

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

You state that the employees on the Federal payroll at the Adjutant General's office, of whom Mrs. Smith is one, are not considered by the Personnel Department to come within the meaning of classified employees as established by the provisions of Chapter 59, Section 6, Revised Statutes of Maine, for the following reasons:

- 1) They are not employed from eligible lists prepared upon the basis of examinations;
- 2) The titles of the positions are those of the Federal Government rather than those of the State classified service;
- 3) The salaries are those established by the Federal Civil Service and they are paid by Federal checks.

You ask for a ruling from this office as to whether or not Mrs. Smith comes within the provisions of the Personnel Law relative to classified employees.

A reading of the correspondence attached to your memo will show that it has been the understanding of the Maine State Retirement System and of the employees involved that they are State employees to the extent that they can participate in the Retirement System. It is also indicated that he believes they are employees for the purposes of retirement.

It is the present opinion of this office that Mrs. Smith and those persons similarly situated are employees of the State to the extent that they may participate in the Retirement System and not otherwise.

With respect to No. 1) above cited, Section 8 of Chapter 59 requires that personnel in the classified service be selected from eligible registers prepared by the Director of Personnel and that placement be by competitive tests. As stated above, Mrs. Smith has not been employed subject to the provisions of Section 8. Appointments to positions and promotions in the classified service shall be made according to merit and fitness from eligible lists prepared upon the basis of examinations and, so far as practicable, shall be competitive. Section 6 of Chapter 59 of the Revised Statutes.

For the above reasons it is our opinion that such employees on the Federal payroll of the Adjutant General's Department do not come within the meaning of classified employees, as established by the provisions of Chapter 59, Section 6, of the Revised Statutes, as amended.

JAMES G. FROST
Deputy Attorney General

September 23, 1953

To Earle R. Hayes, Secretary, Maine State Retirement System
Re: Vera A. Gordon

You ask whether the Maine State Retirement System, in computing the additional retirement benefits, under the provisions of Chapter 60, R. S. 1944, granted to Vera A. Gordon under Chapter 171 of the Resolves of 1953, should consider in effect that Miss Gordon has made the contributions for the required period of 35 years, although in fact her basis of actual service approximated six months less than 35 years (exclusive of the additional period

granted her under the Resolve heretofore mentioned) and she did not in fact make any contribution during said additional, granted period.

The answer is, Yes.

The original Resolve introduced in the 96th Legislature, L.D. 339, contained a provision to the effect that said Vera A. Gordon should contribute to the Maine State Retirement System the sum of \$66 (the amount, we assume, she would have had to contribute to the System, except for the Resolve of 1953, Chapter 171). The provision for this contribution has been considered and deleted by the Committee considering said Resolve and the Resolve having been enacted without any provision for such additional contribution during the granted six months' additional retirement created, it is my opinion that it was the intent of the Legislature to grant to Vera A. Gordon an additional credit period of six months toward retirement without further contributions by her.

ALEXANDER A. LaFLEUR
Attorney General

September 24, 1953

To Maine Development Commission
Re: Water Improvement Commission

On September 23, 1953, the Maine Development Commission requested an interpretation of the provisions of Chapter 72 of the Revised Statutes of 1944, as amended by Chapter 345 of the Public Laws of 1945, with particular reference to Section 3 of the latter chapter.

A. C. Lawrence Leather Company of Peabody, Massachusetts, a wholly owned subsidiary of Swift and Company of Chicago, is negotiating for the purchase of the physical properties of the Milo Tanning Corporation, located in South Paris, Oxford County, to carry on the tanning of leather and kindred products.

In 1938 the Lord tanning interests of Woburn, Massachusetts, purchased the property and formed the Paris Tanning Company, constructing a series of settling basins along the Little Androscoggin River as a means, initially, of disposing of sewerage, the construction of these settling basins having been then approved by State authorities.

In 1949 this property was sold to the Milo Tanning Corporation, who are its present owners and who conducted a general tanning business of side leather until the summer of 1953, utilizing the same sewerage disposal facilities. During the entire operation of this plant by the Paris Tanning Company and the Milo Tanning Company, it appears that no complaint was ever made.

The A. C. Lawrence Leather Company, if the contemplated purchase is completed, propose to renovate and rebuild some of the buildings, but not all, and contemplate using the same sewerage system that is now in existence, without any change in the existing outlets into the Little Androscoggin River.

It is my opinion from the statement of facts heretofore set forth that this does not constitute a new source of pollution under the provisions of Chapter 345 of the Public Laws of 1945, and that no application for a license should