

# MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

writing to the chief of the state police be retired from active service and placed upon the pension rolls, and receive thereafter ½ of the pay per year that is paid to a member of his grade at the time of his retirement, Provided that this section shall apply only to persons who were members of the state police on July 9, 1943."

In reviewing the foregoing statutes it becomes self-evident that the right to the group life insurance is conditioned upon eligibility for membership in the Maine State Retirement System; further, that the term "employee," as used in the Retirement Act, definitely excludes members of the Maine State Police who still belong to the retirement system provided in Section 22 of Chapter 15. This being true, they are not eligible for retirement under the Maine State Retirement System, as we understand it, and of course it necessarily follows that they are ineligible for the group life insurance.

In view of the foregoing it will be necessary to ask the legislature to include within that group of persons eligible for group life insurance the men who are now under the State Police Retirement System.

ROGER A. PUTNAM  
Assistant Attorney General

October 21, 1955

To Honorable Edmund S. Muskie, Governor of Maine

Re: New England Board of Higher Education

You ask: "In your opinion, under the Maine statute, in order to implement it, is it necessary that the five States execute a formal document incorporating the provisions of the statute, or is it sufficient that the States involved exchange verified copies of their legislation?"

In my opinion, in order to make the proposed compact effective as between two or more of the New England States, it will be necessary to execute a formal document embodying, so far as Maine is concerned, substantially the same provisions as are set forth in the Maine statute.

The Maine statute contemplates the necessity of more than a mere exchange of copies of legislation.

Section 2 of Chapter 441, P. L. 1955, provides as follows:

"Authorization. The Governor, on behalf of this State, is hereby authorized to enter into a compact, substantially in the following form, with any one or more of the states of Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont; said compact to be effective upon the filing of a copy thereof in the office of the Secretary of State."

It is apparent that this gives the Governor the authority to enter into a compact for and on behalf of the State and that the statute in and of itself does not, and does not purport to, constitute such a compact. This section does, however, impose a general limitation that the compact, when entered into, must substantially comply with the form prescribed by the statute.

Section 3 of this statute provides that a verified copy of the compact, not the statute, when executed by the Governor on behalf of this State, be filed with

the Secretary of State. This section contemplates a compact as separate and distinguished from the statute, and it contemplates legislative ratification of such a compact. Ratification by our legislature is contained in the statute.

FRANK F. HARDING  
Attorney General

November 1, 1955

To Stanley R. Tupper, Commissioner of Sea and Shore Fisheries

Re: Sardines

We have at hand a copy of a letter dated October 17, 1955, from Richard E. Reed, executive secretary of the Maine Sardine Industry, addressed to you as Commissioner, Department of Sea and Shore Fisheries, with respect to which you ask our opinion.

Mr. Reed's letter in part reads as follows:

"Several sardine canners in the Eastport and Lubec area are considering the possibility of operating their plants during the winter months and have asked us to obtain from you an interpretation of Section 22 of Chapter 38 of the Revised Statutes of 1954 as follows:

- "1. Can a Maine plant operator legally can herring of any size, taken from Canadian waters and delivered to his place of business from December 1 to April 15, providing he does not label or market the finished product as sardines?
- "2. Can a Maine plant operator legally can herring of any size taken from Maine waters from December 1 to April 15, providing that the finished product is not labeled or marketed as sardines?

"For your information, these packers have expressed the feeling that they definitely should be permitted to handle Canadian-caught fish as outlined in Question 1, in view of the August 10, 1955 ruling by the Attorney General's office covering the importation of Canadian herring under four inches in length."

Section 22 of Chapter 38, R. S. 1954, referred to above, reads as follows:

"Whoever takes, preserves, sells or offers for sale between the 1st day of December and the 15th day of the following April any herring for canning purposes less than 8 inches long, measured from one extreme to the other, or cans herring of any description taken in the coastal waters of Maine between the 1st day of December and the 15th day of the following April forfeits \$20 for every 100 cans so packed or canned and for every 100 herring so taken. . ."

Briefly, the essence of Section 22 is to the effect that herring for canning purposes may be taken, preserved or sold between the 1st day of December and the 15th day of the following April, provided such fish are longer than 8 inches and provided that they are not taken from the coastal waters of Maine.

This office has arrived at the same conclusion as a prior opinion dated November 17, 1952, to the effect that there is no prohibition against canning herring over 8 inches in length, so long as they have not been taken from the coastal waters of Maine.