

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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for State employees, in so far as it is possible under Chapter 60 to provide same for them. However, you will note that under subsection VI of Section 15, the statute reads as follows:

“Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pensions or other benefits on account of the employees or pensioners of any county, city, or town participating under the provisions of this section for which reserves have not been previously created from funds contributed by such county, city, or town, or its employees for such benefits.”

It would seem from the reading of this subsection that the legislature did not intend to create a reserve for these local participating districts by State appropriation.

RALPH W. FARRIS
Attorney General

August 2, 1945

To J. Elliott Hale, Acting Director, Bureau of Sanitary Engineering

In reply to your memo of August 1st: I believe that a public sewer, as that term is used in Section 2 of the State Plumbing Code, refers to a sewer constructed and maintained by a municipality for the benefit of the general public, and the cost of construction of which, and the maintenance and repairs, are assessed to the abutting owners proportionately, and in which they all have a right to enter upon payment of the proportionate assessment against that particular owner.

It would thus not apply to a private or common sewer (Chapter 84, Section 153, R. S. 1944), which can be entered only by the consent of the owner thereof.

I think, however, that this section may be amended so as to require the owner abutting a private or common sewer to connect therewith, whenever the owner of the sewer is willing to permit entry therein. I have the impression that owners of common sewers are willing to have others join, upon payment of the proportionate share of the expense.

ABRAHAM BREITBARD
Deputy Attorney General

August 14, 1945

To E. E. Roderick, Deputy Commissioner of Education

This department acknowledges receipt of your memorandum of August 10th, dealing with Chapter 239 of the Public Laws of 1945, which amends the existing non-contributory pension laws by providing an increase.

The question has been raised whether the increase is applicable to pensions which have been created by legislative resolve for particular indi-

viduals, although there were at the time of the enactment of the resolve statutes allowing pensions in varying amounts, depending upon the number of years of service, to those teachers who have retired from active service and who shall on application formally made receive from the state during the remainder of the applicant's life an annual pension.

Since the increase by this amendment in 1945 is incorporated in the existing statutes creating the pensions aforesaid, it cannot be applicable to pensions created by special resolves of the legislature in the case of particular individuals, as was the case of Ethel W. Knowlton, which brought about this inquiry.

I understand, however, from your memorandum, that there are approximately eight teachers who are beneficiaries of pensions created by special resolves; and I think that we might work out their problem in a practical manner by asking them, in case they apply for the increase, to submit formal proof of the length of their service while engaged in teaching, and if we find that at the time the resolve was enacted they had put in years of service which would have entitled them to receive under the statute a pension equivalent to the amount granted by the resolve, then I think that we may properly allow them the increase provided by the general statutes, as they would be entitled to relinquish their rights under the resolve and come in under the general statutes.

I am prompted in offering this solution by the fact that there are so few teachers receiving pensions under special resolves and we should not deny to them the increase if at the time of the enactment of the resolve they could have come in under the statute and received the same amount allowed in the resolve.

ABRAHAM BREITBARD
Deputy Attorney General

August 21, 1945

To Hon. A. K. Gardner, Commissioner of Agriculture

I have your communication of August 20th relating to the provisions of Chapter 125, Section 145-C, entitled "AN ACT Imposing a Tax on Sweet Corn for the Suppression of the European Corn Borer." You ask for an interpretation of the wording of this section, and also ask whether the committee should be appointed at once or at some time prior to September 1, 1946.

This section provides for a tax committee consisting of three members appointed annually in the following manner:

" . . . The commissioner of agriculture shall appoint 1 member from the department of agriculture and 1 member who shall be a grower; the Maine Cannery Association shall appoint the 3rd member. The tax committee is authorized to determine the amount of the tax to be levied and imposed each year after 1945."