

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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July 2, 1959

To: Nathan W. Thompson, Esquire
Woodman, Skelton, Thompson & Chapman
85 Exchange Street
Portland 3, Maine

Dear Mr. Thompson:

This is in response to your most recent letter of June 24, 1959, and attached copy of a proposed clause to be included in the lease agreement between the town of North Haven and the Maine Port Authority, which proposed clause we have studied.

The effect of the clause is to vest the ferry terminal in the town if, for any period longer than two consecutive months, the State fails to provide regular ferry service from Rockland to the town of North Haven. In the interim two-month period the town is to be able to operate the ferry terminal without charge.

This proposal is an alternative to that proposed by this office in our letter to you dated May 27, 1959, that such vesting would take place if for a period of two years such regular service was not provided. This newest proposal is, in our opinion, objectionable for the same reasons stated in our letter to you. It would seem that the town would have achieved its desire if the two-year period as suggested were adopted with the towns having the right to use the terminal without charge in the event regular ferry service is terminated with the terminal vesting in the town after the two-year period.

The statute does not at all contemplate termination of the ferry service. It is a mandate upon the Maine Port Authority to supply the service and the statute provides the means for financing the venture. We believe that compliance with the request of the town would amount to a substantial amendment to the statute.

As we stated before, the two-year period seems to be reasonable when one considers that the legislature meets in regular session only once in two years. We do not see how, in good conscience, we could approve a lesser period.

An alternative may be condemnation of the site. Have you considered this?

Very truly yours,

JAMES GLYNN FROST
Deputy Attorney General

July 2, 1959

To: Perry D. Hayden, Commissioner of Institutional Service

Re: Interpretation and effect of Chapter 312, P. L., 1959

I have your request for an opinion on the following question:

Does that part of Subsection I, Section 11, Chapter 312 of P. L. of 1959 apply to all life term prisoners or only to those who are released on parole after the effective date of the law, September 12, 1959?

It is my opinion that prisoners released under the present law can have a parole duration of no longer than four years, and those released after the effective date of the new law are subject to the terms of the new law.

Chapter 10, section 21, R. S. 1954, reads in part:

“. . . The repeal of an act does not affect any punishment, penalty or forfeiture incurred before the repeal takes effect, or any suit, or proceeding pending at the time of the repeal, for an offense committed or for recovery of a penalty or forfeiture incurred under the act repealed.”

Chapter 312, P. L. 1959 does not apply retroactively.

GEORGE A. WATHEN
Assistant Attorney General

July 6, 1959

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

Re: Custom Printing Plant

You have requested my opinion regarding the eligibility of a custom printing plant for mortgage insurance under Chapter 38-B.

As I have stated in previous opinions, one must have the detailed facts in determining whether or not the project would be considered an “Industrial Project” as defined by subsection III of Section 5, Chapter 38-B.

This is a service as well as a processing operation. In my opinion this may qualify, if they are processing or manufacturing a project as a primary purpose and not incidental to their service aspect. I hope this will be an aid to the Authority in arriving at the factual determination.

GEORGE A. WATHEN
Assistant Attorney General

July 6, 1959

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Payment of Subsidies in December, 1959

I have your request for an opinion on the following question:

Is the 1958 valuation, as determined by the Board of Equalization, proper to use in computing subsidy payments to be paid in December, 1959?

Answer: Yes. The payments made under the foundation program are based on the 1958 valuation. The amendment of paragraph two of Section 237-E indicates this by removing the words “and effective on September 1st”, and including the statement: “Such computation shall be subject to correction in accordance with the final statement filed by the Board of Equalization on December 1st”. It appears that a recomputation will be necessary for the December, 1959 payments.

GEORGE A. WATHEN
Assistant Attorney General