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STATE OF MAINE
HEALTH AND INSTITUTIONAL SERVICES COMMITTEE

MINORITY REPORT ON STUDY OF
THE DEPARTMENT OF MENTAL HEALTH AND CORRECTIONS

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February, 1973

HEALTH AND INSTITUTIONAL SERVICES COMMITTEE

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The following material is presented as
a minority report of the Health and Institutional
Services Committee Study of the Department of Mental
Health and Corrections.

This minority report is submitted by
Representative Roswell E. Dyar for Representative
Domenico A. Santoro, M. D.

for his Committee
Domenico A. Santoro, M.D.
43 Deering Street
Portland, Maine, 04101

January 15, 1973

The Hon. Walter Hichens
Chairman
Committee on Health and Institutional Services
State House
Augusta, Maine 04330

Dear Mr. Chairman,

I have received and reviewed the content of the 3rd. draft of "Report of Health and Institutional Services Committee". In general, I would agree with most conclusions and recommendations.

However, I must express my concern over some very significant omissions. These become even more consequential in view of the fact that you, Mr. Chairman, were publicly challenged by Commissioner William F. Kearns, Jr. - Portland Press Herald, October 6, 1972 - where he was quoted as saying "The Committee is supposed to be studying the institution and should be issuing a report. I hope they will document any shortcomings they feel exist."

This statement followed your request of Commissioner Kearns that Dr. Albert J. Anderson, Jr., Director of the Bureau of Mental Retardation, be fired - Portland Press Herald, May 7, 1972- and, immediately, after you had made known some of the preliminary findings to the news media.

Thus, I respectfully suggest that we do just that, document our findings. The integrity and credibility of our committee has been challenged, and, implicitly questioned.

It may be, and, probably is, beyond the scope of our committee's allocation of time, money and technical resources to draw definite conclusions. It may well be that some of the testimony we have received must be referred to the office of the Attorney General's Civil Rights and Criminal Divisions, respectively for a thorough investigation.

Alleged violations of the Appropriations Act and alleged waste of the taxpayers' money fall, presumably, under the jurisdiction of the Committee on Appropriations and Financial Affairs. Alleged violations of the State Personnel Law should be referred to the State Personnel Board.

Interpretation of "legislative intent" by members of the Executive, without consulting the Legislature, and then acting

on it's own interpretation touches upon the very issue of the balance of power and it's imbalance that is so detrimental to our democratic process. This very matter has just been called to our attention by the President of the Senate and we must deal with it in applying candor, integrity and sober and informed judgment.

In summarizing my thoughts, concerns and reflecting upon my convictions I feel that this committee must take note of and relate to all and any allegations received by us.

Therefore,

I MOVE

that (A) all members of this committee will have full access to all the material referred to in this communication prior to voting on the "Final Report", and, that the vote by roll call and recorded in the report and the roll call to include all members of the committee, both present and absent;

that (B) the following allegations be included in the "Final Report" and be inserted on page 5, the "Third Draft", and printed, following the line that presently reads "all in order to improve services provided by the state" and as follows:

"Allegations made to us include the following:

1. violations of article I, Amendments to the Constitution of the United States (December 15, 1791),
2. defying of legislative orders,
3. interpretation of legislative intent without consulting the Legislature,
4. violation of statutes, State of Maine,
5. coercion and intimidation as administrative tools,
6. willfull waste of taxpayers' money without accountability,
- * 7. violation of article XIII, Amendments to the Constitution of the United States (December 18, 1865)
8. violation of article XIV, Amendments to the Constitution of the United States; (February 1, 1865)

that (C) a document entitled "Presentation to the Legislative Committee on Public Health and Institutions, October 10, 1972 by Peter W. Bowman, M.D., F.A.P.A., F.A.O.A., F.A.A. M.D., M.H.A., certified and registered Mental Hospital Administrator";
a letter to the "Honorable Walter Hichens, Eliot, Maine," dated November 25, 1972 from Peter W. Bowman, M.D.;
a "news release" dated December 1, 1972, 10:30 AM. by Domenico A. Santoro, M.D.
be included in our final report as appendices 3, 4, and 5, respectively."

To The Hon. Walter Hichens page 2 January 15, 1973

This motion, if carried, will permit the Attorney General, the State Board of Registration of Medicine, the State Personnel Board, the Maine Human Rights Commission, the legislative committees on Appropriations and Financial Affairs, Judiciary, State Government to review our report and act upon our findings. In this manner, a tentative determination can be made as to

who appears guilty of what transgressions

following which each item, individually, can be referred to a Court of Law and/or to the members of the 106th Legislature for action as deemed advisable and in accord with parliamentary procedure and practice.

