

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

January 12, 1961

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

Re: Suggested Constitutional Amendment

We have your memo of December 29, 1960, in which you state that the Board of Trustees would like our opinion with respect to the following language of the suggested Constitutional amendment, having in mind the purpose of protecting the trust funds of the Maine State Retirement System:

“All of the assets, and proceeds or income therefrom, of the Maine State Retirement System or any successor system and all contributions and payments made to the System to provide for retirement and related benefits shall be held, invested or disbursed as in trust for the exclusive purpose of providing for such benefits and shall not be encumbered for, or diverted to, other purposes.”

We would have no comment as to the necessity for such provision, but are of the opinion that as worded the amendment would adequately achieve the purpose desired by the Board.

JAMES GLYNN FROST

Deputy Attorney General

January 17, 1961

To: Honorable Ralph M. Lovell

House of Representatives

State House

Augusta, Maine

Re: Exempting Industrial Property from Taxation

Dear Mr. Lovell:

We have your request for an opinion as to whether a bill exempting industrial property from taxation would or would not be constitutional. This bill, proposed as an amendment to Chapter 91-A, Section 10, subsection II, would exempt for a period of ten years industrial property locating or relocating in a municipality.

Under the Constitution of the State of Maine, all taxes upon real and personal property must be apportioned and assessed equally according to their just value. *Constitution of Maine*, Article IX, Section 8. Furthermore, no resident of the State of Maine shall be deprived of his property except by judgment of his peers or the law of the land. *Constitution of Maine*, Article I, Section 6.

The question here then is whether or not the proposed amendment would be unconstitutional as constituting an inequitable apportionment of taxes and thus the deprivation of private property without due process of law.

Chapter 91-A, Section 10, subsection II, contains a list of certain properties exempted by law by the imposition of any tax. The proposed amendment would add certain industrial properties to this list which is now composed of certain charitable, governmental and educational institutions. Various proposals and enactments through the years have been aimed at granting tax relief in order to