

MAINE STATE LEGISLATURE

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April 5, 1928

To Hon. J. W. Hanson, Adjutant General
Re: Disability, etc., while at Annual Encampment

This department is in receipt of your letter of March 27th, in relation to the authority of your office to pay for disability or disease becoming apparent while a man is in camp under orders of the Governor.

Section 49 of Chapter 174, Public Laws of 1923, provides for the approval and payment of all military accounts, while Section 51 of the same chapter has a provision for the payment of claims for disability. Section 51 expressly provides that when a man

"incurs or contracts any disability or disease by reason of such duty or assembly or who shall without wilful negligence on his part receive any wound, injury or disease incident thereto while performing any lawfully ordered duty,"

shall receive compensation, etc.

the only question in such cases is, Where was the disease or disability incurred or contracted? If contracted by reason of his duty as a member of the National Guard. If, as a matter of fact, the disease was contracted prior to his attendance at camp or outside of his regular duties as a member of the National Guard, there would be no liability on the part of the State. The question in each individual case is a question of fact.

The specific question to which you draw attention, of the private who was taken ill at Camp Devens at the annual encampment and found to be suffering from appendicitis, presents a difficult question, as the man might have been suffering from the disease before he arrived. Notwithstanding the fact that it is difficult to determine, this does not relieve the necessity of determining the question before payment of expenses of disability claims is made.

Raymond Fellows
Attorney General