

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1943--1944

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

the evidence submitted to you shows that the applicant was a licensee in 1942, but was in the armed forces during 1943 and is still in the armed forces, you may, in my opinion, renew the 1942 license without the payment of any fee. The same argument applies with equal merit to a 1941 license.

FRANK I. COWAN

Attorney-General

See also Council Order No. 149

July 15, 1944

William D. Hayes, State Auditor

Audit

*Bond of Deputy Insurance Commissioner*

Your memo of June 12th relates to the bond of the Deputy Insurance Commissioner which came up for renewal April 30th last, and the question for decision is whether this may be included in a schedule bond or whether the bond in force on April 30, 1943, shall be continued and renewed annually.

I understand that the contention has been advanced that qualifying bonds given by State officials in compliance with the statute continue in force for the term of the appointment; and that qualifying bonds are so written that by their terms there is a continuing liability from the day the bond is written until the term of office of the official expires under the statute, or the term of office is otherwise terminated prior to its "normal expiration."

The further contention is advanced that under the statutes existing prior to July 9, 1943, when Chapter 320, Laws of 1943, set up a new method of providing for bonds of State officials and State employees, there was no provision for the cancellation of a qualifying bond; nor was there provision vesting in anyone the power or authority to cancel a qualifying bond prior to the expiration of the term of such official.

None of these contentions, however, apply particularly to the Deputy Insurance Commissioner. His appointment is not for a specific term, nor is he required to qualify for that office by giving bond. R. S. Chapter 60, Section 83.

I must therefore assume that the bond in question was written under the provisions of R. S. 1930, Chapter 125, Section 56, which, so far as here pertinent, is as follows:

"Bonds of Public Officials. All persons employed in the several state departments and institutions who handle public moneys . . . shall give bond in such sum as may be fixed by the governor and council to properly account for all funds coming into their hands. . . ."

This provision applies to all persons in the State departments and institutions who handle public money and to those only. In this respect it is unlike the provisions of law which require the appointed official to qualify for the office by giving bond. A person may be appointed to office, the duties of which do not involve the handling of State funds. By change in the system of management of the department or of the manner of handling funds in that department, the official may come into the possession of or handle State funds; then