

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1957 - 1958**

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."

It can then be seen that the fund for payment of survivors' benefits does not at all contemplate members who are not presently working, but only such members as are contributing and who have an annual earnable compensation.

For these reasons we therefore hold that the law does not protect those persons who severed service prior to July 1, 1957.

JAMES GLYNN FROST  
Deputy Attorney General

July 21, 1958

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Swan Island

This is in reply to your recent memo in which you pointed out that Federal funds under the Pittman-Robertson Act can be expended only in the event such funds accrue to the dedicated revenue of your department, and that because of our opinion that the funds realized by the sale of Swan Island must accrue to the general fund of the State the Federal Government may refuse to follow through on the purchase.

You inquire if legislative action is indicated and, if so, how the bill should be worded.

If the Legislature had desired that the proceeds of sale of land should accrue to the department's account, then it could easily have so stated, as it did in the case of sale of hay, timber and Christmas trees.

In the case of hay, timber, etc., the Legislature provided (Sec. 17, Chapter 37) that the proceeds from their sale shall be used for maintenance of the game management areas.

While it is not proper for us to recommend legislation, we would suggest that if the Department of Inland Fisheries and Game wishes that proceeds from the sale of land under the provisions of Section 8 accrue to the department, then legislation would be necessary. Clear words could be used, as in Section 17, indicating the desired disposition of such funds.

JAMES GLYNN FROST  
Deputy Attorney General

July 23, 1958

To David H. Stevens, Chairman, State Highway Commission

Re: Temporary Loans

You have requested my opinion as to whether the State can use the temporary-loan provision to borrow \$3,500,000 in September 1958 and repay the loan in May of 1959.

The answer is, "Yes."

Chapter 173 of P&SL, 1957, allocates \$6,807,000 to the highway fund for 1957-58 from the sale of bonds for highway construction.

Section 132 of Chapter 28, R. S., provides that the Governor and Council can transfer money from one account in the General Highway Fund to another.