

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1941--1942

or orders of said courts and the rules and regulations of said reformatory". I see nothing in this language to indicate a right to discharge a prisoner under the words "rules and regulations of said reformatory". These rules and regulations seem to me to refer only to the method of handling the convict while he is in custody.

Sections 369 and 370 do not seem to me to contain any language enlarging the powers of the Board beyond the clear meaning of the words used; "a permit to be at liberty \*\*\*\*\* upon such other conditions as the department shall prescribe during the remainder of the term" seems to be the extent of the powers of the Parole Board in discharging the convict.

Section 7 of Chapter 223, Public Laws 1939 does not seem to me to increase in any way the powers of the Parole Board in this regard.

The discharge of prisoners before serving out their terms does not seem to me to be one of the powers granted to the Parole Board.

Very truly yours,

FRANK I. COWAN

Attorney General

February 28, 1941

George W. Leadbetter, Esquire  
Commissioner of Institutional Service  
Augusta, Maine

Dear Sir:

In answer to your inquiry of January 27th, as to whether persons released from the institutions, other than the Prison, should be released by the Parole Board or by the head of the institution.

Our answer is, the Parole Board.

Very truly yours,

SANFORD L. FOGG

Deputy Attorney General

February 28, 1941

George W. Leadbetter, Esquire  
Commissioner of Institutional Service  
Augusta, Maine

Dear Sir:

I have given consideration to your letter of February 13th, asking about the payment of \$2 per week by the town of settlement for board of persons in the tuberculosis sanatoriums.

I find in the second paragraph of Chapter 270, P. L. 1933, that the two-dollar fund was designed for the furthering of emergency tuberculosis work within the sanatoriums, or private and semi-private hospitals. Under the circumstances, the taking over of a municipality by the Emergency Municipal Finance Board would, in some cases, reduce the income provided for this particular work unless the Legislature had set up a source from which recovery could be made.

These persons are certainly unemployables and in those cases where the municipality has been taken over by the Board, if the Board is unable to make the \$2 payments from the income of the municipality, the Health and Welfare department may very properly consider said amount as a part of the funds it shall advance for the relief of the municipality.

Very truly yours,

FRANK I. COWAN

Attorney General

March 3, 1941

Carl R. Smith, Secretary  
Farm Lands Loan Commission  
Augusta, Maine

Dear Sir:

I have had an examination made of the records of the Town of Charleston to learn the status of the tax deeds and lien certificates acquired by said town against certain Thayer property on which the State of Maine, through the Farm Lands Loan Commission, had a mortgage. In considering this matter and acquiring this information, I disregarded entirely the fact that the State of Maine is the mortgagee because my feeling is that the State, through placing itself in such a position, should not force a reduction in the income of the town from its taxes.

You understand, of course, that the State is not liable for taxes at all and that where the State has placed a mortgage the town cannot legally cut away the rights of the State by tax deed or lien, or in any other way except by consent of the Legislature. I feel, however, that the State should conduct itself like any other mortgagee and should pay any properly assessed taxes on lands on which it has taken a mortgage as long as those lands are in the possession of the mortgagor, or those claiming under him.

When the State actually takes over the property by foreclosure of its mortgage, then no tax can be properly levied against the land, and so no tax is legally payable on the land. When no tax is legally payable on the land either, (1) because of faulty assessment or, (2) because the State has itself acquired both legal and equitable title,