

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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"Class IIB was established for Aroostook County some ten years ago after hearing and investigation in Aroostook County and is still in force there. May this IIB be established in additional marketing areas without prior hearing in the areas?"

"Also the Augusta, Brunswick, Lewiston-Auburn and Waterville markets have a bulk clause in their schedules to the effect that dealers supplying a person who buys 200 or more quarts per day on a year round basis may sell at 1c per quart less than the scheduled wholesale price. This was established after prior hearing and investigation. May this bulk clause be added in additional marketing areas without prior hearing and investigation?"

In my opinion the answer to both of the questions is in the negative. Section 4, Chapter 33 authorizes the Commission

". . . to establish and change after investigation and public hearing minimum prices. . .".

Paragraph VI of Section 4 vests the Commission authority to specify prices and make classification after investigation and public hearing. It is further stated that minimum prices in any market which shall apply to the various classifications may vary in the several market areas.

It would thus appear that in viewing the intent of Section 4 in its entirety, that several factors must be considered in price fixing and classification, which may vary in different market areas. Therefore, it would be necessary to investigate and hold public hearings for two reasons — a statutory requirement and the practical necessity for facts to arrive at a determination.

GEORGE A. WATHEN
Assistant Attorney General

June 16, 1959

To: Lloyd K. Allen, Manager of Industrial Building Authority

Re: Office Buildings

I have your request for an opinion on the following fact situation: A corporation has three manufacturing plants in the state in different towns. None of these plants are insured by the Maine Industrial Building Authority. This corporation now wishes to construct an office building in a town apart from where the manufacturing plants are located.

Is an office building eligible for mortgage insurance under Chapter 38-B, Revised Statutes of 1954?

Section 3 of Chapter 38-B authorizes the Authority to insure the payment of mortgage loans secured by industrial projects. The term "industrial project" is defined in paragraph III, section 5, as "any building or other real estate improvement and, if a part thereof, the land upon which they may be located, and all real properties deemed necessary to their use by any industry for the manufacturing, processing or assembling of raw materials or manufactured products."

An office building is not a building or real property necessary for manufacturing or processing and therefore does not fit within the definition

of an industrial project. Reference should also be made to Section 2, Chapter 38-B to determine the purpose of the act.

It is my opinion that the construction of an office building as shown by the facts is not eligible for mortgage insurance under Chapter 38-B upon completion.

GEORGE A. WATHEN
Assistant Attorney General

June 19, 1959

To: Peter W. Bowman, Superintendent of Pineland Hospital & Training Center

Re: Establishment and Enforcement of Traffic Rules and Regulations on Institution Grounds

We have your memo of June 2, 1959, in which you ask this office to define your authority as Superintendent of Pineland Hospital and Training Center as it relates to the establishment and enforcement of traffic rules and regulations on the institution's grounds.

Establishment of enforceable traffic laws or rules and regulations must be authorized by the legislature and enforced by a court. Only a court may collect a fine or penalty imposed for violation of a law or a rule and regulation.

For instance, Chapter 158, Private and Special Laws of 1957, permits rules and regulations to be promulgated by the superintendent of public buildings subject to the approval of the Governor and Council and to be enforced by a special police officer employed by the State. This chapter, however, limits the scope of such rules and regulations to roads and driveways on lands maintained by the State at the seat of government (Augusta) and does not embrace grounds at Pineland.

We are of the opinion that such grounds would be considered public ways and complaint can be made to a court whenever laws relating to such ways are violated.

It would be proper for you to designate certain parking areas for institution employees, but such an administrative act would not be enforceable by way of fine, forfeiture, or like penalty.

JAMES GLYNN FROST
Deputy Attorney General

June 19, 1959

To: Kermit Nickerson, Deputy Commissioner of Education

Re: Teacher's Contracts

You have requested an opinion regarding the following fact situation:

A teacher was employed as a probationary teacher for a period of three years on annual contracts. At the end of the three-year