

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

FACTS:

As I understand from your memorandum of September 28, 1967, the operator of a trailer park proposes to construct a sewer line to serve the park and to tie in such line with existing domestic sewer lines. These domestic sewer lines were constructed prior to August 8, 1953 and presently empty raw sewage directly into the St. John River.

QUESTION:

May the Water Improvement Commission validly require a discharge license of an individual who proposes to discharge untreated sewage into a river by way of an artificial watercourse constructed prior to the effective date of the statute imposing the license requirement?

ANSWER:

Yes.

OPINION:

The sewage to be discharged from the trailer park will eventually go into the St. John River without any treatment whatever. It will therefore constitute a new source of pollution to the river. The whole thrust of the license statute, Me. Rev. Stat. Ann., Tit. 38, § 413 (1964), is to protect the state's waters by requiring that such new sources be scrutinized by the WIC, which has the power to deny a license to discharge or to grant a license hedged with restrictions sufficient to maintain classification standards.

The fact that the sewage in question here initially flows into a "grandfathered" man-made watercourse prior to entering the river is immaterial. It is not the initial discharge into the man-made watercourse which is in issue, but rather the ultimate discharge into the river. It is this ultimate discharge which constitutes a new source of pollution to the river and must be licensed in order to be valid. *See*, in this regard, opinion of this office dated June 4, 1965, copy of which is hereto appended.

1961-62 Me. Ops. Att'y Gen. 166 is overruled to whatever extent it held that a discharge of the type contemplated here was not subject to license. A wholly different question would be presented if the discharge here was into an artificial watercourse leading to a treatment plant whose final effluent did not constitute a new source of pollution to the receiving body of water.

ROBERT G. FULLER, JR.
Assistant Attorney General

October 6, 1967
Banks and Banking

Irl E. Withee, Deputy Commissioner

Whether or not the Limitations of 9 M.R.S.A. § 6.4 Apply to Regulations Promulgated under 9 M.R.S.A. § 3856

FACTS:

Title 9 M.R.S.A. Chapter 371, entitled "Disclosure of Interest in Finance Charges in Retail Sales" becomes effective on January 1, 1968.

Section 3856 of said Chapter provides in part that the Commissioner "shall prescribe such rules and regulations as may be necessary or proper in carrying out this chapter."

QUESTION:

Do the limitations contained in the provisions of 9 M.R.S.A. § 6.4 apply to regulations promulgated under the authority of the aforementioned 9 M.R.S.A. § 3856?

ANSWER:

No.

OPINION:

The aforementioned 9 M.R.S.A. § 3856 specifically provides that the State Bank Commissioner shall prescribe such rules and regulations that may be necessary or proper in carrying out the provisions of Chapter 371, which, it must be observed, relates to "installment sellers" of goods or services. Title 9 M.R.S.A. § 6.4, however, is general in nature and pertains to the regulation of financial institutions. The term "financial institution" is defined in 9 M.R.S.A. § 222.4 as meaning ". . . a trust company, savings bank, trust and banking company, institution for savings, loan and building association, savings and loan association or industrial bank organized under the laws of this State." Accordingly, the term "financial institution" does not, in our opinion, include an "installment seller" as it is used in the aforementioned Chapter 371.

It is consequently felt that the specific authority to issue regulations contained in 9 M.R.S.A. § 3856 constitutes an exception to the procedures required by 9 M.R.S.A. § 6.4. Accordingly, it is our opinion that the State Bank Commissioner is not required to follow the procedures outlined in 9 M.R.S.A. § 6.4 when issuing regulations under the authority of 9 M.R.S.A. § 3856.

HARRY N. STARBRANCH
Assistant Attorney General

October 13, 1967
Mental Health and Corrections

Walter F. Ulmer, Commissioner

Functions of Probation and Parole Board Member

FACTS:

In your memorandum of September 27, 1967 it is stated that the Commissioner of the Department of Mental Health and Corrections has appointed the Director of the Bureau of Corrections to serve on the State Probation and Parole Board. As a result of this appointment you have asked in essence the following question:

QUESTION: