

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

The last paragraph of Section 5 reads:

“It (the Department) shall also fix rates and collect fees for the support of patients in state hospitals, sanatoriums and other state institutions and provide for the training of nurses in state hospitals and sanatoriums.”

Section 144 reads:

“All indigent and destitute persons in this state, who are proper subjects for said school and have no parents, kinsmen or guardian able to provide for them, may be admitted as state charges and all other persons in this state, who are proper subjects for said school, when parents, kinsmen or guardian bound by the law to support such persons are able to pay, shall pay such sum for care, education and maintenance of such persons as the department shall determine, and such persons from other states having no such institution or similar school may be received into such school when there is room for them without excluding state charges, at a cost to such person or those who are legally responsible for their maintenance, of not less than \$3.25 per week; and the state may recover from any person admitted to said school, if able, or from persons legally liable for his support, the reasonable expenses of his support in said school.”

A patient upon *bona fide* trial visit, still under the care and supervision of the Center, is subject, in our opinion, to be charged, if under the circumstances that patient is able to pay a portion of the expense involved in supplying that care.

JAMES GLYNN FROST
Deputy Attorney General

July 18, 1958

To Earle R. Hayes, Executive Secretary, Maine State Retirement System

Re: Social Security Coverage for Public Library

We have your memo asking our opinion as to the status of the Farmington Public Library.

It appears that you transmitted Modification No. 49 to the Department of Health, Education and Welfare of the Federal Government for the purpose of extending Social Security coverage to the employees of said library.

The Regional Representative of the Bureau of Old-Age and Survivors Insurance requests an opinion as to whether the library is a political subdivision of the State.

It is our opinion that the Farmington Public Library is not a political subdivision of the State for the purposes of Social Security coverage.

The said library was incorporated under the provisions of Chapter 55 of the Revised Statutes of 1883, the counterpart of which statute is seen in Chapter 54 of the Revised Statutes of 1954.

The corporations so incorporated are not political subdivisions of the State. They are private, as distinguished from public, corporations in that they do not exercise any portion of the sovereignty.

While such libraries have been designated as quasi-municipal corporations for the purpose of extending the benefits of the Maine Retirement System to employees of such corporations, that designation cannot be carried over by interpretation to the Social Security Law. . .

JAMES GLYNN FROST
Deputy Attorney General

July 18, 1958

To Earle R. Hayes, Executive Secretary, Maine State Retirement System

Re: Death Benefits

We have your memo requesting an interpretation of Section 9, subsection I-B, subparagraph 1, of Chapter 63-A, R. S. 1954, in so far as that section pertains to eligibility of persons to be entitled to death benefits.

You ask if persons who are employed by the State or as teachers and separated from such service prior to July 1, 1957, can be considered as being protected under the above quoted section of law.

Answer. No.

Such section sets forth the necessary qualifications of one in service as of the effective date of the Act, July 1, 1957:

"1. General eligibility provision for non-service-connected death. The deceased member must have had at least 18 months of creditable service within the 42 months prior to date of death, or be under 60 years of age and receiving at the time of death an ordinary disability allowance as provided in section 7 and any lump sum due under section 7 shall be paid into the survivors' benefit fund."

The underlying theory of pensions, survivors' benefits, etc., is to induce employees to contribute long and faithful service. In the case of ex-employees who have already performed their service without need of such inducements, the statute enacting such benefits after termination of service would not extend those benefits to such people unless such extension was expressly set forth in the statute.

It is a general principle of interpretation that a law is not retroactive unless it so states expressly or unless, from a reading of the law, it appears clear that the legislature intended the law to be retroactive. Such principle applies to pension acts and other acts extending similar benefits. See 40 Am. Jur. 963.

An examination of the Survivors' Benefit Law fails to reveal any express provision making the law retroactive to persons who severed service with the State prior to July 1, 1957.

For instance, the fund in which shall be accumulated all reserves required for the payment of survivors' benefits is set up in Section 15, subsection VI of Chapter 63-A.

This fund is built upon contributions from the employees (Sec. 15, subsection VI-B) and annual amounts to be paid by the State (Sec. 15, subsection VI-C). It should be noted that the State's share of money to build the account is

"an amount equal to a certain percentage of *the annual earnable compensation of such member*, to be known as the survivors' contribution."