

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

November 9, 1953

To Francis H. Sleeper, M. D., Superintendent, Augusta State Hospital
Re: Trial Visits

You ask if under the provisions of Section 142 of Chapter 23 of the Revised Statutes of 1944, a patient can be "continued on a trial visit from a State of Maine mental hospital longer than one year."

In considering this problem we quote the entire section:

"The superintendent of either hospital may permit any inmate thereof to leave such institution temporarily, in charge of his guardians, relatives, friends, or by himself *for a period not exceeding 6 months*, and may receive him when returned by any such guardian, relatives, friends, or upon his own application within such period, without any further order for commitment, and the liability of the state, or of any person by bond given for the care, support, and treatment of such insane person as originally committed, shall remain in full force and unimpaired upon the return of such person as if he had remained continuously in such hospital. The superintendent of either hospital with the approval of the department may on receipt of formal application in writing before the date of expiration of such leave of absence grant an extension of time *for another 6 months*."

It is the opinion of this office that the wording of the above quoted section is clear and that a patient on a trial visit may have not more than one six-months' extension of time. It can be seen that the proper application of this leave period would provide that the liability of the State or of any person by bond given for the care, support, and treatment of such insane person as originally committed shall remain in full force. Whatever the contingency might be which would affect the liability of the State or any person giving bond, we cannot know; but to comply with the statute we feel that the leave period should be strictly adhered to.

JAMES G. FROST
Deputy Attorney General

November 9, 1953

To Earle R. Hayes, Secretary, Maine State Retirement System
Re: Legislative Employees

In response to your memo of October 19th, we would advise that under the provisions of Section 4 of Chapter 9, R. S., the Secretary and Assistant Secretary of the Senate are elected by the Senate. The Secretary of the Senate is elected for a full two-year period, calls the Senators-elect to order, and presides until a President is elected. In the absence of the Secretary of the Senate, the Assistant performs said duties.

Having such duties, these officers have, in our opinion, full-time positions for retirement purposes, and said officers should accordingly be credited for their services.

The above would apply also to the Clerk and Assistant Clerk of the House.

JAMES G. FROST
Deputy Attorney General

November 12, 1953

To Honorable Leon M. Sanborn, Executive Council
Re: Maine Port Authority – Contingent Account

. . . You ask, "Would you please be kind enough to give me a ruling as to whether a proper representative of the Maine Port Authority has authority to sign a council order requesting funds from the contingent fund."

It is the opinion of this office that the Maine Port Authority is such an agency of the State as can properly make a request for funds from the contingent account. It should be noted that under the provisions of the Act creating the Authority it is stated that the Authority is constituted a public agency of the State of Maine and that all property at any time owned in the name of the Port Authority shall be considered as the property of the State of Maine.

The council order should be signed by the chairman of the board of directors and the request should be accompanied by a certified copy of the resolution of the board authorizing the request to be made.

Whether or not the request shall be granted is entirely within the discretion of the Governor and Council, the fact situation making the request necessary being the determining factor. If such facts, in the opinion of the Governor and Council, amount to an emergency or otherwise come within the provisions of Section 24 of Chapter 14, then the request may be made.

JAMES G. FROST
Deputy Attorney General

November 25, 1953

To Earle R. Hayes, Secretary, Maine State Retirement System
Re: Chapter 400, Public Laws of 1953 – Teachers' Retirement

We have your memo of October 19, 1953, in which you ask our opinion as to the application of the provisions of Chapter 400 of the Public Laws of 1953, which Act amended Section 6, subsections IX, X and XI of Chapter 60, by increasing the retirement benefits of teachers "who have heretofore or shall hereafter retire" under said subsections.

Chapter 400 amended the above Section 6 by adding a new subsection, XII, which reads as follows:

"The increase in pensions hereinbefore authorized shall apply to all teachers who have heretofore or shall hereafter retire under the provisions of subsections IX, X and XI."

Both from your memo and from conversations had by us relative to this matter, the question would appear to be: Does subsection XII limit the