

MAINE STATE LEGISLATURE

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December 9, 1930

To Grube C. Cornish, Executive Secretary, Public Welfare
Re: Emancipation

I am glad to confirm Judge Fisher's opinion of March 31, 1924:

"Replying to your question as to emancipation of a child committed by a court to the State Board of Children's Guardians, you are advised that in our opinion such commitment operates as a legal emancipation of the child, and thereafter such child does not follow the settlement of its parents or grandparents."

Supplementing this opinion, which cites no references, I asked Mr. Folsom to collect the references and he has done so with the following result,- The use of the word "emancipation" in our Courts is not in strict accordance with the correct definition, which is, "An act by which a person who was once in the power or under the control of another is rendered free."

Under II, Section 1, Chapter 33, a number of cases are cited which refer to emancipation and various definitions of the word are given and are referred to in Thomaston vs. Greenbush, 106 Me. 242. The case of Green vs. Buckfield, 3 Me. 141, contains the following:

"We are of opinion that supplies cannot be considered as furnished to a man as a pauper unless furnished to himself personally or to one of his family; and that those only can be considered his family who continue UNDER HIS CARE AND CONTROL."

In Sanford vs. Lebanon, 31 Me. 124, the Court defined emancipation as the "destruction of the parental and filial relations". This destruction" would appear to be very effectually accomplished by our statutes.

Section 53 of Chapter 72 provides that orders and decrees under Section 52 of the same chapter shall have the same effect to divest the parent or parents of all legal rights in respect to said child as specified in Section 38 of Chapter 80.

The last clause of Section 54 of Chapter 72 would seem to take the word "pauper" out of the picture altogether. Once in your custody they cannot be paupers and pauper laws, as such, have no application.

Clement F. Robinson
Attorney General