

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1959 - 1960**

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November 18, 1959

To: P. W. Bowman, M. D.  
Superintendent  
Pineland Hospital & Training Center  
Pownal, Maine

ATTENTION: Doris Sidwell-Thompson, M. D.

Re: Transfer of Patients from Pineland

Dear Dr. Thompson:

We have your memo of October 8, 1959 referring to a June 1, 1959 memo from the undersigned to Commissioner Perry Hayden concerning "Transfer of Inmates Between State Institutions" and an excerpt from the Attorney General's Report of 1945-46, dated April 9, 1945, on the same subject.

It was the essence of the two aforementioned opinions that transfers from the Augusta State Hospital to Pineland Training Center related only to transfer of persons who were serving a sentence, and as a result patients from Pineland should not be transferred to either of the State Hospitals.

Your problem relates both to transfer of patients from State Hospitals to Pineland, and transfer of patients from Pineland to State Hospitals.

We have given your question considerable study and believe that at this time we should revise the opinion of April 9, 1945 and the memo of June 1, 1959, which latter memo was based upon the earlier opinion.

The pertinent portions of Section 13, Chapter 27, Revised Statutes of 1954, relating to the immediate problem reads as follows:

"Sec. 13. Transfer of inmate to other institution; original sentence to continue.— Any person who is committed to a state penal, charitable or correctional institution and is under the control of the department, who becomes insane, or who is found to be insane by the examination authorized by the preceding section, shall be transferred to either of the state hospitals, and any person who is committed to a state penal, correctional or charitable institution and is under the control of the department, who in the opinion of the head thereof is in such condition that he or she is a fit subject for the Pownal state school, shall be transferred to the Pownal state school whenever, in the judgment of the commissioner, the welfare of the patients and inmates, or of either institution, or of the person will be promoted thereby. . .

"Such patient shall be there detained in custody in the same manner as if he or she had been committed thereto originally. The transfers authorized in this and the preceding section shall have no effect on the original sentences which shall continue to run, and if the original sentence has not expired when the patient has been declared ready for discharge or release, the patient shall be returned to the institution to which he or she was originally committed. . . ."

We are of the opinion that section 13 is severable; that on the one hand State penal and correctional institutions are dealt with, in which

case the second paragraph of section 13 relating to the effect such transfers would have on a sentence would be applied; and on the other hand, State charitable institutions are also dealt with. In the latter case, that portion of section 13 relating to sentences would apply only if that person in the charitable institution was serving a sentence.

The State charitable institutions referred to in section 13, in our opinion, include the Pineland Training Center and the Augusta and Bangor State Hospitals. State charitable institutions being so construed, we are of the further opinion that transfers of patients may be made between those institutions by administrative action in the manner indicated in section 13.

It is, therefore, our conclusion that patients may be transferred between the State Hospitals and Pineland, and Pineland and the State Hospitals, under the provisions of section 13, Chapter 27, Revised Statutes of 1954.

Very truly yours,

JAMES GLYNN FROST  
Deputy Attorney General

November 19, 1959

To: Earle R. Hayes, Executive Secretary of Maine State Retirement System  
Re: Maine Maritime Academy — Participation in Old Age and Survivor's Insurance Program

We have your memo of October 13, 1959, relating to the Maine Maritime Academy and that Academy's participation in the Old Age and Survivor's Insurance Program.

In an opinion dated April 9, 1958, we indicated to you that the Academy did not conform to the definition of political subdivision as set forth in Chapter 65, section 2, Revised Statutes of 1954 (Social Security Act) so long as the State of Maine continued to pay those expenses of the Academy that normally would be paid by the Academy if it were a political subdivision of the State and participating as such in our Maine State Retirement System.

You presently ask if the Academy would be entitled under our law to participate in the Social Security Program if the Academy were in the Maine Retirement System, paying its own cost in that program as a local participating district.

The answer to your question is, Yes.

Chapter 288, Public Laws 1957, as we indicated in our memo of April 9, 1958, placed the Academy in the position of being able to participate in the Social Security Program "on the same and equal footing with the other State instrumentalities mentioned in the Social Security law." Chapter 288 reads as follows:

"The provisions of this chapter shall also apply to employees of the University of Maine and Maine Maritime Academy who are members of an existing retirement or pension system."