

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

You give as an instance that a boy committed to the Pownal State School is a beneficiary under certain conditions of the Social Security Act and the question has been raised as to guardianship in his case by the Department of Institutional Service, through the Commissioner and the Superintendent over his estate or person.

You state that you also have inmates at the Military and Naval Children's Home who participate in benefits under the provisions of Old Age and Survivors Insurance, and the Commissioner and Superintendent are named as co-guardians.

Upon this basis you ask for a ruling as to the status of your department, the Commissioner, and the Superintendent of the institution in question in regard to guardianship of inmates.

I wish to advise that under Section 175 of Chapter 23, the Commissioner and the Superintendent shall act as a board of guardians of all the children who are members of the State Military and Naval Children's Home and shall have all the powers and authority granted by law to guardians, which statute would be sufficient to satisfy the Federal Security Agency. Section 86 contains a guardianship clause in regard to inmates of the State School for Girls.

There is a general statute that provides that all inmates of the institutions shall be wards of the State; but that does not in my opinion give the Commissioner or the Superintendent of the institution the powers granted by law to guardians in the handling of their personal estates. Therefore when a question comes up relating to an inmate of the Pownal State School or one of the State Hospitals, it has always been the policy of this office to advise the Superintendent or the Commissioner to have a guardian appointed in the Probate Court for the purpose of handling any property which may belong to an inmate of an institution. Of course the appointment of a guardian, even if he is the Superintendent or the Commissioner, would in my opinion satisfy the Federal Security Agency relative to the various phases of Social Security benefits. . . .

RALPH W. FARRIS
Attorney General

February 1, 1950

To Norman U. Greenlaw, Commissioner of Institutional Service
Re: Transfer of Mental Patients from Another State

I received your memo of January 30th relating to the provisions of Section 117, Chapter 23, R. S., which provides for the transfer of mental patients "currently confined" in a recognized state mental hospital as a result of proceedings considered legal by that state. You say that of late you have been receiving numerous requests for authority to transfer to Maine persons who have been committed to out-of-state hospitals on an emergency basis, namely, 30-day observation; and that your department does not believe it was the intent of the legislature to authorize the transfer of such persons committed on an observation basis. You would therefore like to have my opinion on this matter.

I wish to advise that in my opinion this statute does not relate to temporary commitments on an emergency basis for observation. In other words, it is my interpretation of the statute that the patient must be currently confined permanently in a recognized state hospital as a result of proceedings considered legal by the State in question; and inasmuch as that State is required by law to furnish a duly certified copy of the original commitment proceedings and a copy of the patient's case history, it is within the discretion of the Commissioner of Institutional Service whether or not a request for transfer is justifiable. If a patient has been committed on an emergency basis, it is my opinion that you would be justified in refusing the transfer of said patient.

RALPH W. FARRIS
Attorney General

February 1, 1950

To Norman U. Greenlaw, Commissioner of Institutional Service
Re: Settlement—Holden Turner

I have your memo of January 24th, stating that on November 30, 1948, your department authorized the admission of Dorothy W. Turner, wife of Holden Turner of Mount Vernon, to the Central Maine Sanatorium. You further state that the patient is approximately twenty-one years of age and that the family consists of four children ranging in age from one month to four years. Mr. Turner was born in Rome, Maine, on October 22, 1924. Patient's application states that her husband earns \$20-\$25 a week, working in the woods, etc., which makes it obvious that he would be unable to assume the obligation of paying for his wife's sanatorium treatment.

You further state that you have contacted the town of Mount Vernon on various occasions in an effort to have Mr. Turner's legal settlement established and have the town accept responsibility, but have been unable to get any reply by letter or telephone. Further check indicated that possibly Rome might be the place of settlement, but the chairman of the board of selectmen denies this, on the ground that "before his marriage he took his father's settlement and he was 19 years when married so at that time he became emancipated from his father and lived with his wife in Mt. Vernon so I guess it belongs to Mt. Vernon to take care of the bill."

You state that you do not interpret emancipation to mean when a man marries, nor do you figure that he literally becomes of age when he marries, but rather when he reaches the age of twenty-one and that he can then start to acquire a legal settlement in his own right, but until that acquisition is made, would have the settlement of his father, if he had one. In that case you feel that Holden Turner would, until October 22, 1950, hold the settlement in Rome which he derived from his father.

In order that you may attempt to collect from the town of settlement, you ask my opinion whether Rome or Mount Vernon is liable.

Since the law permits the marriage of minors with their parents' consent, parental rights must necessarily yield to the new obligations and rights arising from the marriage relation. When a man marries and founds a new