

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

processing plant qualifies as an industrial project within the meaning of Revised Statutes of 1954, Chapter 38-B, Section 5, paragraph III.

In a recent case, *C. M. T. Co., Inc. v. Me. Emp. Sec. Comm.*, 156 Me. 218, in discussing the nature of a "hatchery" the court stated:

"It would be difficult to define with precision what constitutes a 'farm' in this day of mechanized agriculture. In the instant case, however, our task is made somewhat easier by the fact that the 'hatchery' alone has attributes which give it a commercial and industrial aspect rather than an agricultural one. Aside from the artificially induced hatching of eggs and the care and feeding of newly born chicks for a very brief period, not one of the operations usually associated with a 'farm' is conducted there. . ."

It is my opinion that the Industrial Building Authority is justified in making a finding of fact under Section 9-A of the law that a hatchery which is an integral part of a poultry processing plant is eligible for mortgage insurance as an industrial project.

RICHARD A. FOLEY

Assistant Attorney General

April 27, 1961

To: Roderic O'Connor, Manager of Maine Industrial Building Authority

Re: Eligibility of Hatchery Plant

This is in answer to your request for an opinion dated April 26, 1961, in clarification of the opinion of this office dated April 20, 1961.

I am of the opinion that a new hatchery plant of itself would qualify for mortgage insurance under the Industrial Building Authority Act in the event that the Industrial Building Authority make a finding of fact that the hatchery plant is an industrial project within the meaning of the act.

RICHARD A. FOLEY

Assistant Attorney General

May 1, 1961

To: E. W. Heywood, Major General, The Adjutant General

Re: Organization — Maine State Guard

We have your letter of 4 April 1961 which reads as follows:

"1. I wish to make reference to:

a. Sections 89-100, R. S. Maine 1954 (Maine State Guard).

b. Section 109, Chapter 1, Title 32, US Code Annotated (Maintenance of Other Troops).

"2. The Department of the Adjutant General is currently reviewing situations which might require the organization of a Maine State Guard as referred to in reference 'a', above. Our opinion would indicate that under this reference

we are precluded from organizing until such time as 'any part' of the Maine National Guard is called into service.

"3. Reference 'b', above, appears to indicate that were reference 'a' worded to permit the organization of a 'Maine State Guard' such could be accomplished at this time.

"4. It is requested that —

- (1) You comment on our assumptions.
- (2) Recommend, if necessary, a possible solution which would allow organization of a State Guard."

In response to your request we believe that, in reference to "b" above, that your assumption that you are precluded from organizing a Maine State Guard until such time as any part of the Maine National Guard is called into service, is a proper assumption.

It appears to us that this situation can only be changed by Legislative Act. Those sections of Chapter 14 relating to the Maine State Guard would have to be amended so as to eliminate those provisions which would indicate that the Maine State Guard could be organized only when any part of the National Guard of this State is in active federal service, and the elimination of related provisions such as appear in sections 89 and 99 of chapter 14, R. S. 1954.

JAMES GLYNN FROST

Deputy Attorney General

May 1, 1961

To: Robert R. Washburn, Director of Veterans Affairs

Re: Ruling requested on eligibility for World War Assistance based on type of discharge

This memo is in response to yours of February 23, 1961 in which you ask questions relating to the determination of the status of a veteran in so far as his discharge is concerned.

"For World War Assistance purposes, Paragraph IV of Section 10 of Chapter 26 as amended of Revised Statutes of 1954, defines a veteran as follows:

"The term "veteran" shall be construed to mean any person who served in the armed forces of the United States on active duty during World War I, World War II or the Korean Campaign, not dishonorably discharged."

You state that:

"Inasmuch as the Veterans Administration makes rulings on eligibility for their benefits based on types of discharges and because they are in the best position to make such rulings, it is the desire of this Division to follow VA policy on eligibility insofar as is consistent with the statutes under which we operate.

"We have no problem with the straight honorable discharge, nor with the straight dishonorable discharge. There are a myriad of types in between and certain other special situations that we encounter. It is with some of these that we have difficulty."