

# MAINE STATE LEGISLATURE

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October 6, 1919

To Honorable Carl E. Milliken, Governor of Maine  
Re: Tubercular Prisoners.

The letter of Hon. Edward W. Wheeler, Chairman of the Maine Board of Prison Commissioners, under date of October 3 addressed to Your Excellency, has been referred to this office by your secretary for information as to the legal relation between the State Prison and State Tuberculosis Sanatoria.

We have examined the statutory provisions carefully and in our judgment the difficulties which the situation presents are practical rather than legal. At the time of the enactment of what is now Section 37, Chapter 142 of the Revised Statutes, tuberculosis was not included in the class of infectious and contagious diseases. The language of that statute evidently contemplated the more highly infectious or epidemic diseases which run a comparatively brief course and at the expiration of which, in case of recovery, the inmate could be returned to the Prison without endangering the lives of others.

In 1909, by a provision which is now Section 9 of Chapter 19 of the Revised Statutes, tuberculosis was specifically declared to be an infectious and communicable disease, dangerous to the public health, and we think there can be little question that these two statutes should be read together and given such interpretation as will carry into effect the broad purpose which the legislature had in view, especially in view of the fact that the specific provision with reference to the State Prison has been re-enacted into the revision since tuberculosis was declared to be an infectious disease.

Under the law as it now stands, we believe the inspectors and warden have authority over tubercular prisoners of the same general character as the authority over those affected with small-pox, but naturally the manner of its exercise would be different. We feel the situation practically is in the hands of the Board of Trustees for Tuberculosis Sanatoria and the Governor and Council, under the provisions of Chapter 146 of the Revised Statutes and the practical details a matter for their businesslike judgment.

Fred F. Lawrence  
Deputy Attorney General