STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

sewerage system. You state that it is your interpretation of Section 23 of Chapter 32, paragraph 1, that the Commission cannot enter into an agreement with the Central Maine Power Company for such a right of way for a period of more than one year; and you state that the State's interests indicate the need of 7725 feet of right of way and private interests beyond will require 5075 feet of right of way; and you ask me to give you my decision and suggestions on this matter.

Your interpretation of paragraph 1 of Section 23 of Chapter 32, R. S. 1944, is correct. That section provides that the Park Commission with the consent of the Governor and Council may sell and convey lands or interests therein, or lease the same, provided no lease shall be for a term longer than one year, etc.

My suggestion to your Commission is that you try to make an agreement with the Central Maine Power Company to grant a right of way for the period of one year, with the proviso that it is to be extended by authority of the next legislature, and the Park Commission will request such authorization from the legislature.

I have talked with a representative of the Central Maine Power Company, and the company feels that it should not run power lines over a right of way which would be leased for only one year, as they have to make five-year or longer contracts with the consumers whom they serve, and it would be very embarrassing and expensive to them to take a lease from the Park Commission for the term of one year and have to vacate after that period without assurance that their lease would not be disturbed after the end of the year.

Another suggestion is that you grant a lease to the Central Maine Power Company for such a right of way for a period of one year, to be extended at the end of each year by the Park Commission with the consent of the Governor and Council for a period of five years or whatever the Commission and the Central Maine Power Company can agree upon.

This is about the only suggestion that I have on this matter, inasmuch as your privilege to lease is limited by law to one year.

RALPH W. FARRIS
Attorney General

May 12, 1948

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

I have your memo of May 10th, based on a discussion which the Board of Trustees of the Retirement System had with me at its last regular meeting, May 7, 1948. The Board requests an opinion as to the payment into the System of back contributions by teachers. You call my attention to the case which was discussed at the Board meeting on May 7th.

You state in your memo that this member did not choose to make contributions to the Maine Teachers' Retirement Association during certain years (so-called "free years") between 1924 and 1930 or during certain years which were prior to his having attained age 25. The then Teachers' Retirement Law provided that teachers need not make contributions during such years, if they did not wish to do so. It was also understood, however, under the old law, that they would receive no credit for such years, unless they did

make the contributions. You call my attention to the provisions of the existing Employees' Retirement System Law, as it appears in Subsection VIII of Section 4 of Chapter 384 of the Public Laws of 1947, which provides as follows:

> "Prior service credit will be granted to those employees formerly subject to the provisions of sections 221 to 241, inclusive, of chapter 37 of the revised statutes of 1944 for service rendered prior to their attaining age 25, provided that such employees pay into the teachers' savings fund 5% of the salary received during such service, and provided further, that for each year of such service such payments shall not be less than $20 or more than $100."

It seems to me from a reading of this provision of the 1947 Retirement Act and paragraphs A, B, D, and F of Subsection II of Section 14 of said Act, that there is a strong inference that a teacher would have credit only for what he had paid in; and my opinion is that the Board's position in this matter is correct.

RALPH W. FARRIS
Attorney General

May 18, 1948

To Marion Martin, Commissioner of Labor and Industry
Re: Section 38, Chapter 25, R. S.

I have your memo of May 12th, asking for a ruling on Section 38 of Chapter 25, R. S. 1944, as follows:

"Does the sentence beginning 'but any employee leaving his or her employment shall be paid in full on demand at the office of the employer where payrolls are kept and wages are paid' apply only to the corporation, person, or partnership engaged in the businesses itemized in the opening statement of that section, and which is specific that anyone engaged in those businesses must pay weekly to within 8 days of the date of such payment."

Supplemental to this question you state, "The problem that has raised this question is that a Houlton corporation hired some women to make addressograph plates and refuses to pay them on the ground that they are not engaged in any of the stated occupations."

In answer to your question I will state that in my opinion Section 38 is broad enough to cover the Houlton case, as being engaged in making addressograph plates would be either manufacturing, mechanical or mercantile. A corporation should not escape the provisions of the statute by resorting to such a subterfuge. Our Court has said that in the construction of statutes it is the obvious intent rather than the literal import which is to govern. It is my opinion that that section was intended to cover all types of work where employees must be paid the wages earned by them to within 8 days of such payment. Otherwise the legislature would not have provided that this section shall not apply to cutting and hauling logs and lumber and the driving of same, nor to an employee of a coöperative association, if he is a stockholder, etc.

RALPH W. FARRIS
Attorney General