If, for any reasons whatever, a majority of this committee should vote against my motion as stated above I would request you to

accept this communication, in toto, as a

MINORITY REPORT

to be filed, printed and published, including the appendices referred to in my motion as 3, 4 and 5., as part of the "Final Report".

Kindly forgive me for taking so much of your time. However, I felt compelled to make our report as inclusive as possible and time is of the essence.

In closing, I wish to compliment you on your persistent and commendable efforts!

Respectfully yours,

Domenico A. Santoro, M.D.
Representative,
Member, Committee on Health and
Institutional Services.

2 encls.

c.c. all members of the committee,
Health and Institutional Services.

D. A. SANTORO, M. D.
49 DEERING STREET
PORTLAND, MAINE 04101

December 1
1972

News Release 10:30 AM.

During the past few months I have explored the circumstances that led to the ouster of Pineland Hospital Superintendent, Dr. Peter W. Bowman. My findings are as follows:

1. The bill regarding a 4 year term of office for Mental Hospital Administrators was neither referred to the Committee on Health and Institutional Services nor were the members of the committee made aware of its pendency.

2. When it became apparent that the bill had been voted on during the passing days of the past regular session

without public hearing or debate

our committee chairman started a recall move to permit floor debate.

The Hon. Kermit Lipez and John Martin assured us that the bill would be returned to us for further debate. However, the Governor, on returning from Europe, did not return the bill but signed it into law immediately.

3. Peter W. Bowman, M.D. was at the time of his "dismissal"

a member of the permanent civil service system

Therefore his status could have been altered only under the provisions of the State Personnel Law. This law was violated by Commissioner Kearns, in violation of the XIV th. amendment of the U.S. constitution as well.

4. Since July of 1971 Mr. Kearns has violated the provisions

D. A. SANTORO, M. D.
43 DEERING STREET
PORTLAND, MAINE 04101

page 2

of the State Employees Appeals Board, tried, in vain, to silence that Board from hearing Dr. Bowman's grievance, in Superior Court. In spite of a pending motion by Kearns before the Maine Supreme Court he did not await it's ruling but appointed a new superintendent in further violation of the XLV th. Amendment and in defiance of legislative intent

since I do not know of any of my legislative colleagues who wanted to deprive Dr. Peter W. Bowman, nor any other state employees, of his civil service rating illegally.

Based on other relevant findings I am making the following proposals that I plan to present as legislative documents:

Formation of a Board of Trustees to govern and to supervise the State Hospitals and developmental centers similar to the functions of the Board of Trustees of our General Hospitals throughout this country. Appointment of trustees be accomplished through nomination by the

Maine Medical Association

Maine Osteopathic Association

Maine Psychiatric Society

Maine Psychological Association

Maine Bar Association as well as one member,

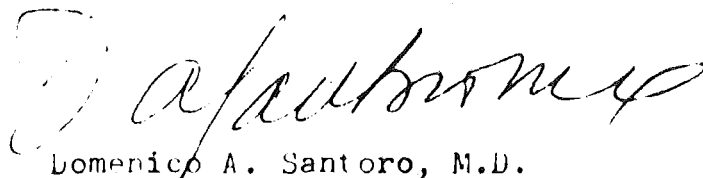
each

Maine State Senate and Maine House of Representatives

D. A. SANTORO, M. D.
43 DEERING STREET
PORTLAND, MAINE 04101

page 3

this would remove patient care and treatment from partisan political pressures and subject them to professional leadership and peer review in the best interest of the patients, their relatives and the staff. It will establish responsibility, authority and accountability for all patients and clients. I am calling on the leadership of the professions to actively participate in solving the problems of our state institutions for the mentally retarded and the mentally ill.



Domenico A. Santoro, M.D.
Member, House of Representatives
104, 105, 106 th Legislature
Committee on Health and
Institutions.

PETER W. BOWMAN, M. D.

FAPA FAOA FAAMD MHA

56 BARIBEAU DRIVE

BRUNSWICK, MAINE

04011

CONSULTANT PHYSICIAN

PSYCHIATRY
ADOLESCENT PSYCHIATRY
CHILD PSYCHIATRY
FAMILY THERAPY

207 725-5278

11.25.72

C
The Honorable Walter Hichens
Elliot
Maine

Dear Senator Hichens:

O
This communication is designed to complement my presentation of October 10, 1972, to you and your legislative investigating committee on Health and Institutional Services.

