

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

However, I should be very careful in making these advances after September 15th and check with the State Treasurer in regard to unpaid taxes by the municipalities to which you are making advances under Chapter 202. . . .

RALPH W. FARRIS
Attorney General

September 19, 1949

To Honorable Frederick G. Payne, Governor of Maine
Re: Employment Security Law

The Employment Security law does not create any vested rights in anyone. While unemployment compensation is a modified form of insurance, it is not actually insurance in the "contract" sense. By this is meant, there is no contract or promise that in consideration of the receipt of a stated amount of premium, the insurance company will pay a stated amount of money upon the arising of a given contingency.

No recipient of unemployment compensation pays anything in the way of a premium. His former employer paid contributions (taxes) into the program fund for the relief of unemployment, if and when it occurs. The amount to be paid to unemployed individuals is determined by the legislature. Effective September 1, 1949, the legislature changed the payment schedule. It has no legal obligation to maintain any particular schedule. It could, if it so voted, repeal the whole program at any time. No rights of contract are involved and hence there are no questions of "legality" as to the validity of legislative acts changing rates as of any given date.

JOHN S. S. FESSENDEN
Deputy Attorney General

September 20, 1949

To Austin Wilkins, Deputy Forest Commissioner
Re: Claim of Somerville Plantation for Reimbursement under the provisions of Chapter 356, P. L. 1949

You stated that the Controller's office has raised a question whether the claim of Somerville Plantation for reimbursement for fire fighting in connection with a fire that occurred in that Plantation on July 24, 1949, should be paid at the rates established by Section 58 of Chapter 85, R. S., as repealed and replaced by Chapter 362 of the Public Laws of 1945, or at the rates prescribed by Chapter 357 of the Public Laws of 1949, which again repealed and replaced the same section.

Chapter 356 of the Public Laws of 1949 did not become effective until August 6, 1949. Subsections IV, V and VI of this act make provision for the rate of reimbursement payments to towns and the methods of calculation for such payments, together with the form and content of informational vouchers upon which such payments can be made.

You have stated that the Somerville fire was finally extinguished on August 18, 1949. Under the provisions of Chapter 356, which became effective on

August 6, 1949, no payment could have been made to Somerville Plantation until the final extinguishment of the fire, since it is after the final extinguishment that the informational vouchers are to be prepared, upon the basis of which the payment shall be made. Consequently, since the extinguishment occurred after August 6th, the Plantation should be reimbursed in accordance with the rates and calculation methods prescribed under Chapter 356 of the Public Laws of 1949.

JOHN S. S. FESSENDEN
Deputy Attorney General

September 20, 1949

To Harland A. Ladd, Commissioner of Education
Re: Educational Benefits for War Orphans

In your memorandum of September 14, 1949, you asked five questions in connection with the administration of Sections 119-122 of Chapter 37, R. S. 1944, which sections provide for scholarships for orphans of veterans who were killed in action or who died from service-connected disabilities.

Question 1. "What is the effective date of the termination of World War I as it pertains to War Orphans' benefits?"

Answer. Chapter 360 of the Public Laws of 1945, which is AN ACT Relating to Preference in State Employment for Veterans, prescribes the ending date of World War I for the purposes of that chapter. There being no termination date prescribed in Sections 119-122 of Chapter 37, R. S. 1944, there would appear to be no objection to using the legislatively defined ending date as given in Chapter 360, since both enactments pertain to benefits to be given as a result of war service. Accordingly determination of World War I, as it pertains to war orphans' benefits, is November 12, 1918, except that if the veteran's service was in Russia, the termination date is April 1, 1920.

Question 2. "What is the effective date of the termination of World War II as it pertains to War Orphans' benefits?"

Answer. Chapter 360 of the Public Laws of 1945 states that for the purposes of veterans' preference in State employment the right shall arise if the veteran rendered service between December 7, 1941 and the date of cessation of hostilities as fixed by the United States Government. Again, since Sections 119-122 of Chapter 47, R. S. 1944, do not prescribe the termination date of World War II, and since they pertain to benefits to be given as a result of war service, it appears reasonable to use the same dates as fixed by the legislature in Chapter 360, P. L. 1945, for veterans' preference in State employment. The President of the United States by official proclamation declared the cessation of hostilities effective December 31, 1946. While there is considerable speculation as to whether we are still at war, and while the President's proclamation states that "a state of war still exists," it should be pointed out that the powers with which the United States was at war having surrendered, the war in fact is concluded, even though in diplomatic circles a state of war may be considered to exist. This situation may, as