

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1947 - 1948**

work as a result of 'total disability', which pension is one of the features of the payroll deduction towards retirement; and that a veteran might be eligible for compensation for 'total disability' from the 'U. S. Veterans Administration' but for the fact that his outside income, as from a civil service pension which he elects, is greater than a certain amount.

"Question: (1) Are veterans under 62 years of age, who satisfy the general requirements of this statute, eligible for property tax exemption to the amount of \$3500, if their 'compensation from the U. S. Government for total disability' is derived exclusively from their Civil Service Pension contract and not from the benefits of service in the armed forces during certain war periods?"

The purpose of the amendment in the respects above indicated was to allow the exemption to those persons who served in the various branches of the armed forces, namely, the Army, Navy and Coast Guard, who are receiving pensions, retirement pay or compensation for total disability from those service branches. As it stood prior to the amendment, it was limited to veterans receiving pensions or compensation for total disability from the U. S. Veterans Administration. It was brought out before the committee on taxation before which the hearing was had on the amendment, that the compensation for total disability to commissioned officers was not paid by the Veterans Administration, but rather by the War and Navy Departments, and consequently they were denied this exemption, since the statute was confined to veterans receiving pensions or compensation from the Veterans Administration. It was to correct this situation that this amendment was proposed and later enacted. By the use of the words, "United States Government," the intent was to include within its provisions all veterans receiving pensions, retirement pay or compensation for total disability from any of the service branches of the land and naval forces, which since 1941 include the Coast Guard, and not from the government under a civil service act.

ABRAHAM BREITBARD  
Deputy Attorney General

March 17, 1948

To Francis H. Sleeper, M. D., Superintendent, Augusta State Hospital

I have before me the letter which you submitted to this office . . . and also the form of the bond whereby the surety agrees to comply with certain conditions therein, particularly relating to the discharge of any indebtedness incurred as a result of hospitalization of the inmate while under release and to indemnify any damage caused by the destruction of property by the inmate.

I can find no provision in the statutes which authorizes you to take a bond or a cash deposit as a condition for the release of an inmate of the hospital. You may in your discretion permit an inmate to leave an institution temporarily "in charge of his guardian, relatives, friends, or by himself for a period not exceeding 6 months, and may receive him when returned by any such guardian, relatives, friends, or on his application within such period. . . ." and "on receipt of formal application in writing before the date of expiration of such leave of absence grant an extension of time for another 6 months."

It seems to me, however, that before doing so you must satisfy yourself that the condition of the patient is such that he may be safely released; and if released to relatives or friends, that they are proper persons to receive him. The matter is one in which you must exercise your own judgment, having in mind the mental condition of the inmate.

ABRAHAM BREITBARD  
Deputy Attorney General

March 22, 1948

To Charles P. Bradford, Director, State Park Commission  
Re: Rules and Regulations for State Parks and Memorials

In accordance with your memo of March 9th, I certify that in my opinion the rules and regulations above set forth are in conformity with the law.

Section 11 will be modified in the following manner:

*"Violations*

Any person found guilty of violating the above rules and regulations shall be punished as provided in Chapter 32, Section 26 of the Revised Statutes of Maine, 1944; except where the offense is of a nature for which a greater punishment is provided under other provisions, then the punishment shall be in accordance with such provisions."

The reason for the above is that there are offenses described, for example, driving under the influence of intoxicating liquor or drugs, and carrying concealed weapons, for which a greater punishment is provided under other provisions of law; and I believe the same is true of reckless driving.

ABRAHAM BREITBARD  
Deputy Attorney General

March 22, 1948

To Earle R. Hayes, Secretary, Employees' Retirement System  
Re: Former Employees of E. R. A.

I received your memo of March 16th, stating that the Board of Trustees are in receipt of requests from present State employees who are members of the Retirement System relative to credits toward retirement for certain periods of time which they formerly worked for the E. R. A., and that the Board requests my opinion as to the status of this former agency as it relates to State employees.

In the case of *State vs. Martin*, 134 Maine, page 455, the Supreme Court stated as follows:

"There was co-operation concerning the administration of relief in that the State Controller, the State Treasurer and their assistants lent administrative help, but administration was always Federal; funds were so earmarked; all reports of expenditures were made to the United States, and unexpended balances accounted for, accordingly. Emergency relief administration in Maine was by the United States and not by the State."