

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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"Any person who is committed to a state charitable or correctional institution, and is under the control of the department (Institutional Service), who becomes insane, or who is found to be insane by the examination authorized by the preceding section, shall be transferred to either of the state hospitals. . ."

we find further on that it proceeds in the second paragraph as follows:

"Such patient shall be there detained in custody in the same manner as if he or she had been committed thereto originally. The transfers authorized in this and the preceding section shall have no effect on the original sentences which shall continue to run, and if the original sentence has not expired when the patient has been declared ready for discharge or release, the patient shall be returned to the institution to which he or she was originally committed. . ."

It is further provided that where the patient is to be detained after the expiration of the sentence, then he must be recommitted upon application to the proper court in accordance with the sections of the statute therein quoted.

From these quotations it would appear that transfers may be made only from those institutions wherein the "patient" is serving a sentence. That, of course, is not the case of a person committed to the Pownal State School.

In view, then, of its doubtful application to Pownal, it would be best to have no question arise as to the legality of the patient's detention. The inmate should be committed to either of the State hospitals, by application to the proper court.

ABRAHAM BREITBARD
Deputy Attorney General

April 9, 1945

To J. A. Mossman, Budget Officer

Re: Funds for Veterans Graves Registration Service

Answering your request for my opinion on the present effect of Chapter 284 of the Public Laws of 1939, I will say that Section 3 of Chapter 54, R. S. 1944, provides that each town, parish, religious society, etc., shall keep in good condition and repair the graves, headstones, monuments or markers of soldiers or sailors who have served in the United States Army, Navy or Marine Corps in any war. There is a penalty for neglect to maintain in good repair said graves and fences around said cemeteries. The only other provision of law now on our statute books relating to graves of soldiers is contained in Section 94, Chapter 80, R. S. 1944. This provides that every city, town and plantation is required to decorate the graves of veterans on Decoration Day, May 30th; and the cities, towns and plantations are empowered by this statute to raise sufficient money by taxation for this purpose.

You wanted my opinion as to whether or not Chapter 284, P. L. 1939, was still in effect, and in reply I will say that the Laws of 1939 were repealed by Legislative Document 934, at the special session of the legislature held in September, 1944, except Chapters 77 and 121. Inasmuch as this chapter was not retained in the new revision, the Revisor of Statutes and the Revision Committee no doubt considered it an emergency measure which authorized the Adjutant General to cooperate with the Works Progress Administration. I understand that the WPA used \$68,000 for this purpose, and the 1939 Legislature authorized \$11,000. If the Adjutant General's office desires to carry on this work, it will be necessary to ask the legislature for further authorization.

RALPH W. FARRIS
Attorney General

April 10, 1945

To Fred M. Berry, State Auditor
Re: Capital Reserve Funds, Towns and Counties

I have before me your memo of March 19, 1945, in regard to the capital reserve funds for towns and counties, creation of which is authorized under the provisions of Section 130 of Chapter 80, R. S. 1944, requesting my opinion as to who is legally authorized to create such a fund. Is it the voters of a town or county; or is it the selectmen in the case of a town or the county commissioners in the case of a county?

This legislation was enacted in 1943, P. L. 262, under the title of "AN ACT to Permit Towns to Create Protected Reserves," and the first section of that act provides that any town may annually appropriate money for the purpose of providing a reserve of borrowing power, etc., etc. This is now Section 127 of said Chapter 80 of the Revised Statutes of 1944.

After a study of this act of 1943 and the legislative history of same, it is the opinion of this office that it is for the voters of a town to establish capital reserve funds for certain financing as permitted under said Section 130. The statute does not say that a specific program must be outlined, although it does state that it must be for a specific item or items of equipment, or the acquisition of title to capital improvement or a title to capital equipment; and it is our opinion that these items should be specified for which the capital reserve fund is used in financing these projects.

In the case of a county, it is the opinion of this office that this capital reserve fund should be created by the county commissioners from a county tax levied for this purpose.

RALPH W. FARRIS
Attorney General