

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

October 29, 1942

From:

Frank I. Cowan, Attorney General

To:

Sumner Sewall, Governor of Maine

In re Continuing Suffrage for Veterans at the Veterans Administration Facility at Togus, formerly the United States Veterans Bureau Hospital

Revised Statutes, Chapter 8, Section 82, as amended by Public Laws of 1939, Chapter 264, expressly provides that "all persons who now are, or may hereafter become inmates of the Veterans' Facility at Togus, in the county of Kennebec, . . . shall be deemed citizens of the respective towns in this state in which they had a legal residence, when their connection with said Veterans' Facility . . . commenced, so long as such connection shall continue therewith, but any person connected with the Veterans' Facility . . . , but having a domicile in a town in this state, outside of said Facility, . . . and a voting residence therein, shall not be disqualified from voting in the town in which he has such residence, on account of his connection with said Facility. . . ."

There cannot be the slightest doubt that a veteran retains the voting rights which he had in his town in Maine where he lived before he entered the Facility at Togus. Moreover, even in the absence of this statutory provision there would be no loss of voting rights because of entry into the Facility. A veteran does not go there to establish a domicile but for the treatment or correction of some physical or mental incapacity just as he would go to any other location for medical treatment. There is no intent on his part to establish a domicile there and his stay is strictly temporary even though it may continue over a number of years.

Attorney General

Nov. 3, 1942

To:

G. W. Leadbetter, Commissioner

Institutional Service

From:

Frank A. Farrington, Deputy

Attorney General

In an Inter-Departmental Memorandum dated October 29, 1942 you ask for an opinion as to whether the following institutions, or any of them, may properly be considered as penal institutions:

State School for Boys

State School for Girls

Pownal State School.

Bouvier's Law Dictionary defines *penal* and *penalty* as follows: "The words penal and penalty in their strict and primary sense, denote a punishment, whether corporal or pecuniary, imposed and enforced by the state for a crime or offence against its laws."

Chapter 241, P. L. 1931, as amended, dealing with juvenile offences, provides in Section 1, that no adjudication or judgment under its provisions shall be deemed to constitute a conviction for crime.

Section 4 of the same chapter, as amended, states "Unless the offense is aggravated or the child is of vicious or unruly disposition no court shall sentence or commit a child to jail, reformatory, or prison, or hold such child for the grand jury."

Section 1, Chapter 154, R. S. 1930, transferred to Section 374 of Chapter 1, P. L. 1933, recites that the State School for Boys was "established . . . for the instruction, employment and reform of juvenile offenders", and that the State School for Girls was established "for the education, employment and reform of girls". There is no indication of commitment being for the purpose of punishment.

Section 3 of Chapter 154, R. S. 1930, transferred to Section 375 of Chapter 1, P. L. 1933, states in part "the record . . . shall be that the accused was convicted of juvenile delinquency".

It is thus apparent throughout that the State Schools are set apart from prisons and jails and that commitment to them is not punishment for a crime. It is, therefore, the opinion of this department that the State School for Boys and the State School for Girls are not penal institutions.

As to the Pownal State School, there would appear to be no reason for its being considered a penal institution unless Chapter 245, P. L. 1941, amending "Power of the court in juvenile cases" so as to permit commitment of mentally defective children to Pownal were to make it a penal institution in part at least. The foregoing paragraphs would remove this possibility and it is therefore the opinion of this department that none of the institutions mentioned in your memorandum should be considered as penal institutions.

FRANK A. FARRINGTON
Deputy Attorney General
Approved

FRANK I. COWAN
Attorney General

November 3, 1942

Ralph A. Leavitt, President
Maine Maritime Academy
Castine, Maine

Dear Sir:

In your letter of October 31, 1942 you ask for an opinion as to whether the Maine Maritime Academy is a direct agency of the state, or whether it is an entirely separate corporation to which the State appropriates certain funds.