or whether state courts will have jurisdiction. Without exception, these cases differentiate between a hull and a completed boat or vessel. These admiralty decisions are useful in defining the term “boat” in 36 M.R.S.A. § 1760 (25) of the Sales and Use Tax Law.

The Oregon Supreme Court in *Northup v. The Pilot*, 6 Ore. 297 (1877) stated at page 299:

“ . . . it must be a boat or vessel used in navigating the waters of the state, and evidently must be such a boat as is complete and capable of being used in the business of carrying freight or passengers, and one which would be subject to commercial regulations.

“The hull of a boat without the other parts necessary to its use is not a boat . . .”

Seven years later the Oregon Supreme Court in *Yarnberg v. Watson*, 4 P. 296, stated at page 297:

“But a boat in an unfinished state, and wholly unfit for carriage of men or goods on water, or for any purpose for which such a vehicle is intended, is not a vessel.”

Finally, the Circuit Court of Appeals, Fifth Circuit, in *R. R. Ricou & Sons Co. v. Fairbanks, Morse & Co.*, 11 F 2d 103 (1926) stated at page 104:

“We think that the allegations of the libel fairly import that the structure libeled, namely, the boat Nуска, was a water craft, not an uncompleted structure intended to be a boat when it was finished. In common usage the words, “boat” and “vessel” are understood to describe structures so far completed as to be capable of being used as a means of transportation on water.”

In view of the above cases, a hull is not to be considered a boat for the purposes of 36 M.R.S.A. § 1760 (25), unless cabins, a superstructure, wiring, engines, etc., have been added and the boat deemed complete.

2. There is no exemption provision which would apply to the sale of a hull to a nonresident for completion into a boat at a second Maine boatyard.

WENDELL R. DAVIDSON
Assistant Attorney General

March 31, 1969

Elden H. Shute, Jr., Deputy
Secretary of State

Registration of certain political committees

SYLLABUS:

A committee organized to raise funds to repay campaign-incurred obligations and to put funds into a political party treasury is a “political committee” within the meaning of 21 M.R.S.A. § 1 (24) (1964) and so required to register with the Secretary of State under § 1393 of that Title.

FACTS:

A committee is organized with the stated purposes of raising funds “to help offset ’68