P
I am presenting to you allegations that may require you to subpoena witnesses and hear their testimony. However, I wish to assure you that through threats, coercion and intimidation, in clear violation of the first amendment of the United States Constitution, conditions have been permitted to develop under the direction of Commissioner William F. Kearns, Jr., and Albert J. Anderson, Jr., which can only be termed a lawless dictatorship within the Department of Mental Health & Corrections.

Y
In my opinion, it is clearly within the jurisdiction of your committee, and perhaps the committee on Legislative Research, to assess what I consider an intolerable situation.

Here are some additional facts:

- A. Dr. Anderson secured initial employment at Pineland Hospital & Training Center as a part-time psychologist under the condition that he would secure a license to practice psychology within one year.

There is on record a letter signed by Dr. Hornburger, then officer of the Maine Board of Psychological Examiners that qualifies Dr. Anderson to apply for and write the necessary examinations.

As far as I know, Dr. Anderson, in deceiving the State Department of Personnel, never applied for this examination and never took the tests.

Therefore, it should be determined whether Dr. Anderson's employment was contracted by him and continued beyond the period of 12 months in premeditated and fraudulent violation of the rules and regulations of the State Personnel Department. If found guilty of such an offense, financial restitution to the General Fund, State of Maine, should be accomplished as well as disciplinary action taken.

- B. When Dr. Anderson went to a pre-employment interview for the position of Director, Bureau of Mental Retardation, he announced that he would try to lead Dr. Leonard Mayo of Colby College in the interview and agree with him in whatever Dr. Mayo presented to secure a favorable impression. This, he claimed, he accomplished.
- C. Subsequently, Dr. Anderson has pronounced, many times, that he was not eligible to take the licensing examination because, in his words, he is an "experimental psychologist".

Today, as the Director, Bureau of Mental Retardation, he is still not licensed to practice psychology. In spite of this fact, and in violation of the preamble to the Appropriations Act, Dr. Anderson secured for himself a substantial salary increase, illegally, by having Commissioner Kearns, Jr. certify an emergency about Dr. Anderson and his position that was then, and is now, fictitious.

- D. Dr. Anderson propositioned Dr. John S. Bishop, when both were teaching at the University of Maine in Portland, to overthrow the Chairman, Department of Psychology, suggesting that he (Anderson) become Chairman, promising Dr. Bishop a promotion. Dr. Bishop refused to participate in this plot.
- E. Dr. Anderson was fired as Ass't. Superintendent of the Governor Dever State School in Massachusetts after less than three months in office.
- F. Dr. Anderson has threatened me, personally, during 1970/71, with disciplinary action if I continued to open my mouth on issues of public concern if they implied criticisms of his or Commissioner Kearns' transgressions. One of his favored expressions was "you keep quiet if you know what is good for you".
- G. In October of 1970 at Greenville, Maine, Dr. Albert Anderson, Jr., announced in the presence of Dr. Bruce T. Saunders, Dr. Anthony D. Chiappone, and Mr. Bruce Libby, Ed.M., that he would have "Bowman fired by July of 1971" and he placed a bet of \$20.00 with Dr. Chiappone. This announcement, coupled with subsequent developments, prove that Dr. Anderson was part of a premeditated conspiracy in violation of the XIVth Amendment of the Constitution of the United States ("nor shall any State.....deny to any person within its jurisdiction the equal protection of the laws").
- H. Mr. Ellery Gray, M.S.W., was appointed some 16 months ago by Dr. Anderson "to implement the Guardianship Law for the mentally retarded". Today, Mr. Gray has established guardianship for one individual only in spite of some 90 referrals from Pineland Hospital to his office. If one pro-rates his salary on his achievements, one has to come to the conclusion that his one act in office over 16 months has cost the taxpayers thousands of dollars. You may expect some expensive explanation for this waste of taxpayers' money.

Also, it is noteworthy that Mr. Gray, in addressing the Pineland Parents & Friends Associates, made derogatory remarks about medical doctors in general.

