

MAINE STATE LEGISLATURE

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November 5, 1956

To W. H. Bradford, Right of Way Engineer, SHC
Re: Advertising Sign for Business Conducted Elsewhere

The sign referred to in your memo raises a troublesome question. The answer depends on whether Section 138 of Chapter 23 is to be strictly construed, like a criminal statute, or interpreted under the normal rules of statutory construction.

There is no doubt but what the general legislative intent was to limit the use of signs with the exceptions noted in the law. The exceptions to the requirement of a permit as set forth in Section 139 are for the benefit of a land owner doing a business thereon or attempting to sell his property.

This sign is obviously advertising a business that is conducted elsewhere. In fact, it looks as if the "For Sale" sign is affixed to the big sign. Yet if we attempted to get a warrant, the strict interpretation of the criminal law might lick us.

There is an out under the provisions of Section 143, where it lists among our powers:

"to order and cause the removal of any outdoor advertising structure, etc., erected or maintained in violation hereof. . . . and for that purpose may enter upon private property."

We might make the penalty section work, but it is my opinion that we are safe in removing the sign.

L. Smith Dunnack
Assistant Attorney General

LSD/ek