

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

This permissive legislation, however, can not be said to alter statutory provisions applicable to admission to, and the operation of, a facility with respect to which the Division of Vocational Rehabilitation is functioning cooperatively.

We find basis for our opinion in the following language of Title 34, M.R.S.A. § 2151, relating to the Superintendent of the Pineland Hospital and Training Center:

“ . . . . . He shall be responsible for the training, education, treatment and care of all persons received into the Pineland Hospital and Training Center. He shall be responsible for the release of all such persons, except those placed in the Pineland Hospital and Training Center under Title 15, § § 101 or 103. He shall have direct supervision, management and control of the grounds, buildings and property and officers and employees of the Pineland Hospital and Training Center, subject to the approval of the Department.”

*REASON NO. 2:*

Title 34, M.R.S.A. 1964, § 2154 reads as follows:

“The Superintendent of the Pineland Hospital and Training Center may at his discretion, except in instances of placement in the Pineland Hospital and Training Center under Title 15, § § 101, 103, release any patient for a definite or indefinite length of time to any responsible person under such conditions as the superintendent may specify, which release may at any time be revoked or extended. No such patient shall be allowed to leave the institution temporarily until an agreement has been procured by the superintendent from some responsible person or persons to provide such patient with proper care during his period of temporary absence from the institution. In the event that any such patient should fail to return to the institution at any time required by the superintendent, full power to retake and return such patient is expressly conferred upon the superintendent, whose written order shall be a sufficient warrant authorizing any officer named therein to return such patient to the institution.”

It is the opinion of this office that the Vocational Rehabilitation Counsellor, employed by the Division of Vocational Rehabilitation of the Department of Education, is not in that class of persons contemplated by the Legislature to assume responsibility under the above quoted section.

COURTLAND D. PERRY  
Assistant Attorney General

January 8, 1969  
Labor and Industry

Madge E. Ames, Director Min. Wages

Maine Institution for the Blind – Minimum Wage Coverage

*SYLLABUS:*

When a nonprofit organization is not receiving a major portion of its income from public sources, it is not a public-supported nonprofit organization and is subject to the minimum wage law.

*FACTS:*

Financial information concerning the Maine Institution for the Blind indicates that it does not receive a major portion of its current annual receipts from public sources. In fiscal year 1968, for example, of total receipts of \$44,437.16, the only receipts from current public sources were: \$356.07 from donations and miscellaneous receipts, and \$3,041.50 appropriated by the State Legislature. In more than twenty-five years no fund-raising effort has been made by the institution other than the mailing of letters to lawyers and clergymen concerning the inclusion of the institution in the wills of clients and parishioners.

*QUESTION:*

Must the Maine Institution for the Blind pay minimum wages to its employees under the provisions of 26 M.R.S.A. §661, et seq?

*ANSWER:*

Yes.

*REASON:*

26 M.R.S.A. § 663, subsection 3, E, exempts a public-supported nonprofit organization from payment of minimum wages to its employees. To entitle an organization to such exemption it must show that the major portion of its current annual receipts is derived from public sources. This, the Maine Institution for the Blind has not shown. It is, therefore, not a public-supported nonprofit organization entitled to the above exemption.

LEON V. WALKER, JR.  
Assistant Attorney General

January 9, 1969  
Sales Tax Division

To: John Singer, Director

Subject: Sales Tax Assessments Upon a Suspended Maine Corporation

*SYLLABUS:*

A corporate taxpayer must be assessed, for sales and use tax purposes, as a corporation even though the sales and use tax liability accrued after its corporate charter was suspended pursuant to 36 M.R.S.A. § 2406.

*FACTS:*

The taxpayer has been registered as a corporate seller with the Sales Tax Division since March 2, 1966. It has filed Federal Income Tax returns as a corporation for the fiscal years ending June 30, 1967 and June 30, 1968. The personal property tax for 1968 on stock in trade was assessed against an individual who is the major stockholder,