- I. Since my leaving Pineland Hospital, there have been abortions upon patients. When confronted recently by a newsmen regarding an alleged rape case of an 8 yr. old Pineland patient by a 16 yr. old boy, Dr. Anderson complained about the "leakage" of information and promised that "heads would roll after the arrival of the new superintendent". I informed Governor Curtis of this sequence November 2, 1972, in writing.
- J. In spite of the fact that the termination of the Civil Service Status of the Superintendent of Pineland Hospital & Training Center on record as of Sept. 1971 is presently in court for a decision, Mr. Kearns, with Dr. Anderson's assistance, appointed a new Superintendent in continued violation of the XIV amendment.


This new man, Conrad R. Wurtz, Ph.D., served in Iowa as Director, Bureau of Mental Retardation.

When interviewed by members of the Mental Health Advisory Committee, he is quoted as saying that "he had done everything he could in Iowa" and he wanted to come to Maine because of "the challenge". I have a communication in my possession from a national authority on Mental Retardation stating that.

In this connection, I, respectfully, suggest that you invite Dr. H. Jay Monroe, to testify on his current assignment at Pineland Hospital & Training Center for which the taxpayers are expected to foot the bill also.

- K. Finally, Sir, I wish to bring to your attention the fact that Dr. Anderson referred to you as a "silly ass" in the presence of other State employees.

Most respectfully,


Peter W. Bowman, M. D.
Cert. & Reg. Mental Hospital Administrator
Certificate #341

** Apparently Iowa had been trying to unload him for a couple of years; so I would certainly say that the only gain was probably Iowa's chance to lose him".

Presentation to the
Legislative Committee on Public Health
and Institutions

October 10th, 1972

by

Peter W. Bowman, M.D.

FAPA FADA FAAMD MHA

Certified and registered
Mental Hospital Administrator

App. 3

It is generally accepted that social, economic, educational and governmental programs and institutions should be reviewed and adjusted to the changing needs of a society.

Thus, periodic evaluations and assessments are conducted with resulting modifications.

Unfortunately, this has not been the case for the State Department of Mental Health and Corrections, in the State of Maine.

In the spring of 1953, a staff of -

- 1 Commissioner
- 1 Business Manager
- 1 Full-time Secretary
- 1 Part-time Secretary

presided over and carried out legislatively approved programs for -

1. Augusta State Hospital
Bangor State Hospital
Pineland Hospital and Training Center
Western Maine Sanatorium
Central Maine Sanatorium
Northern Maine Sanatorium
2. Maine State Prison
Men's Correctional Center
Women's Correctional Center
Boys' Training Center
Stevens School
Division of Probation and Parole
3. Military and Naval Children's Home
Governor Baxter State School for Deaf

with a total of patients (1) and juvenile delinquents, adult felons and criminals (2), as well as children (3). Three and one half central office personnel supervised persons in residence at state institutions or on probation/parole.

Today, in October of 1972, central office employees supervise programs relating to persons in residence or on probation/parole.

X figures are not available to me
but are on record in state budget office

This is one of the most curious and outstanding phenomenons to be examined and evaluated. Empire building for reasons of ego satisfaction is objectionable. Empire building for political purposes, under the disguise of professional concern, is outright cynical.

More recently, in the winter of 1970/1971, State Senator C. Carswell (D), Portland, demanded to and, after considerable difficulty, succeeded in having the so-called "Baumgarten Report" on the conditions of the Augusta State Hospital (1968) released for public review and dialogue. Also, the senator had filed a bill that would eliminate the position of Medical (Psychiatric) Superintendent, in favor of a non-medical Hospital Administrator, at the Augusta State Hospital.

The rationale behind this move was that the Senator claimed the incumbent Medical Superintendent was less than competent and that the departmental powers either were unwilling or unable to dismiss an allegedly incompetent administrator.

Such a change in law was deemed unconstitutional and was later amended by Commissioner Kearns, Dr. W. E. Schumacher and Dr. A. Anderson, assisted by Assistant Attorney General C. Perry, to affect the superintendents of three State Hospitals.

Before this law was passed however, the Medical Superintendent of the Augusta State Hospital was coerced into "voluntarily" resigning his position. He had been charged with driving "under the influence" and was given the choice of being fired (and having to vacate the superintendent's residence within four days - in spite of the fact that his wife was semi-invalid on account of malignancy) or, of a "voluntary" resignation to become effective more than two months later. Not having a choice, the superintendent decided upon resigning "voluntarily".

The Committee on Public Health and Institutions became involved in this controversy with resultant publicity and the eventual mandate to look into the Department's operation.

