

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

The apparent conflict caused by the 3-axle limit with the 51,800 pound limit must be resolved in favor of the overall limit. Up to that limit of 51,800 pounds, each of 3 axles in a grouping of less than 8 feet may carry not more than 18,000 pounds. The practical limit for each axle would be 51,800 divided by 3, or 17,266 pounds per axle in a group of 3 located less than 8 feet apart. Of course, 2 axles less than 8 feet apart, but more than 4, could carry 18,000 pounds each.

JAMES S. ERWIN
Attorney General

May 19, 1967
Banks & Banking

Alden H. Mann, Director
Division of Securities

Title 9, Chapter 51; Legal Investments for Savings Banks.

FACTS:

Title 9, c. 51 of the 1964 Maine Revised Statutes controls the investments of Maine Savings Banks in securities.

A cumulative preferred stock issue of a public utility has not qualified as a legal investment for savings banks under subparagraph 5 of 9 M.R.S.A. § 608, which is the section in Title 9, c. 51 setting forth the criteria for investments in preferred stocks by Maine Savings Banks.

QUESTION:

May this issue of preferred stock of a public utility be purchased by savings banks under 9 M.R.S.A. § 610, as amended, the so-called prudent man section, even though it fails to qualify under 9 M.R.S.A. § 608?

ANSWER:

No.

OPINION:

The so-called prudent man section permitting investments by Maine Savings Banks reads as follows:

“Savings banks may hereafter invest: *In such other securities* as the trustees of a bank may consider to be sound prudent investments.

“Not more than 10% of the deposits of a bank shall be invested in securities within the coverage of this section.” 9 M.R.S.A. § 610, as amended by P. L. 1965, c. 335, § 12. (Emphasis supplied)

In the context of 9 M.R.S.A. § 610 the reference to “in such other securities” is a reference to the securities other than those falling within categories established by 9 M.R.S.A. §§ 592 through 608. If a security falls within such a category, as in the instant fact situation, the preferred stock of a public utility, it must qualify under that specific section, otherwise the security is not a legal investment for savings banks. The

Legislature would not establish categories and then permit a security that did not qualify under a category to qualify under a prudent man section. The prudent man section was established to deal with investments in categories that were not established by a specific section of the savings bank investment law (9 M.R.S.A. Chapter 51).

To illustrate, under the prudent man section, an investment in a share of an industrial corporation other than a Maine industrial corporation would be permitted if the trustees of a bank considered such an investment to be a sound prudent investment and provided that no more than 10% of the deposits of the bank were invested within the coverage of the prudent man section. 9 M.R.S.A. § 610. Stock of industrial corporations other than a Maine corporation is a category that is not established by sections 592 through 608 and therefore the prudent man section could be applied.

In the instant fact situation, there is a category dealing with preferred stock of public utilities – 9 M.R.S.A. § 608 – and therefore the prudent man section could not be used.

JEROME S. MATUS
Assistant Attorney General

June 1, 1967
State

Joseph T. Edgar, Secretary of State

FACTS:

The number of pardon petitions appears to be increasing. It has been customary through the years for the Governor and Council to hold pardon hearings once every two months. The increase in the number of petitions makes the pardon sessions unusually long and burdensome. The Governor and Council are exploring the possibility of holding the pardon hearings each month.

QUESTION NO. 1:

Must pardon hearings be held every two months or may the hearings be held each month?

ANSWER:

See opinion.

OPINION:

The Constitution of the State, Article V, Part First, Section 11, sets forth the authority of the Governor with the advice and consent of the Council to grant pardons. This power is given “subject to such regulations as may be provided by law, relative to the manner of applying for pardons.”

The Legislature, by 15 M.R.S.A. §§ 2161 – 2166, has set forth the restrictions, limitations and regulations relative to the manner of applying and granting of pardons.

There is nothing in the above-cited statutes which states the time of holding pardon hearings. This is a matter which is within the jurisdiction of the Governor and Council. They may hold pardon hearings as frequently as they so decide.

QUESTION NO. 2:

May a pardon hearing be scheduled for a date later than the next scheduled hearing date?