

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

March 31, 1947

To Harrison C. Greenleaf, Commissioner of Institutional Service

I have your memo of February 26th, inquiring if it is legal for a city clerk to sign an emergency commitment for a patient to a State Hospital under Section 106 of Chapter 23, R. S. 1944.

The statute is clear in this regard. It provides that pending the issuance of a certificate of commitment by the municipal officers, the superintendent of such hospital *may* receive into the hospital any person so alleged on complaint to be insane, provided such person be accompanied by a copy of the complaint and a physician's certificate, and provided further that within 15 days thereafter, unless said superintendent shall be furnished with a certificate of commitment signed by the municipal officers, the detention of such person shall cease. Accompanying this certificate of commitment shall be a statement of facts under oath in regard to the financial ability of such patient or his relatives to pay for his support. Your understanding is correct that only the municipal officers of a city or town can sign the certificate of permanent commitment; but the city clerk can send in copies of the complaint and the physician's certificate, and the superintendent may receive the patient into his hospital for 15 days, awaiting the permanent certificate to be submitted by the selectmen of a town, the city government, or other municipal officers.

Your second inquiry is as to patients committed to the State hospitals under Sections 105 and 106 of Chapter 23, R. S. 1944, in regard to certificates of ability to pay. I have just answered that question as to Section 106. A statement of fact under oath, satisfactory to your department, in regard to the financial ability of the patient, or his relatives legally liable for his support, must accompany the patient when he is admitted under Section 105.

I would advise the superintendents of the two insane hospitals to be sure that the certificate of ability to pay accompanies the permanent commitment certificate signed by the municipal officers of the city or town, committing the patient. It is not so important about the first 15 days; but it is best to insist that the town clerk send in certificates to the superintendents according to the law with regard to ability to pay. If the clerk should fail to furnish it, it would not justify the superintendent in refusing to admit an emergency case. It would not be out of order for the superintendent of the hospital to refuse to accept patients under Section 105 without a certificate of ability to pay, but it might be under Section 106, where an emergency exists.

RALPH W. FARRIS
Attorney General

April 1, 1947

To Arthur N. Douglas, Esq., Register of Deeds, Kennebec County

. . . You advise that the State Tax Assessor on March 14th last filed several certificates signed by him under the provisions of Section 7 of Chapter 41 of the Laws of 1945. Your inquiry relates to your acceptance for recording of such certificates when the certificates do not contain an acknowledgment before some officer authorized by law to take acknowledgements.

The State Tax Assessor, when taxes, interest and costs in unorganized territory are not paid within the time therein provided, is required to

“ . . . record between the 1st and 15th days of March in the registry of deeds of the county or registry district where such land lies a certificate signed by the state tax assessor, setting forth the name or names of the owners according to the last state valuation, the description of such lands assessed as contained in the last state valuation, the amount of unpaid taxes, interest to the 1st day of March, the amount of costs, and a statement that demand for payment and publication of such taxes has been made, and that such taxes, interest and costs remain unpaid.”

It is to be noted that the contents of the certificate are set out in detail and the requirement is only that the certificate shall be signed by the State Tax Assessor and recorded in the registry of deeds. There is no specific provision that it shall be acknowledged by him and thus the department does not regard the acknowledgment as essential to the recording of the certificate, where under the statute a public officer is directed to sign it in his official capacity and record it in the registry.

We have in mind the provisions of Section 23 of Chapter 154 relating to the recording of deeds and all other written instruments, but we think that that statute is inapplicable, because of the express directions of Section 7 of Chapter 41, P. L. 1945, which provides for the manner of executing and recording the certificate.

ABRAHAM BREITBARD
Deputy Attorney General

April 2, 1947

To Fernando F. Francis, Sheriff of Oxford County

With reference to your recent inquiry relating to payment by the creditor for the support of a debtor in jail, who was committed by the disclosure commissioner for contempt:

I presume that the debtor was committed under Chapter 107, Section 35, because of his contemptuous behavior before the commissioner.

Under Section 82 of said chapter the creditor is required to pay for the support of the debtor where he is committed on mesne process or execution, or where the debtor delivers himself into the custody of the jailer to save the condition of a bond. In these cases, however, the issuance of the process is initiated by the creditor. The contempt proceedings under Section 35 are initiated by the disclosure commissioner to vindicate the authority of the court which he is holding. I feel, therefore, that the creditor would not be liable for the support of the debtor while he is in jail for contempt.

ABRAHAM BREITBARD
Deputy Attorney General