In order to assist the Committee in its work, this writer has decided to present facts, record observations and submit recommendations to it. The material submitted may be used in part, or, in toto, in any way the Committee Chairman and its members may see fit. Hopefully, it will be perceived, accepted and utilized as constructive criticism.

1969 - With the arrival of Mr. William F. Kearns, Jr., the departmental fortunes were once again placed into the hands of a person whose being for where he found himself were simply political, i.e. a pay off by the incumbent Governor for favors received from out of State sources. Mr. Kearns has no professional qualifications whatever, in that he would not even qualify as a Social Worker 1, or practical nurse. His administrative abilities are hampered by a lack of knowledge and experience. His personal background leaves one in doubt, at best. It does not lend itself to establish trust, confidence and respect. Among his record of "achievements" in Maine are the following:

1) Loss of full accreditation of the Augusta State Hospital (October, 1969).

2) Loss of a bill to close the Women's Correctional Center (January, 1970).

3) Establishment of authority outside the Department of Personnel to give pay increases to certain professionals in the department, which he then used arbitrarily and coercively.

4) Certifying an emergency to accomplish a \$4,000.00 - \$5,000.00 salary increase for the Director of Bureau of Mental Retardation, when there was no evidence of any emergency whatever, in clear violation of the pre-amble of the appropriation's act.

5) Pronouncement at a superintendents' meeting (fall, 1969) that designed and contemplated changes in selected pay schedules would create such inequities that would then force the next

legislature to increase appropriations for salaries.

1971 -

6) Promotion of the concept of qualified Hospital Administrators for the three State Hospitals.

The facts:

In July of 1971, Kearns does not appoint the superintendent who is a qualified hospital administrator.

In October of 1972, two of three hospital administrators now are psychologists, not hospital administrators. At Pineland Hospital and Training Center, the Commissioner has been, and is, in violation of the Medical Practices Act, in as much as the Superintendent is responsible for admission, treatment care and discharge of patients, clearly a medical function.

7) In February of 1970, Kearns issues an edict forbidding all departmental employees to make critical public utterances, regarding departmental policies or practices, threatening disciplinary action. In July, without cancelling this order, Kearns announces that he will not retaliate against those who testify before this committee.

8) Commissioner Kearns, Dr. Schumacher and Governor Curtis support and supervise expenditure of public funds at \$438,000.00 to "rehabilitate" the maximum security building at Augusta State Hospital. Upon completion, Kearns announces that it now is a dungeon and should be demolished.

9) Kearns sponsors, in August of 1970, an employee attitude survey at \$3,500.00, contracted by Dr. Anderson. The findings have never been made public and Kearns has since stated that it was worthless.

10) Kearns refuses to establish gliding fee schedules for outpatient services at the State Hospitals. Thus, the State loses revenue from those who are able to pay, simply because Kearns feels that all these services should be free, when, in

fact, the Mental Health Clinics are charging fees.

11) Kearns, arbitrarily and coercively, changes contractual agreements, regarding fringe benefits, charges for quarters, etc. on State grounds, resulting in considerable loss of revenue at the taxpayers' expense.

12) Kearns, in July of 1971, effective September, 1971, interprets "legislative intent", releaves the Pineland Hospital Superintendent of his duties and, in violation of the provisions of the State Personnel Law, eliminates his Civil Service Status illegally and since has been, and is, using taxpayers' money and valuable court time to perpetrate his illegal activity, in defiance of the State Employees Appeals Board and the Kennebec County Superior Court.

13) In spring of 1972, illegally and in violation of Maine Revised Statutes, assigns administrative independence to the Children's Psychiatric Hospital. Later reverses himself again.

14) Kearns, in fall of 1972, states that Pineland Hospital and Training Center was originally designed as a Maximum Security Facility, which is absolutely untrue. Kearns has visited Pineland Hospital and training Center once during the past eighteen months and perhaps seven or eight times in his three and one half years in office.

15) Kearns, in December, 1971, abruptly and without consultation, changes admission policies to Augusta State Hospital and Bangor State Hospital.

16) In October of 1972, Mr. Kearns suggests that courts will be limited to establish maximum sentences and leave the authority of a minimal sentence to his "judgment".

17) Kearns "welcomes" a class action suit against Augusta State Hospital for non therapeutic work assignment.

18) Recently, Mr. Kearns caused the legislature to impair

the authority of the Mental Health Advisory Committee, making it, for all practical purposes, a rubber stamp, contrary to the initial legislation.

