

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

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 pay-rolls 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