

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

Federal Government, and the Clarke-McNary Law contemplates that the Federal Government shall cooperate with the various States in these endeavors.

We have closely examined the law and have carefully read the Clarke-McNary Forest Fire Control Manual which outlines the policies of administrative procedure, and it appears that, consistent with the intent of the law, the monies paid to the State of Maine under the provisions of the law are paid so that the Federal Government will share in the burden of protecting our forests and water resources, which are of national as well as state-wide concern. In other words, it appears that it is the very intent of the law that the Federal Government "foot" part of the cost the State undertakes in carrying out its Forestry program, always with the proviso that in no case (with certain exceptions) shall the amount expended by the Federal Government in any State during any fiscal year exceed the amount expended by the State for the same purpose during the same fiscal year.

If the Federal Government is going to cooperate with the State of Maine by allocating to the State a sum of money based upon the amount spent by the State in a prior year, but to be spent in the same fiscal year as the State is working in it would seem that such sum is a reimbursement of the cost the State has been put to. And the result which follows is that such funds, in so far as the Federal allocation does not exceed the amount the State spends in that particular year, are State monies and should be dealt with in accordance with our laws.

It is therefore our opinion that the funds being here discussed are not of such a nature as would remove them from our laws relative to encumbrances.

JAMES G. FROST  
Deputy Attorney General

October 15, 1953

To Earle R. Hayes, Secretary, Maine State Retirement System  
Re: Greenville Cemetery Corporation

We have previously discussed this matter and, on the furnishing of the certificate of incorporation as per my request, have attempted to determine the status of the Greenville Cemetery Corporation as it fits into our Retirement System.

Our search fails to show that said corporation is a "political subdivision" as the term is used in Section 2, Chapter 395, of the Public Laws of 1951. Our statutes provide that every cemetery shall be owned, maintained or operated by: (1) a municipality or other political subdivision of the State; (2) a church; (3) a religious or charitable society; or (4) by a cemetery association formed under the provisions of Chapter 54, R. S. 1944. We feel that it is clear that in this instance the cemetery itself is owned and maintained by a charitable corporation which is not a political subdivision of the State. It is a body corporate, but it is not a body politic.

By way of suggestion, if the town came into the ownership of the cemetery, then its employees would be town employees; or the corporation might be

incorporated by the legislature, which could make it a body politic and a political subdivision of the State.

ROGER A. PUTNAM  
Assistant Attorney General

October 22, 1953

To Harold A. Pooler, M. D., Superintendent, Bangor State Hospital  
Re: Transfer of Patients to Veterans' Hospital

This is in answer to your inquiry of yesterday relative to the transfer of patients from your institution to the Veterans Administration hospital at Togus.

A search of the statutes discloses that subparagraph III of Section 18 of Chapter 230 of the Public Laws of 1949, known as The Uniform Veterans' Guardianship Act, provides that under certain conditions a patient at a State institution may be transferred for care and treatment to an agency of the United States or, more specifically the Veterans' Administration. This statute provides that upon effecting any such transfer the committing court or proper officer thereof shall be notified thereof by the transferring agency. The transferring agency in this instance would be the Bangor State Hospital, and this condition must be complied with.

Relative to the question of the original commitment papers, there is no provision in the law specifically covering it; but it would be the opinion of this office that the original papers should always be at the institution where the patient resides. In this case I would suggest that you keep certified or true copies of these papers for your files.

I would also suggest that you get some sort of receipt from the committing court or officer to prove that you have complied with the statute.

The question may be raised that commitment to the Veterans Administration hospital is not commitment under the original papers, in that it is not the hospital designated in the commitment papers. This, again, is covered by the above cited section of Chapter 230, P. L. 1949, in that it provides that any person transferred to an agency of the United States will be deemed to be committed pursuant to the original commitment.

ROGER A. PUTNAM  
Assistant Attorney General

October 30, 1953

Hon. Burton M. Cross, Governor of Maine  
Re: Commission to Revise Probate Rules

Section 49 of Chapter 140 of the Revised Statutes of 1944 provides in part as follows:

"The governor may at any time, upon the request in writing of a majority of the judges of the courts of probate and insolvency, appoint a commission composed of 3 judges and 2 registers of probate, who may make new rules and blanks, or amendments to existing rules and blanks,