

Insane Asylum, Who Entitled to Treatment in. Insane Person, Non-Resident. Foreign State, Insane Person in.

An insane person domiciled in a foreign state may not be received for treatment in this state unless he became insane within this state.

June 18, 1915.

Hon. J. J. Ryan,
Clerk Consolidated Boards,
Helena, Montana.

Dear Sir:

I am in receipt of your request for an opinion as to whether one Mathew Kokko, an insane person is properly returnable to the State of Montana from the Dominion of Canada, upon the following statement of facts as disclosed by a letter addressed to you by the Immigration Service of the United States Department of Labor, to-wit: One Mathew Kokko is now being held in the Hospital for the Insane at Mimico, Ontario. Kokko formerly resided in the United States, being a native of Finland, and a citizen of the United States by naturalization, he having

been naturalized in St. Louis County, Minnesota, July 19, 1900. Thereafter he resided in Butte, Montana, for a number of years, but left the State of Montana, and went to Canada in March, 1913, where he has since resided.

You are advised Section 1132, Revised Codes of Montana, 1907, provides:

“No insane person, non-resident of this State, must be received into the asylum unless he became insane within this State.”

The phrase “non-resident of this State” must be construed as meaning non-resident in presenti. The statement of facts discloses that Kokko has lived in Canada for more than two years, and presumably he became insane while there. It must, therefore, be held that he was a non-resident of this State at the time of his incarceration in the Hospital for the insane at Mimico, and that the Board of Commissioners for the insane are without authority of law to receive him.

Yours very truly,

J. B. POINDEXTER,

Attorney General.