STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

June 29, 1950

To David B. Soule, Insurance Commissioner
Re: Associated Hospital Service of Maine

On June 5th I received your memo dated June 1st, in which you state that in 1939, under a Special Act, Chapter 24, P&SL 1939, a charter was given to the Associated Hospital Service of Maine. You call my attention to the fact that Section 3 of said Chapter 24 sets forth the purposes of said corporation as "to establish, maintain and operate a non-profit hospital service plan whereby hospital care may be provided, etc." You further call my attention to Chapter 149, P. L. 1939, in which the Insurance Commissioner is authorized to license a non-profit hospital service plan whereby hospital care could be provided, and under this statute the Associated Hospital Service of Maine has been licensed by your department since its incorporation in 1939.

In 1945, by Chapter 21, P&SL 1945, the purposes of the Associated Hospital Service of Maine were amended to provide that the corporation may establish and operate a non-profit medical service plan whereby medical or surgical services expense is provided to such persons or groups of persons as shall become members of such plan under contract with the corporation. However, at the time of this amendment in 1943, no change was made in Chapter 149, P. L. 1939.

You have now been approached by the Associated Hospital Service of Maine requesting a license for the purpose of operating such medical service plan. In view of the general law which authorizes you to license non-profit hospital service plans, but does not contain any reference to non-profit medical service plans, you ask me if you would be justified and acting within your authority to license the Associated Hospital Service of Maine to operate a non-profit medical service plan.

In reply I wish to advise you that under the general statute you have no authority to license the Associated Hospital Service to operate a non-profit medical service plan. However, they are authorized to do so by the Private and Special Act of 1943, and I understand from Mr. Paul that they have amended their corporate purposes accordingly.

It is my opinion that in order for you legally to license anyone to operate a non-profit medical service, the statute should be broadened which was passed in 1939 and is now Section 217 of Chapter 56, R. S. 1944.

If Associated Hospital Service enters the medical service field under the Private and Special Act, they do so at their own risk and not under license from your department, under the law as it now stands.

RALPH W. FARRIS
Attorney General

June 29, 1950

To Frank S. Carpenter, Treasurer of State
Re: Deposits of State Funds

I have your memo of June 20th, relating to the interpretation of the second paragraph of Section 11 of Chapter 15, R. S. 1944, relating to the authority of the Treasurer of State to deposit State moneys in banking institutions, trust companies, mutual savings banks, etc.

The paragraph which you request me to interpret reads as follows:

> "No sum exceeding an amount equal to 25% of the capital, surplus, and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank shall be on deposit therein at any one time. The above restriction shall not apply to deposits subject to immediate withdrawal available to meet the payment of any bonded debts or interest or to pay current bills or expenses of the state."

The last sentence of said paragraph is an exception to the 25% of the capital, surplus and undivided profits rule because it states in plain English that this restriction shall not apply to deposits subject to immediate withdrawal, etc. Therefore it is my opinion that the 25% restriction in this section does not apply to deposits that are subject to immediate withdrawal in checking accounts in the banks which are deposited for the purpose of meeting payment of bonded debts, interest or to pay current bills or other expenses of the State.

You further state that the Treasurer has on deposit in savings accounts a considerable amount of money held in trust for private trusts, such accounts as those for the Kennebec Bridge (Bath) and the Waldo-Hancock Bridge. You say that this money is also subject to withdrawal although it may not be withdrawn by checks drawn by the Treasurer of State. It is my opinion that these trust funds are not subject to immediate withdrawal for the purposes provided in the last sentence of Paragraph 2 of Section 11, and the 25% restriction would apply as to these funds, and you should make arrangements in regard to these deposits so that they will not exceed the 25% restriction contained in paragraph 2 of Section 11, Chapter 15, R. S.

I am basing my interpretation of the savings banks and trust fund deposits upon the legal definition of the word "immediate" because you have knowledge when certain bond issues mature and, if they mature immediately, they would be subject to immediate withdrawal. But if the bond issues were not due for a long period of time they would not be subject to immediate withdrawal.

In the case of *Inhabitants of Robbinston vs. Inhabitants of Lisbon*, 40 Me. 287, the Maine Court said the word "immediate", strictly construed, includes all intermediate time. It has been held to mean "Within such convenient time as is required for doing the thing," so that some of the deposits of trust funds in savings banks might be subject to immediate withdrawal because a bond issue was coming due immediately, and other deposits might not be subject to immediate withdrawal because of no occasion to draw the same. For that reason you must use your own judgment as to whether or not these funds are subject to immediate withdrawal when deposited in savings banks for the purpose of keeping within the restriction of 25%.

RALPH W. FARRIS
Attorney General