

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

company who sell any type of insurance, whether it be a life insurance company selling only life insurance or a life insurance company selling casualty, accident and health policies, or whether it is a casualty company selling casualty insurance.

JAMES G. FROST
Assistant Attorney General

March 17, 1952

To Willis H. Allen, Examination Supervisor, Personnel Department
Re: Korean Veterans

This will acknowledge your letter of March 4, 1952, relative to an interpretation of Chapter 360 of the Public Laws of 1945.

The pertinent portions of Chapter 360 read as follows:

"For carrying out the provisions of this section, the following dates of active service in the United States armed forces shall be: . . .

"V. World War II, December 7, 1941, and the date of cessation of hostilities as fixed by the United States Government."

On February 20, 1948, Mr. Fred Rowell requested that this office determine the dates marking the beginning and ending of World War II. In answering Mr. Rowell's request, Abraham Breitbard quoted the following proclamation of Harry S. Truman:

". . . Now, therefore, I, Harry S. Truman, President of the United States of America, do hereby proclaim the cessation of hostilities of World War II, effective at twelve o'clock noon on December 31, 1946." and declared that it was his opinion that this proclamation was controlling in determining when under our statute the cessation of hostilities was fixed by the United States Government. He then added that a veteran, to be entitled to the preferences provided for in that Act must have been in the active service between December 7, 1941 and December 31, 1946 at 12 o'clock noon.

You now ask this office if veterans of the Korean campaign have a veterans' preference in State employment and what dates have been established for the eligibility period. This question is, no doubt, prompted by the action of the 1951 Legislature, as seen in Chapter 157 of the Public Laws of 1951, in which chapter the legislature attempted to amend laws pertaining to veterans to include those who participated in the Korean campaign. In amending the above quoted section of the law, subparagraph V. was changed to read as follows:

"World War II, December 7, 1941, and the date of the cessation of hostilities as fixed by the United States Government *for civil service employment purposes.*"

Public Law 359, Section 3, approved January 27, 1944, 58 Stat. 387, Chapter 287, provided for preferences to veterans taking Federal Civil Service examinations. This section, granting preferences to veterans, was repealed by Public Law 239, approved July 25, 1947, 61 Stat. 449, Chapter 327. By these last two mentioned statutes, the United States Government has, for Civil Service

purposes, defined the period of World War II as being from December 7, 1941 to July 25, 1947.

The amendment by our 1951 Legislature of Chapter 360 of the Public Laws of 1945, as seen in Chapter 157 of the Public Laws of 1951, in making the dates during which veterans may be awarded preferences for Maine examination purposes coincide with the dates which the Federal Government has set in which veterans applying for Federal Civil Service positions may be granted preferences, has in effect extended the period in which veterans in the State of Maine will be given preferences for having served in the Armed Forces from December 31, 1946 to July 26, 1947.

This office can find no law amending Chapter 360 which would grant to veterans of the Korean campaign any such preferences as are granted to veterans of World War II. The only amendment to Chapter 360, which is the preference statute, is that above quoted, which added the words, "for civil service employment purposes," to subparagraph V.

In answer to your question, then, it is our opinion that veterans of the Korean War have no preference in State employment.

No doubt this matter should be given attention during the next session of the legislature.

JAMES G. FROST
Assistant Attorney General

March 17, 1952

To Norman U. Greenlaw, Commissioner of Institutional Service
Re: Legality of Commitment Papers signed only by Register

On March 12th you sent to this office a copy of a memo to you from Dr. Pooler, Superintendent of the Bangor State Hospital, inquiring as to the legality of certain commitment papers.

He states that the paper in question is the original and that it is not signed by the Justice of the Probate Court but merely by the Register of Probate. He questions the legality of the paper without the signature of the Judge of Probate.

Dr. Pooler's point is well taken. Section 109 of Chapter 374, P. L. 1951, states that the Probate Judges shall have jurisdiction to commit, after hearing, to certain designated State and Federal institutions. This power is conferred only upon the Judges of Probate. They have no right to delegate this power to their respective Registers, nor can the Registers act in behalf of the Judges of Probate, there being no statute allowing same.

To protect the rights of all parties, and to conform strictly to the statute that governs the commitment of the mentally ill, it is our opinion that the commitment papers, under the above circumstances, should be signed by the Judge of Probate. This will show to any person or court that the Judge was the party who heard the case and ordered the person committed, and that it was not some other person who had no legal right or power to commit the mentally ill.

ROGER PUTNAM
Assistant Attorney General