

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

3. The duty of public health officials is very definite under the language of the statutes. Chapter 358 has declared that four named diseases are infectious and communicable. Chapter 330 requires quarantine of persons suffering from any infectious or communicable diseases so defined under the rules and regulations of the State Bureau of Health. The State Bureau of Health has in its regulations declared syphilis, gonorrhoea, chancroid and lymphogranuloma venereum under certain named circumstances to be infectious and communicable. It is therefore the duty of health officials under the provisions of Chapter 330 and also the provisions still existing unrepealed and unmodified under P. L. 1933, Chapter 1, to quarantine a person suffering from smallpox, scarlet fever, diphtheria, pulmonary tuberculosis, syphilis as defined by the Bureau of Health, gonorrhoea as so defined, chancroid as so defined, and lymphogranuloma venereum as so defined, or any other infectious or communicable diseases so defined under the rules and regulations of the Bureau of Health.

FRANK I. COWAN

Attorney-General

December 16, 1943

Hon. Sumner Sewall, Governor

Mrs. Stevens of Civilian Defense tells me that you have suggested that she inquire of this office whether the Town of Brunswick can be authorized under the Civilian Defense Act (either Section 1 or Section 3) to appropriate money for purchasing land and erecting foundations for a recreation building, the funds for completion of which are to be advanced by the Federal Government.

The Civilian Defense Act was passed by the legislature to give certain emergency powers to the Executive. The giving of those powers was to provide for the security, health and welfare of the people at such time as the legislature might not be in session. The whole purpose of the Act was to make sure that no sudden emergency could arise and no method of meeting it exist. There is nothing in the Act at all to authorize the construction of permanent buildings, nor the appropriation of moneys for the acquisition of land, for other than temporary purposes. My answer must therefore be that there is no authority in P. L. 1941, Chapter 205, under which the Town of Brunswick can be authorized to do what is contemplated.

The further question has been asked whether the Town of Brunswick has authority to raise money for an appropriation for such a purpose without specific legislative authority. There are certain questions in regard to the rights of municipalities and the rights of individuals that cannot be raised by the Attorney-General. There are cases where an individual or a municipality may do things that are in violation of the law, but the Attorney-General cannot of his own motion take any action. This would seem to be such a question. The Town of Brunswick has authority to employ counsel and to get advice on the point raised by Mrs. Stevens. It is not the function of this office to advise in such matters, nor has this office any right to interfere.

FRANK I. COWAN

Attorney-General