Kearns, through his actions, has demonstrated that he -

- 1) Violates constitutional rights of state employees.
- 2) Interprets legislative intent without consulting the legislature.
- 3) Defies legislative orders.
- 4) Violates Statutes, State of Maine.
- 5) Uses coercion and intimidation as administrative tools.
- 6) Wastes taxpayers money and refuses to be held accountable.
- 7) Supervises the practice of involuntary servitude at the Augusta State Hospital.

It is inconceivable to comprehend that this situation was permitted to develop, does exist and is permitted to continue.

The next legislature will be confronted with legislation that will, if passed, take away the rights of the judicial system to impose minimum sentences and place judicial prerogative into administrative judgment and management.

This concept challenges the basic philosophy of punishment for a felony or crime committed and replaces it by one of "illness", that must be dealt with by rehabilitative criteria by a person who is neither qualified nor licensed to diagnose.

In practice, this would include the following:

A person with a considerable criminal record serves time at Thomaston State Prison for attempted rape. After qualifying for parole, he goes out. In June of 1972, he is being accused of aggravated assault. His probation officer claims that the parolee is "fully rehabilitated". In September, the "fully rehabilitated" parolee is caught at a police road block, within less than

one hour after allegedly killing one man, critically wounding another man and kidnapping a woman.

What are the qualifications of those who appoint themselves to judge as to who is rehabilitated?

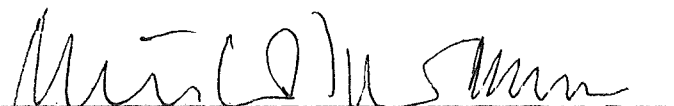
In this context, one is forced to ask oneself what reasons there are, in 1972, to have a Department of Mental Health and Corrections?

They are historical only. There is no valid reason today to continue to combine medical psychiatric programs with those of medium and maximum security of felons and criminals. This is not to say that correctional programs should be run without the benefit of professionally competent personnel. It does mean, however, that the overriding concern of corrections is security and protection of the public, not indulgence and tampering with psychiatric practices.

Thus, serious thought should be given to transferring the Bureau of Corrections into the Department of Public Safety.

If the constitutional officer responsible for the Commissioner's conduct in office continues his claim that the incumbent is "doing an excellent job", the Committee on Legislative Research and/or the incoming legislature may want to consider constitutional alternatives.

Respectfully submitted,


Peter W. Bowman, M. D.


STATE OF MAINE

Cumberland ss.

October 10, 1972

Personally appeared the above-named Peter W. Bowman and made oath to the truth of the foregoing statement by him signed

Before me,


Notary Public

MY COMMISSION EXPIRES
JANUARY 18, 1974

MENTAL RETARDATION - IT'S FUTURE

by

Peter W. Bowman MD.*

presented

by invitation

Annual Meeting, Medical Staff,

Pineland Hosp. & Training Ctr.

June 27, 1972

at

Portland, Me.

*56 Baribeau Drive, Brunswick, Me.

It is a gratifying challenge to attempt the formulation of an assessment and projections in a field that has vast social, economic, psychological, genetic, philosophical, religious and, last but not least, medical implications as is the case in what we generally refer to as mental retardation.

After centuries of reactions to magic, superstition, discrimination, bewilderment, frustrations and grief, it was only a short 50 years ago that medical pioneers like Walter E. Fernald brought inquisitive and authoritative attention to what was then called feeble mindedness and in it's more extreme forms, idiocy.

It took another thirty years, before a wave of compassion, humanitarian concern, scientific curiosity and emotional appeal brought the plight of the person with mental retardation into focus, within an affluent society.

When I recall, with some joy, that I had been asked by the National Council of State Governments in 1958, to present the Keynote Address on how to organize a state program for the mentally retarded and that this very meeting laid the groundwork for federal legislation which was passed during the early 1960's, I am inclined to think that I am able to approach my topic here, tonight, with a perspective that permits rational judgments and conclusions, and allows for dialogue, insights and knowledge, essential and basic to future planning.

In some respects, not in all, my comments are unique to the State of Maine. In most, they apply beyond our local geographic jurisdiction.

It is fair to say that successive legislatures in Maine, starting in 1955, have mobilized and made available resources that

brought unheard of progress, which has placed the State of Maine within the top nine of our fifty states in their tax efforts, when Maine ranked thirty-nine in per capita income.

This is a distinct and perhaps a somewhat unique display of humanitarian concern and reflects favorably on the people of this state.

