

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

July 31, 1951

To Norman U. Greenlaw, Commissioner of Institutional Service
Re: State Hospital Records

In your memo of July 20, 1951, you ask if Dr. Sleeper, Superintendent of Augusta State Hospital, was within his authority in refusing an attorney permission to examine the case history and report made by the hospital on an inmate of the Maine State Prison, a client of the attorney.

Relative to this question, you are advised that certain records required by law to be kept, or necessary to be kept in the discharge of a duty imposed by law, made by a public officer authorized to perform that function, are public records. The fact that records are public does not, however, subject such records to the inspection of all persons.

While you are required by statute to keep public records at the State Prison and perhaps at certain other institutions with regard to matter relative to parole, we find no such requirement in connection with State Hospitals.

Therefore, a rule of thumb which this office believes can be safely followed with regard to attorneys who may inspect such hospital records, is: An attorney should be granted permission to inspect any record which is open to the inspection of that attorney's client. If the request of a person to see records may be refused, then that person's attorney has no stronger right to inspect such records.

This answer would place upon the individual in charge of such records the discretion of ascertaining whether or not the records are such as are not open to the inspection of interested persons.

This office is of the opinion, therefore, that the Superintendent was within his authority in refusing an attorney permission to inspect records which in Dr. Sleeper's opinion were confidential.

With respect to this matter, and perhaps other information of interest to you, we refer you to an opinion written to your office by Abraham Breitbard, Deputy Attorney General, February 9, 1944.

JAMES G. FROST
Assistant Attorney General

August 2, 1951

To Raymond C. Mudge, Finance Commissioner
Re: Chapter 2, Public Laws of 1951

Your memo of July 26, 1951, relative to the Self-Imposed Tax on Sardines, has been received by this office.

You specifically ask:

"Whose signature may the Commissioner of Finance accept as having authority to sign Work Programs and Requests for Allotments collateral to the operations of the Maine Sardine Tax Committee under the provisions of this Act?"

The problem arises because of the failure of the legislature to include in the statute provisions designating the officers necessary to carry out the functions