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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"2. May a member who is eligible to either pension plan, but not both, transfer from one to the other at will? How many transfers are allowable?"

My answer to #2 is in the negative. A member who is eligible to either pension plan must elect under the provisions of Section 241 of Chapter 37, R. S. 1944, and once a member has elected, he cannot change from one to the other at his pleasure.

"3. May a member take up back credit having failed to do this when first becoming eligible to membership in Maine Teachers' Retirement Association? How far back, to effective date of law or to date of first service?"

My answer to #3 is also in the negative. He must claim his credits when he elects to come within the plan, under Sections 221-241, inclusive, of Chapter 37, R. S. 1944.

In Question 4 there is an error in the citation and I have inserted Chapter 321, P. L. 1945, instead of R. S. 1944, Section 241 (of Chapter 37). I now recite Question 4 as amended:

"4. Does the new law, P. L. 1945, Chapter 321, pertaining to teachers in academies give teachers the right to the provisions of eligibility under the old and the new retirement law? Either or both?"

My answer to #4 is: They must elect under the provisions of Section 241 of Chapter 37, R. S. 1944.

"5. May teachers, by virtue of having taught prior to July 1, 1924, claim prior-service credit and pay back for as many years as they desire not to exceed the total number of years they have actually taught."

I cannot answer #5, as it seems to be an administrative matter and before giving you any written answer, I should know what the policy of your department has been since the provisions of Sections 221 to 241 of Chapter 37, R. S. 1944, have been effective, where the teachers who were under the old plan elected to come under the new plan when this law was enacted in 1941. That is, did your department allow prior service credit under the old plan for as many years as they desired, not to exceed the total number of years they had actually taught?

RALPH W. FARRIS
Attorney General

January 22, 1946

To W. E. Bradbury, Deputy Commissioner, Inland Fisheries and Game

The question has arisen whether Section 317 of Chapter 22 (Health and Welfare Laws) of the Revised Statutes of 1944 is still in force or whether it has been repealed by implication by Chapter 374 of the Public Laws of 1945, which relates to Inland Fisheries and Game.

Section 317 provides for free licenses to Indians over 18 years of age of both the Passamaquoddy and Penobscot Tribes, to fish, hunt and trap, upon presentation to the Commissioner of a certificate of the Indian Agent of these respective tribes that the applicant for the license is a member of that tribe.

Provision for free hunting and fishing licenses to members of these tribes is made by Section 32, Subsection 9 of the Inland Fish and Game Laws enacted in 1945 (the Eighth Biennial Revision.)

Doubt as to the right to a free license to trap has arisen because of the omission in the Inland Fish and Game Laws of a free license to trap.

While in the previous biennial revision of the Inland Fish and Game Laws (Laws of 1941 and 1943) the Revisor had incorporated what is now Section 317, it was never considered to be a part of the Inland Fish and Game Laws. It was incorporated in such revisions for reference only.

The repealing clause of Chapter 374, P. L. 1945, which enacted the present laws relating to Inland Fisheries and Game, does not repeal Section 317 of Chapter 22 of the Revision of 1944, either expressly or by implication, and hence that section remains unaffected; and under that section of the statute Indians belonging to either of those tribes and over 18 years of age would be entitled to free trapping licenses, if they meet the other requirements.

ABRAHAM BREITBARD
Deputy Attorney General

January 29, 1946

To Robert B. Dow, Esq.

. . . The paragraph of my letter which you quote is based on Section 1 of the amendment (Chapter 44, P. L. 1945), which provided for revocation of the prior vote to employ a town manager, at any legal special town meeting held at least sixty days before any annual town meeting. Such a vote would rescind and annul the force of a previous vote to hire a town manager; and since the only requirement was that the vote to revoke be held at least sixty days before an annual town meeting, there could be no objection to holding it more than sixty days before such meeting.

The vote abrogating the earlier one would become effective as soon as the result was announced at the town meeting, and the result would be that at the annual meeting following, the selectmen would have no authority to hire a town manager, unless after the insertion of an article in the warrant authorizing the selectmen to hire a town manager and the passing of such vote again at the annual meeting.

It is an endless thing. Answering the last inquiry in paragraph one, I would say that the existing vote authorizing the employment of a town manager now in force would not require any further vote thereon at the annual town meeting; but as to whether the selectmen could with propriety disregard the existing vote on the subject and not employ a town