

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

Any one of the following categories would constitute an automobile junk yard or "automobile graveyard:"

- (a) 3 or more unserviceable, discarded, worn-out or junked automobiles
- (b) 3 or more unserviceable, discarded, worn-out or junked automobile bodies
- (c) 3 or more unserviceable, discarded, worn-out or junked automobile *engines*.

The reason for this is that the statute in question is set forth in the alternative and it is not necessary that the engines or bodies or both be assembled into automobiles before the statute applies. The purpose of the statute obviously was to include a pile of 3 or more automobile engines within its operation so that they would, standing alone, constitute an automobile graveyard.

Your attention is called to the provisions of R. S. 1954, c. 141, § 6, as amended by P. L. 1963, c. 305, wherein "any places where *one or more* old, discarded, worn-out or junked automobiles, or parts thereof are gathered together, kept, etc." are declared to be public nuisances. This might be a source of confusion since there are two chapters dealing with junked automobiles. The distinction is that one junked automobile or parts thereof may be declared a public nuisance under c. 141, § 6, but there is no provision for regulation. But 3 or more junked automobiles or bodies or engines thereof under c. 100, § 138 are not only a public nuisance but are also subject to regulation by requiring a license.

CARL O. BRADFORD

Assistant Attorney General

December 3, 1963

To: Richard E. Reed, Executive Secretary, Maine Sardine Council

Re: Market Classification of Puerto Rico

Facts:

P. L. 1963, chapter 338, provides for the development and expansion of foreign markets for sardines. The Sardine Council would like to expand the market for sardines into Puerto Rico.

Question:

Is Puerto Rico a foreign market within the provisions of P. L. 1963, chapter 338?

Answer:

Yes.

Opinion:

The emergency preamble states that the purpose of the statute is to expand markets for the benefit of the Maine sardine industry. Since the statute is beneficial in nature, it should be liberally construed.

One of the dictionary definitions of the word "foreign" is: "Situated outside a place or country." Another is: "Outside of any locality under consideration." Puerto Rico is physically separated from the continental United States and is not one of the States of the United States. In that sense, it falls within the above definitions.

This is so even though both the State of Maine and Puerto Rico come under the sovereignty of the United States. In a Pennsylvania case, decided when that State was still subject to Great Britain, it was held that the British West Indies was a foreign market as to exports from Pennsylvania. In that case the court said:

“Construing the word ‘foreign’ with greater latitude, it might extend to all countries beyond sea, without considering whether subject to the same sovereign or not.”

It is, therefore, the opinion of this office that Puerto Rico is a foreign market within the meaning of the statute.

LEON V. WALKER, Jr.

Assistant Attorney General

December 10, 1963

To: Doris M. St. Pierre, Secretary, Real Estate Commission

Re: Brokers' Clearinghouse

Facts:

A New York organization is desirous of establishing a nation-wide clearinghouse where member real estate brokers may exchange information concerning families who are relocating. The organization would not participate in any commissions, but would receive an annual fee from member brokers. The service rendered would be that of giving member brokers a central location for pooling of names of persons relocating. The organization would not deal with the actual listings of real property, but would merely disseminate names and addresses of prospective buyers and renters. Question:

Whether this organization would be considered acting as a broker under the provisions of c. 84, § 2, R. S. 1954, as amended, thereby being required to qualify as a non-resident broker pursuant to the provisions of c. 84, § 10, R. S. 1954, as amended.

Answer:

No.

Opinion:

Pursuant to § 2, supra, a broker is defined as:

“I. A ‘real estate broker’ is any person, firm, partnership, association or corporation who for a compensation or valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers to rent, or lists or offers to list for sale, lease or rent, any real estate or the improvements thereon for others, as a whole or partial vocation. (1957, c. 32.) (1959, c. 363, § 40.)”

It is evident from the facts of this opinion that the prospective organization would neither sell nor offer to sell, nor buy nor offer to buy any real estate. The crux of the question evolves around the phrase “negotiates the purchase or sale or exchange of real estate.” The organization in question could not be considered as negotiating the purchase or sale of anything. They