

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

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.

R. S. Chapter 13, section 41, provides that "Owners of the lands so assessed may redeem them by paying to the treasurer of state the taxes with interest thereon within one year from the time when such interest commences. Each owner may pay for his interest in any tract, whether in common or not. . . . Each part or interest of every such township or tract upon which the state or county taxes so advertised are not paid with interest within the time limited in this section for such redemption shall be wholly forfeited to the state, and vest therein free of any claim by any former owner." Section 41 has to do with activity prior to sale by the treasurer of state.

R. S., Chapter 13, section 42, provides that, "Lands thus forfeited shall annually in November be sold by the treasurer of state at public auction to the highest bidder; but never at a price less than the full amount due thereon for such unpaid state, county, and forestry district taxes, interest and cost of advertising except that in case of a sale to the forest commissioner no interest shall be added." Under this section, the state treasurer must sell the lands for taxes. He may sell to a private individual, but if no private individual appears to buy, the forest commissioner has authority to buy in, in the name of the state, just as a town treasurer buys in lands sold to the town for taxes in February.

Section 42 continues in the following language: "The treasurer shall give to the purchaser a deed of such lands, which shall vest in such purchaser title to the same *in fee* subject to the right of redemption hereinafter provided." The words "in fee" mean "absolutely", and unless there is some actual legal defect in the proceedings in regard to the laying or the attempts to collect the taxes and such defect is of a nature that the courts regard as fatal, the person who buys becomes the absolute owner of the property, subject only to a right of redemption which is set out in R. S., Chapter 13, section 44. It is immaterial whether that purchaser is a private individual or the state. Title becomes absolute just the same.

R. S. Chapter 13, section 44 provides: "Any owner may redeem his interest in such lands, by paying to the treasurer of state his part of the sums due, including the cost of serving the notice upon the owner or his tenant, as provided in section forty-two, *at any time before sale; or after sale, by paying or tendering to the purchaser, within a year, his proportion of what the purchaser paid therefor at the sale, with interest at the rate of twenty per cent a year from the time of sale, and one dollar for a release.*" This provision for one year for redemption is the utmost extension that I find in the statute of any redemption rights, where there exists a valid tax.

I have been informed that someone has declared that the assessment of taxes on certain lands concerning which you have a bill before you for consideration was invalid. I know nothing about that, of course; but if there is a question in regard to validity, and the State's interests are involved, I respectfully call to your attention that the State maintains a legal department whose duty it is to assist the

Legislature in connection with such questions, and if the Legislature will pass an order instructing the attorney general to have the title in question investigated and determine whether or not the assessment was properly laid, I shall be very glad to comply at the earliest possible time.

Respectfully yours,

FRANK I. COWAN
Attorney General

March 5, 1943

To:

Alfred W. Perkins, Commissioner

Insurance

From:

Frank I. Cowan, Attorney General

Attorney General

Filing Fee for Financial Responsibility

I have your memo of February 23 enclosing a letter from Mr. A. W. Spottke and a memo to you from E. W. Sawyer, attorney for the National Bureau of Casualty and Surety Underwriters, said Sawyer memo bearing date 1-26-43.

On the statement of facts contained in your memo of January 7, I cannot agree fully with Judge Sawyer's statement, because there are apparently facts that he himself has not discussed. I do, however, now agree with that portion of his statement which occurs on page 2 of his memo and reads as follows: "Upon the filing of a certificate of financial responsibility the policy becomes, with respect to accidents thereafter occurring, absolute so far as injured persons are concerned. The exclusions are no longer applicable and acts or neglects of the insured afford the carrier no basis for refusing coverage."

The opinions of this office interpreting the financial responsibility law were very largely worked out during that hectic period in 1941 between the time of the adjournment of the legislature and the time the laws became effective, ninety days later. You were not here at that time, but I was handling three murder cases at once just at that time, besides trying to attend to the duties of this office. Many laws require interpretation. We worked out the best rules we could for the financial responsibility law, feeling that two or three years of experience in administration would determine whether or not we had adopted the best procedure.

My feeling is that you have gone off on somewhat of a tangent in your reasoning in connection with the six exceptions in R. S. Ch. 60, sec. 180. The general liability which is provided for in section 177 is dependent on no violation by the insured of the provisions of section 180; and that is, I believe, still the law in the State of Maine. If my assumption above is correct, the financial responsibility law starts in