STATE OF MAINE

Inter-Departmental Memorandum Date May 12, 1976

To Keith H. Ingraham, Director Dept. Alcoholic Beverages

From Phillip M. Kilmister, Assistant Dept. Attorney General

Subject Interpretation of Title 28, Section 301 of the Revised Statutes

In response to your memorandum of April 14, 1976 in which you posed the question as to whether or not a Christian Science Reading Room would be a "church, chapel or parish hall" under our liquor licensing statutes, please be advised that there are no court decisions in the State of Maine nor any other jurisdiction, which have specifically ruled upon the question of whether or not a Christian Science Reading Room constitutes a church facility within the meaning of liquor licensing control statutes.

The applicable portion of 28 M.R.S.A. § 301 reads as follows:

> "No new hotel, restaurant, tavern or club licenses shall be granted under this Title to new premises within 300 feet of a public or private school, school dormitory, church, chapel or parish house in existence as such at the time such new license is applied for, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel, except such premises as were in use as hotels or clubs on July 24, 1937. . . ."(emphasis supplied)

Statutory provisions such as section 301 must be liberally construed in favor of the places or institutions which they were designed to protect, but even given such liberality of construction, it does not follow that all places devoted to religious purposes, qualify as churches. Indulgence in the use of said presumption did not preclude the Florida Supreme Court from holding that a church parsonage is not a "church facility" within the meaning of a city ordinance providing that no license shall be issued to an applicant for the consumption of liquor within 500 feet of church facilities. The Florida Court so held even though the parsonage was utilized for purposes such as Bible discussion, song services and prayer, in addition to being used primarily as a place of residence for the minister and his family. Shipbaugh v. City of Sarasota, 94 So.2d 728 (1957).

Admittedly, cases such as Shipbaugh are not necessarily dispositive of the issue to be resolved, however, since cases involving parsonages generally lay heavy emphasis upon the primary usage of the realty as being a domiciliary of the clergyman and his family, and tend to downgrade as secondary usage, the conduct of prayer meetings, bible study conferences and other periodic religious services held on the premises.

Practitioners of the Christian Science Religion consider Reading Rooms an integral adjunct of the church itself. It does not follow, however, that reading rooms therefore must be considered churches, chapels or parish houses within the meaning of 28 M.R.S.A. § 301 simply because people utilize the premises periodically for said purposes.

As noted above, places where people may congregate for purposes of religious study and worship are not necessarily churches or chapels.

> "the word 'church,' as found in statutes pertaining to zoning regulations in cities and counties in relation to licensing of vendors of alcoholic beverages near a church or school, has a plain and ordinary signification, and must be given its natural meaning." (emphasis supplied) Abenkay Realty Corp. v. Dade County, 192 Fla. 495, 185 So.2d 777, (1966).

In summary, even given a very liberal construction, the ordinary meaning of the words "church, chapel or parish house" as set forth in 28 M.R.S.A. § 301, does not embrace buildings or portions thereof, owned or leased as Christian Science Reading Rooms.

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