

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

MAINE STATE
LIBRARY

education is to develop the capabilities of each child to the fullest for the benefit of society in general. I mention this to indicate what I believe is the basis of reasonable rules and tests to determine whether or not a child can profit from attendance at a school as set out in Section 102, Chapter 41.

GEORGE A. WATHEN
Assistant Attorney General

November 5, 1959

To: Perry D. Hayden, Commissioner of Mental Health & Corrections
Re: Sale of Surplus Products from State Institutions

I have your request for information concerning the authority of the Department of Mental Health and Corrections to dispose of surplus farm products produced at State Institutions.

It appears that the Bureau of Purchases has authority to dispose of this surplus property under Section 34, VI, Chapter 15A.

Section 36 provides that the purchasing agent with the approval of the Commissioner may adopt rules and regulations for certain purposes. Subsection VI states one of the purposes for which rules may be promulgated, to wit, providing for the transfer of surplus supplies, materials, and equipment from one department to another and the disposal by private or public sale of supplies, materials and equipment which are obsolete and unusable.

Section 39 provides that competitive bidding may be waived by the purchasing agent when the interest of the State would be best served thereby.

GEORGE A. WATHEN
Assistant Attorney General

November 5, 1959

To: Maine Employment Security Commission
Re: Amount Available for Construction of M.E.S.C. office building

We have your request for an opinion regarding two questions:

1. Should the expenditure of \$2,950 for architectural fees be charged against the funds provided under Chapter 150, Private & Special Laws of 1957?
2. How much money is available to the M.E.S.C. to complete the project?

Chapter 150, Private & Special Laws of 1957 provided that the Commission was authorized to requisition \$600,000 from the unemployment trust fund for the purpose of constructing an office building and other purposes incident thereto. Section 7 of Chapter 150 provided that the funds could only be used for expenses incurred after the date of enactment of the appropriation, and Section 8 provided that the moneys should be *expended* within a two-year period after the date of the enactment, which date was August 28, 1959.

Chapter 113, Private & Special Laws of 1959, effective April 22, 1959, as emergency legislation, amended Section 8, Chapter 150, Private & Special Laws of 1957, to provide that the moneys must be obligated instead of expended prior to the two-year period. Therefore, all funds not obligated prior to August 28, 1959, were lapsed.

Chapter 153, Private & Special Laws of 1959 was enacted on September 12, 1959, and carries an authorization for the Commission to requisition \$600,000 for the purpose of constructing an office building in a like manner as set out in Chapter 150, Private & Special Laws of 1957.

It is my opinion, based on the facts presented, that the \$2,950 referred to in the first question should be allocated to the funds provided under Chapter 150, Private & Special Laws of 1957, as amended, since this amount was obligated prior to the date the funds were to lapse. The Council Order of October 2, 1957, indicates this source also. This expenditure could not be paid from the Chapter 153, Private & Special Law appropriation because of the language in Section 7 thereof.

In reference to the second question, Chapter 153, Private & Special Laws, plainly sets out the amount of the appropriation at \$600,000, which is the amount now available for the purposes of the act.

GEORGE A. WATHEN
Assistant Attorney General

November 6, 1959

To: George A. Lasselle, Augusta State Hospital

Re: Board and care of patient committed as a result of prosecution for criminal offense

I have your request for information regarding cost of support of a patient committed to the State Hospital as the result of criminal offense and this patient's transfer from a penal institution. A person who is found not guilty by reason of insanity, or when the grand jury omits to find an indictment for that reason, and the party is properly committed to the hospital, the person shall be supported at his own expense if he has sufficient means; otherwise, at the expense of the State. Sections 117 and 121 of Chapter 27, R. S. 1954.

Section 129, Chapter 27, provides for support under the provisions of Section 137 to 139, inclusive, for the commitment of persons who are insane when a motion for sentence is made and proceedings for an insane person at the expiration of term of commitment.

In my opinion, prisoners who are transferred from a penal institution should not be held liable for support since they are still under sentence for a crime. If they recover prior to the expiration of their sentence, Section 125 of Chapter 27 requires they be returned to the penal institution to serve the balance of their sentence. If, on the other hand, they remain in the insane hospital under proper commitment after the expiration of their sentence, they are then liable to pay for support.

GEORGE A. WATHEN
Assistant Attorney General