STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

You ask if I can give you a ruling on the legality of this practice and quote Section 98 of Chapter 37 in part, that "such free tuition privilege shall continue so long as said youth shall maintain a satisfactory standard of deportment and scholarship."

I will state that the law does not permit high schools and academies to charge tuition for pupils who are not receiving instruction, any rule by an academy to the contrary notwithstanding, because if the pupil is not in school, as you state, satisfactory standards of scholarship obviously cannot be maintained. Therefore any charge for tuition after a pupil has left the institution would be illegal.

You state in your note that since State subsidy is based on the amount expended for tuition purposes, it is conceivable that a youth might leave one school after four weeks' attendance and enter another school, thereby requiring his town to pay tuition in two schools and the State to subsidize both towns for their expenditure, if the policy at Wiscasset were deemed legal.

If the Wiscasset Academy insists upon this policy of charging tuition to a town after the student has left the school, it is for your department to handle this as an administrative matter in regard to the subsidy. I feel that if you take this up with the trustees of Wiscasset Academy, they will see the error of their policy on charging a town for a pupil who is not in attendance and that it might involve the town of the pupil's residence in paying two tuitions for the same term, if the pupil transferred to another school.

RALPH W. FARRIS
Attorney General

January 4, 1950

To Arthur R. Savage, Secretary, Maine State Board of Architects
Re: Building Inspectors

I have studied your letter of October 14, 1949, with the accompanying enclosure setting forth the powers and duties of the building inspector of the City of South Portland. You inquire whether or not the specifications of the duties of the building inspector of South Portland would require action by the Board of Architects under the provisions of Section 3 of Chapter 242 of the Public Laws of 1949.

It is difficult, if not impossible, as a matter of legal interpretation to give a categorical answer to your question. In attempting to answer your question I have consulted with a member of the Legal Affairs Committee of the legislature which conducted hearings on the measure, in an effort to ascertain the intent of this legislation. I was informed that it was the intent of the section involved to require the suspension, by the Board of Architects, of a license to practice architecture when one accepted an appointment placing him in a position similar or analogous to the position one would occupy with duties such as those imposed by the building code of the City of South Portland.

In the light of the foregoing it would appear that the Board is clothed with the apparent power to take administrative action to suspend the license of an individual in such a position.

I feel that I would be remiss in my duty if I failed to point out that the statute contemplates "regular employment" and that there might be some question as to whether or not the performance of part-time duties as a building inspector constitutes "regular employment."

I think I should also point out that to the ordinary lawyer this would not appear to be good legislation, since there would seem to be no reason why an architect should not practice his profession in any community other than the one in which he was exercising his office of building inspector, by analogy with other statutes such as those allowing Municipal Court Judges to practice in any court except their own, etc.

There are other serious criticisms to be made of legislation of this kind, which I need not point out here, but which nevertheless influence me in my first statement, to the effect that I cannot give you a categorical answer to your question.

JOHN S. S. FESSENDEN
Deputy Attorney General

January 5, 1950

To Walter F. Ulmer, Business Agent, Bangor State Hospital
Re: Disposition of Money Left on Deposit

I have your memo of January 3d, stating that from time to time the hospital has money left on deposit in personal cash accounts of patients who have died, said patients having been so-called State cases, nothing having been paid for their care and treatment while there. The question arises whether you have the right to take whatever money is left, for care and treatment, or whether you should endeavor to find the proper parties to whom to send such moneys; and you would like to have this situation clarified, so that there will be no question in your mind as to the proper procedure to follow in the future.

When patients who have been in the hospital as State cases die, having moneys on deposit, the money belongs to the estate of the deceased. If administration is not taken out, it cannot be turned over unless all the heirs sign off, if there is a considerable sum of money. If there are only a few dollars, a husband, wife, father or mother could be paid this money, if they would sign a statement releasing the hospital and the State from any liability.

There is another angle to this situation. In cases where State cases leave a considerable amount of money, it should go for their board and care if they have no dependents who are entitled to it; and the matter should be taken up with the relatives or the administrator and the money should be turned over to the hospital on account of the care and treatment received by the patient while there. Of course, actually, any money that is to the credit of the hospital goes to the State Treasurer and not to the hospital under our present statute, as the hospital is operating on a fiscal-year basis on appropriation from the legislature, and any money collected in previous years should be turned over to the general fund of the State.

RALPH W. FARRIS
Attorney General