

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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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.

4. Chapter 87 of the Public Laws of 1943 provided: "This act shall cease to be effective 6 months after the cessation of hostilities."

We believe that this language is not the equivalent of the limitations in other acts which provide that the act shall be effective for the duration of the war or during the war, or for the duration and six months thereafter. The courts as to the latter have said that the war does not end with the cessation of hostilities or actual combat, but when the peace treaties are ratified by the Senate and appropriate proclamation made by the President.

We advise you that this act is no longer in effect.

ABRAHAM BREITBARD
Deputy Attorney General

December 18, 1946

To David H. Stevens, State Tax Assessor

I have been studying your memo of November 15th, together with copies of letters attached, relating to the question of when the Use Fuel Tax Act is applicable to a public highway.

I have read the opinion of former Attorney General Cowan to former State Tax Assessor George E. Hill, dated January 28, 1942, in which he renders his opinion that for the purposes of the Use Fuel Tax Act a highway location shall be regarded as a highway from the time of the taking of the land by the State Highway Commission for highway purposes; and I am inclined to agree at the present time with the opinion of former Attorney General Cowan, for the reason that the definition of public highways in the Use Fuel Tax Act reads as follows:

" 'Public highways' shall mean and include every way or place of whatever nature generally open to the use of the public as a matter of right for the purposes of vehicular travel and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance or repair."

You will note in the letter of November 7th from the C. C. Smith Company, Inc., addressed to the Bureau of Taxation, that the company did not quote the entire definition of highway, but only this part of same:

" 'Public highway' shall mean and include every place or way generally open to the use of the public as a matter of right, or for the purpose of vehicular traffic."

RALPH W. FARRIS
Attorney General