

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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Under the statute, Chapter 5, Section 74, the selectmen of the oldest town of the representative class, when notified that the seat has been vacated, appoint a day for a special election and then notify the selectmen of the other towns accordingly.

Under Chapter 4, Section 47, when a special election is to be held to fill an office that has been vacated, a primary election may be ordered by the Governor; or, if the time for that purpose is insufficient, the nominations may be supplied as in Section 48 of this chapter.

Section 45 provides that vacancies may be filled by a convention of delegates or appropriate caucuses; or, if the time is insufficient, by the regularly elected State, Congressional District, county, city, town, plantation or representative class committee, as the case may be.

It would thus appear that the calling of a special primary election by the Governor may be dispensed with and nominations for the office made in the manner set forth in the preceding paragraph. The Secretary of State will assist in the procedure to be adopted if they desire instruction as to the manner of nominating a new representative, fixing the date of the election, etc. The ballots will also be prepared by the Secretary of State when he is notified of the nominations.

ABRAHAM BREITBARD
Deputy Attorney General

December 16, 1946

To J. Elliott Hale, Technical Secretary, Sanitary Water Board
Re: Sebasticook Lake

I have your memo of December 9th stating that the Sebasticook Fish and Game Association is particularly concerned with the pollution of Sebasticook Lake and that your survey completed in 1945 indicated that there are several towns which discharge raw sewage into the river, together with the industrial waste from several woolen mills, etc. You inquire whether or not it is possible for you to proceed under the provisions of Section 1 of Chapter 124, R. S. 1944, against the Eastland Woolen Mill at Corinna for dumping into the stream, according to their own figures, 25,000 gallons per day of spent dye liquors and 800,000 gallons per day of wash and rinse water, together with sanitary sewage.

It is my opinion that the statute is not broad enough for you to proceed, unless the waters of the lake or river are used for domestic purposes.

In this connection I call your attention to Section 57 of Chapter 33 of the Revised Statutes, as enacted by the last legislature, which will be found in the back of the Laws of 1945. It might be well to strengthen Section 57 of Chapter 33 so as to cover such cases as the Sebasticook River. You will note in reading said section the words "mill waste," but in the main the provision deals with pollution of inland waters by depositing on the banks thereof slabs, edgings, sawdust, etc., which would seem

to apply to lumber companies operating sawmills on inland waters of the State. This is a matter that the Sebasticook Fish and Game Association might look into, inasmuch as they are particularly concerned with the pollution of Sebasticook Lake.

RALPH W. FARRIS
Attorney General

December 18, 1946

To A. W. Perkins, Insurance Commissioner
Re: Retirement Allowance Payable in Month of Death, Employees' Retirement System

. . . The section which you cite, namely Subsection 18 of Section 1 of Chapter 60, speaks for itself, and I do not see how any uncertainty could have arisen with regard to its interpretation. Where a statute is clear, there is no room for interpretation and its meaning is controlled by the language as written.

This section, which defines the meaning of "retirement allowance" as the sum of the annuity and the pension, provides that such allowance shall be payable in equal monthly instalments which shall cease with the last payment prior to death. Thus, it is clear that the payment of the retirement benefits ceases with the last monthly instalment prior to death and there can be no partial instalment paid, based upon an apportionment between the date of the last monthly payment and the date of death.

ABRAHAM BREITBARD
Deputy Attorney General

December 18, 1946

To H. G. Hawes, Department of Agriculture
Re: Agricultural Societies

In answer to your inquiry of December 12th, the department advises you as follows:

1. Section 15 of Chapter 27, R. S. 1944, which provides that county and local agricultural societies may take and hold real and personal property the annual income of which shall not exceed \$3000. to be applied to the purposes provided in their charters, is a limitation on the extent of income-producing property that such a society may hold.

2. The above provision has nothing to do with the following section which provides for a stipend to be paid annually to such societies in a sum not in excess of \$3000. This stipend would be payable to such society if it was eligible for such payment under the statute, irrespective of its income from the real and personal property, and such income is not to be taken into consideration in paying such stipend.

3. The limit on the stipend to \$3000 applies to a payment from the fund which is apportioned to the societies, which fund is derived from an appropriation of money not to exceed 2c per inhabitant of the State and from pari-mutuel pools, as provided by Chapter 361, P. L. 1945.