

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

February 24, 1943

To:

Henry P. Weaver, Chief

State Police

From:

Frank A. Farrington, Deputy

Attorney General

Arthur F. Duplisea—Your Memo of February 20, 1943

Your memorandum above referred to has been received, along with copy of Mr. Duplisea's letter, copy of the letter of Mr. Goss, and copy of O. D. T. General Order No. 20.

You ask for the opinion of this department as to whether O. D. T. General Order No. 20 supersedes our State law.

It is the opinion of this department that O. D. T. General Order No. 20 has no bearing on the State law in connection with operating a taxicab, except in so far as it may limit the operation of taxicabs.

Under the circumstances existing at the present time, considering the share-the-ride program which is being carried out particularly among those working in the shipyards, this department agrees with the feeling of the Secretary of State that there is a marked difference between a case where a man is carrying fellow-workers and a case where one operates and holds himself out to the public as operating a vehicle for hire as a business. It is our understanding from conversation with the Public Utilities Commission that they do not concern themselves with anyone carrying nine or less passengers under such circumstances.

From the terms of your memorandum, we are not sure that we have given you the information that you desire, and if we have not please say so and we will try to give you the desired answer.

FRANK A. FARRINGTON

Deputy Attorney General

February 24, 1943

To:

William D. Hayes, Auditor

Auditor

From:

Frank A. Farrington, Deputy

Attorney General

Joint Contributory Retirement System

Reference is to your memorandum of February 13th, in which you ask certain questions relative to a retired member of the System who subsequently re-enters the employ of the State.

The opinion of this department relative to these questions follows in the order in which you asked the questions.

1. If an employee is restored to service who was retired under 227-E, he is not entitled to receive both compensation for services and retirement pension, and the amount of combined pension and compensation would not affect the answer. The answer to this question, as well as the others you ask depends, in the opinion of this department, on the interpretation of the words "restored to service",

as used in section 227-G, Chapter 328, Public Laws of 1941. In this connection you will note that Section 227-A (7) defines "service" as "service as an employee for which compensation is paid by the state." 227-A (4) defines "employee" as "any regular classified or unclassified officer or employee in a department." Thus, to be restored to service, a former member of the Retirement System must become a regular employee.

2. Section 227-G requires that a beneficiary restored to service contribute at the same rate he paid prior to his retirement.

3. Assuming that the employment is regular, it is the opinion of this department that the method of payment would not be material, since compensation is paid by the State. See section 227-A (7).

4. This question is answered the same as question 3, and the nature of the services rendered is not material to the issue, any more than is the method of payment.

It is the opinion of this department that occasional employment of a retired member of the Retirement System at irregular intervals, when and if such a person is needed for some reason, should not bar him or her from receiving his or her retirement allowance, and that the question of whether or not a person has been "restored to service" is one which might well have to be answered in specific cases as they arise.

FRANK A. FARRINGTON
Deputy Attorney General

March 4, 1943

To:
Hon. Ralph Sterling,
Chairman, Committee on State Lands and Forest Preservation.

Dear Sir:--

At the request of Representatives Rollins and Cleaves of your committee, I am conveying the following information concerning the provisions of the Revised Statutes in regard to assessment of taxes on lands in places not incorporated, and sale of lands in such places for taxes, and the period during which the original owner has the right of redemption.

The Revised Statutes, Chapter 13, Section 40, speaking of such lands and providing for the notices to the owners, contains the following language: "Said lands are held to the state for payment of such state, county and forestry district taxes, with interest thereon at the rate of six per cent to commence upon the taxes for the year for which such assessment is made at the expiration of six months and upon the taxes for the following year at the expiration of eighteen months from the date of such assessment."

The above language is not material to the matter you have under discussion, but I have included it simply because it has the words, "Said lands are held to the state," and so forth.