STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

stock certificates evidencing . . . (such shares) issued in his name, shall be filed unendorsed and unassigned by him with the cashier of such bank . . . during his term as director."

The State of New York had a similar statute which was considered in *Tooker v. Inter-County Title Guaranty Co.* (1946) 295 N.Y. 386, 68 N.E. (2d) 179.

That court said (295 N.Y. 386, 389, 390; 68 N.E. (2d) 179, 180.)

"The plan that underlies this text of section 116 — and every other provision of the banking law — has long been known. "The prime object is to protect the public, including depositors, and after that to enable the stockholders to secure a fair return from their investment. Banking institutions are not created for the benefit of the directors." To that end section 116 requires every director of a banking institution to share its business risks to the undiluted ownership of the prescribed amount of its stock."

See generally, Michie Banks and Banking, Chapter 3, section 4.

For the above reasons we are of the opinion that a person holding stock of a trust company in trust for another does not have actual ownership of such stock free from encumbrance, and is not, therefore, eligible to the position of director of a trust company.

JAMES GLYNN FROST
Deputy Attorney General

November 18, 1960

To: Peter W. Bowman, M.D., Superintendent of Pineland Hospital and Training Center

Re: Surgical and/or Medical Treatment Form

We have your request of October 26, 1960 for an opinion as to the duration of the effectiveness of an executed consent for surgical and/or medical treatment signed by a person having custody of an inmate of your institution.

If the responsible party who executed this consent is dead, then the consent is of no value.

The consent would be valid during any one period of commitment providing the executing person remains alive and competent.

We do not believe it is necessary to incorporate the element of "risk" to any given procedure.

There is a thought contained in the last paragraph of your consent which seems to most of us here to be unnecessary and undesirable. Radiation therapy would, of course, be included within the term "treatment" contained in the preceding portion of the consent, and as you know, the requirements which must be pursued in order to perform an operation resulting in sterility are complex and it should not appear that radiation therapy might be just another method of obtaining this result.

JAMES GLYNN FROST
Deputy Attorney General