

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

It seems from an examination of the Maine State Retirement System law that "Prior Service" credits can be granted to members of the Maine National Guard.

GEORGE C. WEST

Deputy Attorney General

July 18, 1961

To: Marion E. Martin, Commissioner of Labor and Industry

Re: Interpretation of Chapter 466, Public Laws of 1955, to Establish Board of Construction Safety Board Rules and Regulations

You have asked for an opinion covering an apparent conflict between parts of Sections 88-B and 88-E of Chapter 466 of the Public Laws of 1955.

Section 88-B provides in part:

" . . . The term 'construction' . . . shall not apply to construction for self use."

It must be borne in mind that this section only *defines* terms or words used in the law. "Definitions" are not a substantive part of the statute. They only assist in understanding the meaning of words and phrases used in a statute.

Section 88-E says in part:

"The provisions relating to safety . . . shall not apply to construction for self use providing not more than 5 persons are employed for wages in such construction or that such construction is not performed by a party for hire under a verbal or written contract."

Section 88-E is a substantive part of the statute. It sets forth exceptions relating to that which the statute shall not cover or extend. Being substantive in nature it is a necessary part of the statute and must be considered as controlling.

In short, the exceptions in Section 88-E are determinative of what the statute does not cover.

GEORGE C. WEST

Deputy Attorney General

July 21, 1961

To: William E. Schumacher, M.D., Director of Bureau of Mental Health

Re: Examination and Commitment costs of Mentally Ill Person — Responsibility for

You have asked, in substance, who is responsible for the costs of examination and commitment of a mentally ill person to a state hospital.

Answer: Sections 137 and 138 of Chapter 27, Revised Statutes of 1954, outlines the channels of financial responsibility for the examination and commitment. Section 137 provides that the town where the mentally ill resided or was found at the time of his arrest is first chargeable. Section 138 then provides that the town first chargeable may recover the amount paid from (1) the mentally ill person, if able, or (2) from persons legally liable for his support or (3) from

the town where he had a legal settlement but (4) if no legal settlement from the state.

You mention in your memo section 135 as requiring the probate court to certify the proposed patient's inability to pay for his support.

Answer: Section 135 was written at the time the law provided for commitment by the municipal officers of a city or town. The probate court had concurrent jurisdiction with the municipal officers to commit mentally ill persons. The only other persons having jurisdiction to commit were two justices of the peace. The new law removes this duty from such officials and places the responsibility upon the probate court when judicial procedure is necessary.

Therefore, it would appear that the phrase "or any officers with like power to commit" must apply to a probate court judge. It would appear that the probate court judge should inquire into the ability of the mentally ill person to support himself in the hospital and the ability of legally responsible relations to support him and then certify to his findings of *inability* only. The judge does not have to certify as to ability to pay for support.

You have further asked who bears the cost of re-examination.

Answer: I feel that the wording of section 137 is adequate to have the costs of re-examination charged to the town where the mentally ill resided or was found at the time of his arrest. That town again is reimbursed as stated in section 138.

GEORGE C. WEST

Deputy Attorney General

July 21, 1961

To: Stanton S. Weed, Director of Motor Vehicle Division

Re: "Initial Plates" re Amputee Veterans

I have your memo of July 18, 1961, asking the following question:

"Does the provision of Sec. 2 of Chapter 261 become compatible with the provision of Sec. 13, Chapter 22, R. S., as amended? Are we authorized to provide and issue such initial or combination type plates, in lieu of the regular straight numeric plates, at no 'service fee' of \$10.00."

Answer: Section 2 of Chapter 261, Public Laws of 1961, is entirely compatible with the provisions of Section 13 of Chapter 22, Revised Statutes of 1954.

In substance the 16th paragraph of section 13 of Chapter 22 provides that under certain conditions amputee veterans may receive free registrations and plates for their motor vehicles.

In substance, Chapter 261, P. L. 1961, provides that the Secretary of State may issue initial type registration plates to be used in lieu of other numeric type registration plates. Section 2 provides for a special service fee in addition to the regular registration fee, for those persons who wish to have the initial type plates.

The Secretary of State has no authority to issue the newly provided initial type plates unless the applicant pays the extra service fee. No exemptions from the payment of this extra service fee is provided in the law. This is a special privilege accorded to those who wish to pay for the service.