

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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"1. As the agents named in all titles to ownership, to what extent would we be legally responsible for maintenance, inventory, accident, and final disposition of worn out machinery if such is loaned on memorandum receipt to local systems? Would it be legal to transfer possession and title to local school systems?

"2. In the enclosed quotations from Public Law #124, 79th Congress, 1st Session, an interpretation of our position as to moving equipment from one school to another in view of the last provision, 'That no school or school system shall be required to surrender possession or use of any property or equipment which it is using in its educational or training program.'"

In answer to Question 1, I will say that in my opinion, as the agents named in titles to ownership, you would be legally responsible for maintenance, inventory, accident, and final disposition of worn out machinery; and it would be legal to transfer possession and title to local school systems.

In answer to the second question, it is my opinion that Public Law #124, 79th Congress, 1st Session, is broad enough to allow you to move equipment from one school to another.

RALPH W. FARRIS
Attorney General

August 27, 1945

To Harrison C. Greenleaf, Commissioner of Institutional Service

I received your memo of August 20, 1945, relating to the collection of \$2 per week by Institutional Service from the Department of Health and Welfare for care and treatment furnished in State Sanatoria in unsettled cases, which include several accepted State paupers, and you also gave me an outline of the position of your department in this matter. You stated that Mr. Page, former Commissioner of Health and Welfare, obtained from one of my assistants, assigned to that department, an opinion on this matter. Therefore I requested Mr. Folsom, my assistant, to furnish me a copy of this opinion, which I have before me.

Before answering your question I wish to comment on the provisions of Section 167 of Chapter 23, relating to charges for treatment of patients, which read as follows:

"Residents of the state may be admitted to these sanatoriums, if found by any regular practicing physician in the state or by the superintendent of any one of the sanatoriums to be suffering from tuberculosis. All patients in said sanatoriums, or relatives liable by law for their support, shall pay to the state for treatment, including board, supplies, and incidentals, the amount determined by the department; . . ."

You will note that this section was taken from Chapter 1, Section 464 of the Laws of 1933 and was amended by Section 6 of Chapter 223 of

the Public Laws of 1939, and is now Section 167, Chapter 23, R. S. 1944; and that it authorizes your department to exercise the rights, powers and duties heretofore vested by law in the Department of Health and Welfare. Paragraph 23 of Section 6, Chapter 223, P. L. 1939, provides as follows:

“22. To fix rates and collect fees for the support of patients in state hospitals, sanatoria, and other institutions; . . .”

After reading the history of this law and Mr. Folsom's opinion dated June 14, 1945, addressed to H. O. Page, Commissioner of Health and Welfare, I am obliged to sustain Mr. Folsom's opinion, that there is no provision of statute, or appropriation, which authorizes the Department of Health and Welfare to pay the Department of Institutional Service any fee for State charges who are admitted to any of the State Sanatoria for treatment. The wording of Section 167 of Chapter 23 is as follows:

“. . . if such patient or relatives are unable to pay, the city, town or plantation in which the patient has a settlement, if any, shall pay to the institution the sum of \$2 per week so long as the patient remains therein.”

This language is not broad enough to cover any State department, and I am told that there is no appropriation except for paupers, and you will note at the end of said Section 167 that no pauper disabilities shall be created by reason of any aid or assistance given under the provisions of this section.

Therefore it is my opinion that money appropriated for paupers cannot be used to transfer from one department to the other, as you suggest in your memo of August 20th.

In regard to Section 16 of Chapter 22, it provides that the Department of Health and Welfare may “compensate hospitals at such rates as it may establish for hospital care of persons whose resources or the resources of whose responsible relatives are insufficient therefor.” This section does not cover State sanatoria, and appropriations by the legislature for the Department of Health and Welfare to aid public and private hospitals do not apply to State sanatoria.

Therefore it is my opinion that you will have to have legislation broadening Section 167 of Chapter 23 to cover State paupers or persons who are State charges who are found to be suffering from tuberculosis and are committed to the State sanatoria, before any departmental charge can be made by the Department of Institutional Service to the Department of Health and Welfare.

RALPH W. FARRIS
Attorney General