It is this very fact that must be placed into it's proper perspective when looking at programs, facilities and unmet needs, here in Maine, or elsewhere.

I have divided my presentation into three essential parts. One is devoted to a medical assessment, a second one is devoted to principles of professional accountability. My concluding remarks will reflect some facts and thoughts of perplexing changes in the delivery of health services.

One may wonder how such divergent topics could have as common denominator, the syndrome of Mental Retardation. Mental retardation, however, is my topic and I cannot deal with it in a vacuum but must relate it to the facts around us.

A. Medically, we are approaching a point in history where we will have the capability and ability to reduce the incidence of Mental Retardation to a fraction of what we have experienced during the past 30 years. I can state, unequivocally, that the incidence, in Maine, peaked several years ago and statistical evidence points to a definitive and steady decline. Therefore, it can be expected that the need for new services will become less urgent and hopefully will decrease to a point where we may consider placing more emphasis on other forms of human needs.

The reasons for such an optimistic assessment, in the midst of widespread gloom and depression in the middle of 1972, are numerous:

Proper family planning by educated and informed people, adequate emotional and physical care for the pregnant women; competent delivery services and prompt medical and/or pediatric post natal assessment and care; genetic counselling to prevent creation of problems via hereditary mechanisms; application of the various modalities of preventive medicine (well baby clinics, inoculations, corrective surgery, etc.) are appropriate and effective tools. The only serious problems that remain in this general area are (1st) the one of logistics, i.e. to make existing knowledge and services available, regardless of geographic or economic considerations and (2nd) the emotionalism as the result of an individual value system as reflected in philosophical orientations and commitments, regarding such sensitive areas as the "gift of life", "the right to die", procreation, abortion and birth control. I would respectfully suggest to our philosophers and to our theologians, of whatever religious persuasion, that they might join or continue in our ongoing dialogue, concerning these issues in the light of the concern and love for their fellow man in an atmosphere of developments and consequences, for which there is no historically valid precedence.

We need creative thought before we, as a society, can make what I consider the necessary emotional, religious and legal adjustments to the circumstances of today.

In addition, further scientific research will bring about new insights into functioning potential of the human central nervous system (brain) with possible alternatives in dealing with brain lesions that are not now available, or, accessible even if they are part of our scientific knowledge and awareness in a general sense. The progress that has been made in exploring symptoms of

minimal brain lesions, resulting in behavioral peculiarities and specific sensory or orthopedic disabilities and in applying specific scientific modalities and habilitation techniques to treat or to compensate for the resultant emotional, intellectual and social handicaps are indeed encouraging and gratifying.

In summarizing this part of my presentation, may I repeat that the incidence of mental retardation has decreased and that there are numerous valid reasons to expect further lessening of the incidence of the mental retardation syndrome.

B. Principles of Professional Accountability.

As was implied in my "medical assessment" and, I suppose, for historical reasons, programs in the field of mental retardation have developed under auspices of State Governments practicing, defacto, socialized medicine, in an economic system that is, or was, presumably and allegedly one of free enterprise, of personal initiative, and which gives the right of free choice without duress.

When we find ourselves, almost, on the threshold of compulsory health insurances for all in an economic system that places more and more controls on personal freedom, as well as on enterprising abuse, I cannot help but reflect on twenty years of experience in "socialized medicine" in State Governments.

In the process, I shall make pronouncements and draw conclusions, as I have done throughout my professional career, that may tend to be critical of systems, procedures, policies or just plain facts.

No offense of individuals is intended. What is intended is an assessment of a system, that may, tomorrow, be applied, not only to the mentally retarded and mentally ill, but to every citizen,

who, for any reason whatsoever, may require medical or dental assistance under terms that may be dehumanizing, inadequate, ineffective, or, unresponsive, with dire consequences to the patient.

Contrary to all logic, a health system (state hospitals) is subjected to a political process in which the needs of certain people, afflicted exclusively by mental retardation or mental illness, are placed on the auction block, with highway construction, protective services, maintenance, planning, taxation, transportation, thus competing with totally irrelevant problems for the taxpayers' dollar.

In the process, the state hospital system received an appropriation that has relevance, not to the needs of its patients, but to what the political systems decide is sufficient to practice medicine implicitly in violation of the Medical Practices Act.

