

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

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?

ANSWER:

Yes.

OPINION:

In view of the answer to question No. 1 above, it automatically follows that the Governor and Council may schedule pardon hearings when they wish to hold them. The only limitation is that set forth in 15 M.R.S.A. § 2161, which provides that "written notice thereof shall be given to the Attorney General and the County Attorney for the county where the case was tried at least 4 weeks before the time of the hearing thereon, and 4 weeks' notice in some newspaper printed and published in said county."

As long as the Governor and Council give at least 4 weeks' notice to the Attorney General and the County Attorney and the notice is published at least 4 weeks prior to the scheduled date of the hearing, it is not necessary that the pardon be scheduled for the next meeting of the Governor and Council, or the next meeting of the Governor and Council at which other pardons have been scheduled.

GEORGE C. WEST
Deputy Attorney General

June 15, 1967
Banks and Banking

Irl E. Withee, Deputy Bank Commissioner

Three-year loan limitation of industrial banks.

FACTS:

You have requested by memorandum, rulings on the three-year loan limitation of industrial banks prescribed by 9 M.R.S.A. § 2381, subsection 2, as amended by P. L. 1965, chapter 454.

QUESTIONS:

1. Will a renewal, either in full or in part of a 3-year loan, be construed to be in violation of the section?
2. If a payment or payments on a 3-year loan should be in arrears, will an extension of such payment or payments beyond the maturity of the loan be construed to be in violation of the section?

ANSWERS:

Question No. 1: Yes.

Question No. 2: Yes.

OPINION:

9 M.R.S.A. § 2381, subsection 2, as amended by P. L. 1965, chapter 454 reads as follows: