

# MAINE STATE LEGISLATURE

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June 10, 1942

To Senator Robert B. Dow  
Re: Retirement of State Police

I have your letter of June 6th in regard to retirement of State Police. I am glad you wrote me because this is a subject that needs to have careful attention from the Legislature. Probably the thing needs to be viewed as a whole and some drastic change, or changes, made in the law.

You will note in the Laws of 1939, Chapter 272, how carefully we set up the compensation. Then in Chapter 225 we modified the 1933 law to provide that not more than 10% instead of 5% of the

"entire active strength of the force shall be so carried on the retired list at any one time."

We have a situation that has developed which has caused a lot of thought in this office and does not contribute to good discipline in the Police force. With an active personnel of 80 we can have a maximum of 8 on the retired list. By interpreting the words "entire active strength" as a unit of measure, which is probably what the legislature intended, we can say that the entire active strength of the Police force shall be a certain number plus 10%. That takes care of one ambiguity in the law.

Something that we cannot properly take care of by interpretation in this office is a situation that either exists today, or will exist very shortly. A great many of the members of the State Police force are of about the same age and were enrolled at about the same time. There are already 8 members who on the "retired" list. Other men cannot get on the "retired" list until there is a death among the present pensioners and this may not occur for many years. In the meantime other "active" police force members will be getting older and possibly even too old to perform properly the arduous duties which are the necessary lot of a State Policeman.

It has been suggested that a member of the State Police can resign after 20 years and go on some other job and still hold his place on the retirement list so that when his turn comes up he can get a pension. This interpretation conflicts with the wording of Chapter 225, Public Laws 1939, which limits to 10% those who can be on the "retired" list, because, under the wording of said chapter a person who has retired from active service is at that moment eligible for being placed upon the pension rolls. The wording of the fourth line seems to indicate one act. The retiring and the placing upon the pension rolls by the Chief of Police seem to be but two parts of the same act. The person is retired and simultaneously goes on the pension rolls.

There is something to think about in connection with a member of the Police force being given a leave of absence of some sort.

It has been suggested that Officer A. who has served twenty years may now be given a leave of absence by the Chief and go to work on some better paying job and still retain his position in the list, so that when the proper number of deaths of pensioners have occurred he can get in for a pension. This would work an injustice on Officer B. who is one day junior to Officer A. in time of service and who has not gone on leave of absence but stayed on the job as a State policeman at a lower wage. Perhaps Officer A. has worked for several years at high pay while Officer B. has continued to work as a State policeman at five or ten dollars less per week. Can we properly permit any such leaves of absence? This is not an academic question. Several officers have already applied for such a leave.

As you can see from the above, there are problems in the State Police Retirement Act which the Legislature will do well to consider.

In connection with your questions: "1. The member's enlistment expires July 1, 1943. What would the effect be if he resigned or just quit work after his twenty years are up?" My answer to that will have to be that under the present law a resignation or a quitting of the job by a State policeman severs his connection with the department entirely and renders him from that moment ineligible for any pension benefits.

Your second question is as follows: "2. If the member of the force is not recommended at this time for pension by the Chief because of his twenty years' service, what would the result be as to his pension if he resigned?" The answer to Number 2 is, I believe, covered by the answer to Number 1.

Because of the study that I have given to your letter, I am sending a copy of my reply to Chief Weaver. He may have some suggestions that will be of assistance to us.

Frank I. Cowan  
Attorney General

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