

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1918

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sex may be appointed by the Judge of Probate. This is a temporary expedient provided for undoubtedly because of the well-known fact that most of the clerks and assistants in the Probate offices are of the female sex and would be fitted temporarily to preserve the business of the office until a regular register was qualified.

Furthermore, the power of appointment of a woman to fill such vacancy temporarily, rests solely in the Judge of Probate and is not within the powers of the Governor and Council.

It is my opinion, therefore, that you have no power whatsoever to appoint any woman to act as Register of Probate temporarily or permanently.

Yours very truly,

GUY H. STURGIS,

Attorney General.

TUBERCULOSIS—POWER TO DEPORT OR ISOLATE CITIZEN OF ANOTHER STATE—RIGHT OF MUNICIPALITY TO REIMBURSEMENT FROM STATE.

Portland, Maine, 11th June, 1917.

A. G. Young, M. D., Sec. of State Board of Health, Augusta, Maine.

DEAR SIR: In reply to your inquiries of June 5th, relative to citizen of New York State coming into Maine suffering from advanced tuberculosis, and as to authority to deport or detain, isolate, etc., and the liability of the State, therefor, I will call your attention to the various Statutes applicable.

The only authority for deportation by either State or local Board of Health seems to be in case of a person coming from a place where an infectious or malignant distemper is known to exist, in which case, by authority of Sections 72 and 73 of Chapter 19, R. S., the local Board of Health may order such person to leave the State. It does not appear to me that these Sections could be construed to cover such a case as the one before us. The reference is, undoubtedly, to a general epidemic such as small pox, scarlet fever and the like. I find no other Statutes authorizing deportation by health officers, and considering these Sections 72 and 73 of Chapter 19 not broad enough to cover this

case, must say that in my opinion the man cannot be deported because of his diseased condition.

Of course, by Section 69 of Chapter 19, the local Board of Health in the town where this person is located, if they deem his disease dangerous to the public health, may isolate him and provide necessary means to properly take care of him. The expense of so doing would be a legitimate expenditure for the protection of the public health, in accordance with the provisions of Section 71 of Chapter 19.

If this person falls in need of relief and calls upon the town where he is located for aid as a pauper, inasmuch as he has no settlement within the State, the town aiding him would be entitled to reimbursement from the State, in accordance with the provisions of Chapter 29, Sections 25 to 28 inclusive.

Of course, by Section 79, Chapter 19, R. S., and by the decisions of our Supreme Court, expenses incurred in carrying out Section 70 of that chapter are deemed health expenses and not pauper supplies, and a question might arise as to whether the expenditures of the town in this case were for the purpose of protecting the public health, and therefore a public duty, or on the other hand, were pauper expenses strictly speaking, for which the State would reimburse because of the fact that the person had no legal settlement within this State.

If this person should become actually a pauper, the overseers of the poor in that town might complain under the provisions of Section 40 of Chapter 29, and obtaining the warrant as therein provided have this person conveyed, at the expense of the town, beyond the limits of the State.

The town is bound to protect the health of its inhabitants, and the overseers of the poor are also obliged by Statute to relieve persons falling into distress within their town. This man should be taken care of as may be necessary, and if the town does not bring itself within the Statutes providing for reimbursement, it must look upon the expense as one necessary to protect the public health, and for the benefit of its inhabitants rather than as an aid to this individual.

Yours respectfully,

GUY H. STURGIS,
Attorney General.