

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1928

at Farmington or a dentist in Portland may have the supervision, provided the supervision is actual.

Yours very truly,

SANFORD L. FOGG,
Deputy Attorney General.

November 22, 1928.

Clarence F. Kendall, M. D., Health Commissioner, Augusta, Maine.

DEAR SIR: In answer to your oral inquiry regarding the establishing of town hospitals for the housing and care of persons who are ill with contagious diseases, I am pleased to advise you that Section 95 of Chapter 19 of the Revised Statutes, provides that:

"A town may establish therein one or more hospitals for the reception of persons having the smallpox or other diseases dangerous to the public health; or its local board of health may license any building therein as a hospital, which shall be under the control of said board."

Section 97 of the same chapter provides:

"When smallpox or other disease dangerous to the public health breaks out in a town, the local board of health shall immediately provide such hospital or place of reception for the sick and infected, as they judge best for the accommodation and safety of the inhabitants; such hospitals and places are subject to their regulations the same as established hospitals; and they shall cause such sick and infected to be removed thereto, unless their condition will not permit it without imminent danger; in which case, the house or place where the sick are, shall be deemed a hospital for every purpose aforesaid; and all persons residing in, or in any way concerned with it, are subject to hospital regulations."

Construing Section 29 of Chapter 14 of the Revised Statutes of 1871, in case of *Haverty v. Bass*, reported in 66 Maine, page 71, the court said: "when the smallpox breaks out in a town they (the municipal officers) are to provide hospitals for the sick and infected; they shall cause the sick and infected 'to be removed' thereto, unless their condition will not admit of it without imminent danger; they may make a hospital of any man's house, where a sick or infected person is found (if deemed best), subject to hospital regulations; and the municipal officers must act 'immediately', and with 'all possible care' for the public safety."

Section 29 of Chapter 14 aforesaid was amended by Section 27 of Chapter 123, Public Laws of 1887, so as to make "municipal officers" read "local board of health", as it now reads in said Section 97.

It will be noticed that said Section 95 enables the town to *establish* therein hospitals for the reception of persons etc; or its local board of health may license any building therein as a hospital, etc.

Said Section 97 enables the local board of health when small-pox or other disease dangerous to the public health breaks out in a town, to immediately *provide* such hospital etc., as they judge best etc.

It does not appear that either of the foregoing sections gives the local board of health the power to purchase property, in the name of the town, for the aforesaid purposes, their only powers being in the one case to *license* a building therein as a hospital, and in the other "to provide such hospital or place of reception for the sick * * * * * as they deem best."

The municipal officers do not appear to have any power to act in the premises except as they are authorized by the town, the language of the statute being "the town may establish."

In cases where the town has not established a hospital, as provided in Section 95, or where the local board of health has not licensed a hospital, as provided in said section, said board of health may in cases of emergency provide such hospital in accordance with the provisions of Section 97, and use same as long as the necessities of the case require, but in my opinion the statute does not give the board power to bind the town by the purchase of the property.

Yours very truly,

SANFORD L. FOGG,
Deputy Attorney General.

April 4, 1927.

State Highway Commission, Augusta, Maine.

GENTLEMEN: In answer to your request for an opinion from this Department as to whether it is necessary for the State Highway Commission to advertise for bids when purchasing machinery