

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
ATTORNEY GENERAL

for the calender years

1961 - 1962

of 1957, clarify the powers of a Probation-Parole Officer. The pertinent portion of the law now reads as follows:

“Sec. 7. . . .

“Each Probation-Parole Officer has authority to arrest and charge a probationer with violation of probation and take him into his custody in any place he may be found, to detain the probationer in any jail for a reasonable time in order to obtain an order from the court, or Justice of the Court in vacation, returning the probationer to court as provided in section 8. In the event the Court refuses to issue an order returning the probationer as provided under section 8, the Court shall issue an order directing the immediate release of the probationer from arrest and detention. A probationer so arrested and detained shall have no right of action against the Probation-Parole Officer or any other persons because of such arrest and detention. Any action required under sections 8, 9 and 10 may be taken by any Probation-Parole Officer.”

. . . . .  
Chapter 428, Section 3, Public Laws 1957. (Special Session)

This law now clearly places in the Probation-Parole Officer the authority to arrest and charge a probationer with violation of probation and take him into custody prior to consulting with the court.

As indicated by you in our conversations, the problem may be one of policy, regardless of how the law reads; that is, you believe that even if the law authorizes the procedure of detention prior to court order, you might, as a matter of administrative policy, direct Probation-Parole Officers to first consult with the court. On this point we have no advice to offer. Such a decision would be an administrative decision wholly within the discretion of the person administering the law.

JAMES GLYNN FROST

Deputy Attorney General

February 17, 1961

To: Carleton L. Bradbury, Commissioner of Banks and Banking

Re: Limitation on real estate investment by loan and building associations.

We have your memo of January 19, 1961 in which you ask for an interpretation of that portion of Chapter 59 under Section 180, Revised Statutes of 1954, which reads as follows:

“Any loan and building association may hold real estate in the municipalities in which such association or any branches thereof are located, to an amount not exceeding 5% of its shareholders' accounts or to an amount not exceeding its reserve fund; but these limitations shall not apply to real estate acquired by the foreclosure of mortgages thereon, or upon judgments for debts or in settlements to secure deeds.”

You ask in relation to the above-quoted provision, in the absence of any phrase such as “whichever is greater” or “whichever is lesser,” which limitation should apply.

The limitation “whichever is greater” should be applied when determining if

a loan and building association is in compliance with or in violation of the limitations.

The word "or" may be used synonymously with "either;" and the word "or" may be used as allowing an alternative. We believe that the association has a choice, and may hold real estate to an amount not exceeding 5% of its shareholders' accounts, or to an amount not exceeding its reserve fund, whichever limitation the association believes to be most desirable.

JAMES GLYNN FROST

Deputy Attorney General

February 17, 1961

To: Secretary of State

Re: Foreign Corporation

Attention: Bernice Henderson

We have your request for an opinion as to whether or not a Massachusetts corporation having a manufacturer's sales representative in the State of Maine would be considered as doing business in this State and thus subject to the laws relating to foreign corporations.

We have examined the applicable law and the letter from the attorney for this Massachusetts corporation and have concluded that on the basis of the facts contained in that letter the corporation would be doing business in the State of Maine and would thus be subject to our laws relating to a foreign corporation.

THOMAS W. TAVENNER

Assistant Attorney General

March 1, 1961

To: Asa Gordon, Coordinator of Maine School District Commission

Re: Legislative Document Nos. 669, 829, 835, 1071, 1075, 1110 and 1178

This is an answer to your request of February 10, 1961, for an opinion relative to Legislative Document numbers 669, 829, 835, 1071, 1075, 1110 and 1178.

The proposed legislation falls into two classes, i. e., bills for the withdrawal of a municipality from a school administrative district and bills for dissolution of a school administrative district. Since different statutory provisions or legal principles apply to each of the above-mentioned classifications, I will answer the questions you propose with respect to each classification.

*Legislation for Withdrawal of a Municipality from a School Administrative District.*

Section 111-P, Chapter 41, Revised Statutes of 1954, provides for the procedure for withdrawal as follows:

"When the residents of a participating municipality have indicated their desire to withdraw from a School Administrative District by a 2/3