

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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clares the need to stimulate a flow of private investment to satisfy the need for housing industrial expansion. It is the primary purpose of the Maine Industrial Building Authority to further industrial expansion in the state through the medium of insuring mortgage loans on new buildings. This section permeates the entire act and must be kept in mind when construing any other section of the Act.

In reviewing Section 5, Chapter 38B, "Definitions," you will note the distinction between new buildings, industrial project and cost of project. The definition of "industrial project" clearly presupposes new construction, which is buttressed by the definition of "cost of project." An "industrial project" is defined 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. . ." (Emphasis supplied) The use of the words "may be located" indicates a future act rather than an accomplished fact.

An "industrial project" may include several buildings, some of which are old and others which are new. The term "new building" is self-explanatory.

Subsections V-A and VII, Section 6, again support the contention that the Authority deals with only new buildings.

Arguendo, Section 9-A provides that the issuance of a contract of insurance is conclusive evidence of the eligibility of the mortgage for insurance, but this section contemplates the action of the Authority to have been taken with statutory authority.

The dicta in *Martin v. Maine Savings Bank, et al*, 153 Me. 259, 272, recognizes the construction of new buildings.

It is my opinion that the Maine Industrial Building Authority must insure mortgage payments on new industrial buildings with an industrial project and is without authority to insure the mortgage payments on old buildings.

GEORGE A. WATHEN
Assistant Attorney General

May 3, 1960

Dr. Francis H. Sleeper, Superintendent
Augusta State Hospital
Augusta, Maine

Re: Persons suffering from opiates — disposition

Dear Dr. Sleeper:

I have your request for an opinion regarding the disposition of persons suffering from opiates and whether or not they can be accepted by the state hospital for the mentally ill.

Section 167, Chapter 25, provides that a person alleged to be suffering from the effects of the use of opiates, drugs or narcotics may be committed to the care of any hospital or qualified physician, and further provides that the person may be restrained for a period of not more than 90 days. Section 168 provides that such restraint must be by voluntary agree-

ment of the person, witnessed by the spouse or parent or municipal officers where the person resides and approved by a judge of the Superior Court or Probate Court.

Section 169 relates to investigation of progress of the patient and release.

The heading of Section 167 reads "Persons suffering from the use of opiates committed to general hospital." Although the bold print heading is no part of the law, it would appear to be a criteria for ascertaining the intent of the legislature.

Sections 95-102, Chapter 27, relate to the establishment and operation of the state hospitals for the mentally ill. The powers and duties of the superintendent are set forth therein. The statute also prescribes the patients to be admitted thereto. There is nothing in the sections heretofore mentioned that authorize the admission of persons suffering from the use of drugs unless such person is also mentally ill. Section 95, Chapter 27, provides that these hospitals are maintained for the mentally ill. It is not a hospital in the popular concept of the word — much less a general hospital.

It is, therefore, my opinion that you have no authority to admit persons suffering from opiates to the State mental hospital unless they are otherwise committed under the provisions of Chapter 27.

Very truly yours,

GEORGE A. WATHEN
Assistant Attorney General

May 17, 1960

Allan L. Robbins, Warden
Maine State Prison
Thomaston, Maine

Dear Allan:

We have your letter of May 11, 1960 in which you state that _____, who was committed to your institution for life on November 3, 1959, requests permission to marry his common-law wife, and in which you ask our ruling with respect to _____ request.

Now that the statutes which declare the person civilly dead upon being sentenced to life imprisonment have been repealed, we are of the opinion that _____ position is no different than that of other prisoners with respect to his right to enter into a contract. We would, therefore, refer you to our opinion dated August 7, 1956, which opinion stated that with the approval of the warden such marriage ceremony could be performed within the confines of the prison.

Very truly yours,

JAMES GLYNN FROST
Deputy Attorney General