

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

June 26, 1947

To Earle R. Hayes, Secretary, Employees' Retirement System

Your memorandum of June 25th has been received. Your first inquiry relates to Chapter 85 of the Resolves of 1947, by which Mr. X was given an increase in his pension. You inquire whether the increased amount should be paid beginning July 1, 1947 or beginning August 13, 1947, when the law becomes effective.

I think it is well at this time to advise you that in all cases unless the Resolve specifically provides for retroactive payment, such payment cannot begin before the effective date of the Act.

Your second inquiry relates to Chapter 82, of the Resolves of 1947, by which Mr. Y was given an increase in his pension. . . This Resolve specifically provides that the pension shall begin on July 1, 1947. This Act does not become effective until August 13, 1947. Thus, after the effective date of the Act and not before, the pension payment can be made retroactively, beginning with July 1st.

ABRAHAM BREITBARD

Deputy Attorney General

June 27, 1947

To Brig.-Gen. George M. Carter, Adjutant General

I have your memo of June 24th relating to our discussion on June 23rd and enclosing attested copies of records of meetings of the State Military Defense Commission on dates of October 9, 1942 and October 12, 1943; also copy of a letter received from the Executive Department, signed by former Governor Sumner Sewall, relating to the matter of \$500 compensation voted to you for services as administrative director of the State Military Defense Commission.

You call my attention to the opinion of former Attorney General Cowan recorded in his Report for 1943-1944 on page 83, in which he states that the Commissioner of Finance at that time was justified in assuming that his interpretation of Chapter 349, P. L. 1945, was a reasonable one and there was nothing to prevent an Adjutant General from receiving compensation for services outside of his official duties, if those services are voluntarily assumed by him and the performance thereof does not in any way interfere with the functioning of his official position.

In our discussion of June 23rd, I suggested that you furnish me with data on your duties under the State Military Defense Commission and I would then give you my opinion as to whether or not the fact that you received \$500 as administrative director of the State Military Defense Commission would in any way conflict with Section 12 of Chapter 12, R. S. 1944, which reads: "The adjutant general shall receive an annual salary of \$4500. He shall receive no other fee, emolument, or perquisite," and which has since been amended as to salary.

It is my opinion, even though you are a member ex officio of the State Military Defense Commission, the sum of \$500 per annum for your services