

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

necessary interchange of activities between instrumentalities of the Canadian Government on the one hand and the United States of America and the various States on the other, you may rebate the gas tax on all past and future sales in the case of emergency purchases made by the Royal Canadian Air Force.

FRANK I. COWAN
Attorney-General

July 7, 1944

Honorable Owen Brewster
United States Senate
Washington, D. C.

Dear Senator:

We are somewhat troubled about the possible invalidity of marriages performed within the confines of Federal reservations where exclusive jurisdiction has been acquired by the Federal government, by ministers acting under authority of State laws. Recent decisions of the United States Supreme Court on the matter of the extent to which the State's jurisdiction can continue to operate and the laws of the State continue to function, make it very possible, in the absence of a Federal marriage law, that all these weddings will be declared invalid.

I am not unaware of the implications in the case of *Stewart vs. Sadrakula*, decided Jan. 29, 1940, and appearing in 309 U. S. 94, 84 L. Ed., 596 but this is a very old decision as decisions go nowadays. Moreover, we cannot avoid noting the fact that the decision in the Stewart case provided compensation in the case of an injured employee, and we cannot feel certain that the Court as today constituted would arrive at the same conclusion if the persons seeking benefit of the State law were not seeking it in that particular category.

I am wondering if it would not be wise for Congress to provide by legislation, in matters where there will be no interference with Federal functions, that State laws will continue in full effect on Federal reservations within the geographical limits of the State until such time as Congress has passed express legislation covering the particular subject.

Sincerely yours,

FRANK I. COWAN
Attorney-General

July 11, 1944

E. E. Roderick, Deputy Commissioner of Education

*Suspension of Pension While One is Teaching under the Provisions of
R. S. 1930, c. 19, §223*

In answer to your memorandum of June 29th, we are of the opinion that the last sentence of Section 223, which reads as follows:

The payments of any pension shall be suspended whenever the person to whom said pension has been granted resumes teaching in any private or public school.

has no reference to temporary or intermittent substitute teaching, and in particular where it is done at the request of a superintendent in order to fill in during the absence of a regular teacher. I am of the

opinion that the intent of the legislature was to suspend the payment of the pension when the pensioner "resumes" teaching, using the word "resumes" as it is commonly understood and defined in the dictionary. Webster's New International Dictionary, Second Edition, gives the following definition: "To enter upon or begin again; to recommence, as something interrupted; to recommence, as a discourse, work, or business."

On the other hand, if a person came out of retirement as a pensioner and undertook or contracted to teach for an indefinite period, such a course of conduct on the part of that person would result in a suspension of the payment of the pension. To put it another way:—the choice is one to be made by the pensioner, and if he or she decides to go back to teaching in a private or public school, then it may be said that that person has resumed his or her former occupation and during the period of employment the payment of the pension should be suspended.

In the case under consideration, the person wrote under date of August 16, 1943, that she "began active teaching in the grammar school," August 16th. Then follows a request to suspend her pension until further notice. On June 25, 1944, she wrote, "My school closed June 16th. I will begin teaching October 2, 1944." She then inquired whether she would be entitled to her pension for the months that she is not teaching, that is to say, between June and October.

It seems to me that when on August 16th she began "active teaching," as she states in her letter, this was clearly a resumption within the sentence that I have quoted, and she properly suggested that her pension payments be suspended. Her last letter, wherein she stated that she would again begin teaching on October 2nd, clearly showed an intent on her part to continue her status of having resumed her employment as a teacher. I am of the opinion that this status must continue until she ceases teaching.

I therefore advise you that she would not be entitled to any pension payment for the period that school is closed during the summer vacation.

ABRAHAM BREITBARD
Deputy Attorney-General

July 13, 1944

Harold I. Goss, Secretary of State

P. L. 1943, c. 157, provides as follows:

"The secretary of state, on application from any person who is serving in the armed forces of the United States, and who has a license to operate a motor vehicle in the state of Maine, shall renew his license without the requirement of the payment of any fee."

In my opinion, it was the intention of the legislature by this language to recognize the status of a person whose availability for annual renewal of his motor vehicle license was interrupted by reason of his serving in the armed forces. Under the circumstances, it is perfectly logical and proper for you to renew a 1943 license during 1944, and if