

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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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

period, she was elected for a one-year period and both parties executed a written contract. Said teacher was given written notice of termination at least six months prior to the termination of the contract.

Was the one-year contract a valid contract?

The relationship between school authorities and a teacher is created by contract. This contractual relationship still exists after the probationary period. The authority on the part of the school authorities is entirely statutory for the employment of teachers. The extent of the authority to enter into a contract in this case is governed by Chapter 41 of the Revised Statutes of 1954.

See Chapter 41, Section 87, paragraph V, which reads in part as follows:

“Except that after a probationary period of not to exceed 3 years, *subsequent contracts of duly certified teachers shall be for not less than 2 years*, and furthermore, that unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract shall be extended automatically for 1 year and similarly, in subsequent years, although the right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties.” (emphasis supplied)

Referring to 78 C. J. S. 1037, Section 185(b.) it is stated that a contract in excess of a term prescribed by statute is void. In *Collins v. City of Lewiston*, 107 Me. 220, the following language is found:

“When a contract conflicts with a statute the former must yield. Otherwise statutes could be modified or repealed without even the approving caress of the referendum.”

It is my opinion that the hiring agent had no authority to execute a contract for one year in the light of the statute.

GEORGE A. WATHEN
Assistant Attorney General

June 24, 1959

To: Harold I. Goss, Secretary of State

Re: Doing of Business in the State of Maine by Foreign Corporations

This is in response to your recent request for an opinion on the question posed in a letter from Harold F. Olsen, Counsel for Boeing Airplane Company, dated April 17, 1959. Mr. Olsen's letter reads as follows:

“Your advisory ruling is respectfully requested as to the necessity for compliance with the provisions of the Maine Revised Statutes, Chapter 49, Sections 123-131, relating to the doing of business in the State of Maine by foreign corporations under the following conditions:

“Boeing Airplane Company is a Delaware corporation, formally qualified to do business in the states of Washington, Califor-