

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

March 6, 1947

To E. E. Roderick, Deputy Commissioner of Education
Re: Limitation of the authority of the superintending school committee to let school property for interests outside educational activities

I have your memo of February 28th in regard to the authority of a school committee to lease school property for other than educational purposes.

It is my opinion that Subsection 1 of Section 50 of Chapter 37 applies only to the management of the schools for school purposes and does not include the right to lease to outside parties.

If the town should call a special town meeting and vote to give a group the right to use the school, which is the property of the taxpayers, I feel that it would nullify any ruling made by the superintending school committee.

RALPH W. FARRIS
Attorney General

March 6, 1947

To E. E. Roderick, Deputy Commissioner of Education
Re: Legal Disposal of a Sinking Fund Raised for a Specific Purpose

I have your memo of February 28th, stating that an inquiry has come to your office as to what legal disposition can be made of funds appropriated and deposited as a sinking fund for the erection of a new school building. You state that there is a movement on foot to utilize these funds for other school purposes and you ask whether it is legal for the town to divert these funds for other purposes.

Our Court has ruled in *Bullard v. Allen*, 124 Maine 261, that a town is free to act as it pleases within its legal scope; that it may take action in one direction today and in another direction tomorrow, provided it does not impair intervening rights.

The town, in my opinion, has a right to transfer these funds for other purposes, if it so votes at a legal town meeting. . .

RALPH W. FARRIS
Attorney General

March 11, 1947

To Harrison C. Greenleaf, Commissioner of Institutional Service

Receipt is acknowledged of your file bearing upon the case of a man who at one time was an inmate at Hebron and left against the advice of the attending physicians. While at the institution he was uncontrollable, violated all rules and regulations, went off without permission, got drunk, and committed other infractions which were not conducive to his own health or to the proper conduct of the sanatorium. This inmate is now seeking re-admission. Your inquiry is whether Section 134 of Chapter 22 is applicable to cases involving tuberculosis. This is the so-called quarantine statute which authorizes on complaint a trial justice or a judge of a municipal court to

issue a warrant directed to an officer, requiring him to remove any person afflicted with contagious sickness, "or to impress and take any convenient houses, lodgings, nurses, attendants and other necessities for the accommodation, safety and relief of the sick, or for the protection of the public health."

In my opinion this statute is not applicable to cases of tuberculosis. This is a very old statute. It was on the books a century ago and was employed to control the highly contagious diseases, such as smallpox, which spread swiftly.

While under Section 74 of Chapter 22, tuberculosis is declared to be an infectious and communicable disease dangerous to the public health, the succeeding sections nevertheless impose upon the persons suffering with this disease the exercise of certain care with regard to the disposal of sputum, saliva, etc., and make it an offense punishable by a fine to violate these provisions. Likewise, provision is made for precautionary measures to be carried out by physicians and local health officers to prevent the transmission of the infection to other persons and to advise the department of the procedures and precautions adopted. Nowhere does it appear that a person afflicted with tuberculosis should be quarantined, nor do I think that Section 134 may be interpreted to authorize a trial justice or judge of a municipal court to commit a person to one of the State sanatoria.

I do not believe, however, that you are obliged to accept this man, or, having accepted him, to detain him, where he disregards every rule of behavior required of him while he is an inmate and does not cooperate so as to arrest the progress of the disease. From the file it would appear as though his former stay at the sanatorium was useless to him, since his conduct was such that improvement in his condition was impossible. There is no authority in the statute for punitive measures or for detaining a person against his will. Consequently, no such measures can be indulged in.

ABRAHAM BREITBARD
Deputy Attorney General

March 21, 1947

To Governor Horace Hildreth
Re: H. P. 185, L. D. 133, An Act Relating to Clerk Hire in the County
Offices of Sagadahoc County

This act purports to repeal Section 2 of Chapter 290 of the Public Laws of 1945, which relates to an increase for clerks in the office of the Register of Deeds of Sagadahoc County from \$1560 to \$1950, an increase for clerks in the office of the Register of Probate of said county from \$1040 to \$1300, and an increase for clerks in the office of the Clerk of Courts in said county from \$1040 to \$1300.

Section 2 of said Chapter 290 is a limitation of the act which provides that the act shall remain in force for a period of two years only. It is the intent of the legislature to change the present statute for a period of two years only, after which period the present statute shall return to full force and effect.

In my opinion, if L.D. 133, which is waiting for your signature, is not effective by July 21, 1947, Chapter 290 of the Public Laws of 1945 will be