The demonstrable known costs of providing medical care in the hospital setting tend to be overlooked in favor of what money is "left" after other considerations, such as a new bridge, or a new office building, have been satisfied. I do not wish to accuse legislators, or politicians, with being callous or insensitive to human needs. It is the system that forces options and alternatives onto the decision making process, which are clearly irrelevant to the diagnosis and treatment of an illness and may be in violation of constitutional rights, as well as ethically and morally offensive.

In essence, I wish to state that a health care system must relate to medical necessities, rather than to political ambitions, political power brokerage, or political "pay offs".

It has been held that a person, suffering from an illness, would

consult a physician, licensed to practice medicine, to establish a diagnosis and receive treatment for his illness.

It would not seem illogical, either, that a person, contemplating the construction of an apartment house, consult an architect or an engineer.

If one finds oneself at odds with the law one prefers to seek qualified legal advice.

But when it comes to mental disorders, necessitating state hospital services - the need for availability of adequate and competent diagnosis and treatment is assessed, edited and determined, in fact, by accountants and a host of non-medical officials, whose reasons, for being where they are and what they are able to do and even for wanting to achieve what they are after, have nothing to do with the diagnosis and treatment of mental disorders.

May I suggest, respectfully, that the decision making in providing for the mentally disordered person's diagnosis and treatment be turned over to those who hold the responsibility, by law, namely duly licensed physicians, free of political pressure.

Only they can be held accountable, under our laws, for their action in treating illness.

How can there be responsibility and accountability without authority?

This is why we, in fact, do not have accountability in Augusta.

It is this fact which is focal to the assessment to be made by the legislative committee on Health and Institutional Services, of the Department of Mental Health and Corrections.

To illustrate my thesis, I wish to refer to the "Maximum Security Unit", so-called, at the Augusta State Hospital. Budget requests were formulated, submitted, supported, and funded, amounting to very close to \$400,000.00, during the past four years. After the money has been expended, the improvements have been achieved, we learn that it now, \$400,000.00 later, has become useless.

Who is accountable to whom for this blunder?

In conclusion of this part of my presentation, I wish to plead, on behalf of the mentally disordered patient, for assigning authority with accountability to those who are qualified and licensed by laws, to diagnose and to treat.

When turning to my final subject, namely the availability and quality of health care delivery to all in need, I have to limit my remarks to the State of Maine, since I am not sufficiently knowledgeable about other areas of the country.

I would further limit myself to placing emphasis on raising questions.

There seems to be a continuous fashionable agitation among politicians running for office that:

- (1) there are not enough physicians in Maine;
- (2) there are not enough health care personnel in hospitals;
- (3) there are not enough hospital beds to take care of the people's pressing health needs;
- (4) that our nursing homes are substandard in general.

I question whether or not our 1,000 physicians of both medical and osteopathic persuasion are capable of taking care of a population of 1,000,000. It certainly is one of the best ratios in the world.

I question whether all persons wanting an examination by a physician are in fact, ill.

How many, in fact, are merely seeking reassurance that they are well, or, that a medical-surgical procedure, performed months or years ago, is still having the desirable effect.

It is a well known fact, that in certain sophisticated hospitals, there exists a waiting list for selective surgical procedures (which can safely be delayed), and for some complicated diagnostic procedures.

But, it is an equally well established, though perhaps less well known fact, that the daily occupancy rate in many hospitals has dropped to a point that it has resulted in operating deficits of hundreds of thousands of dollars, which have driven hospital rates to where they are now. This suggests further that health care personnel, in those instances, had to be paid full wages, while being underproductive, for lack of demand.

Further, there is mounting evidence that we maintain specialized services in two local hospitals, or area hospitals, when one such service would more than suffice.

A Chaplains' group recently visited 35 Nursing Homes, at random, in the State of Maine. It found 2 as inadequate, 33 passed as acceptable.

Where is there objective, credible proof, that the allegations of shortages of doctors is correct, not a myth that has been senselessly repeated because it was true in years past, or because it may be true in other parts of the country, but not in Maine?

Where is the proof that there is an insufficient number of hospital beds available to the people of Maine? Could it be that in some places we maintain two or three hospitals, when one is

sufficient, while not maintaining one hospital in an area that needs one?

I do not wish to create the impression that delivery of health care services could not and should not be improved.

I wish to say, however, with emphasis, that we do not need more of everything. We must break with the myth that developed after World War II that all our problems can be solved by spending simply more money.

What we do need more of is dialogue, frankness with candor, inventiveness that leads to apply money and resources, effectively and economically, rather than to higher and higher taxation with a license to spend without accountability.

Thank you for your attention.