

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

in the United States service for three, instead of one year.' Is the vote within the purview of the warrant, in the light of the admission, upon the briefs of counsel, that no such reimbursement had ever been made to the town? We say it is not.

" . . . The vote calls for one thing, the warrant for another. This is not a case where an idea has been blindly or illiterately expressed. Both the warrant and vote are couched in clear and concise terms, and neither could be easily misunderstood."

See also *Stewart v. Inhabitants of York*, 117 Me. 385 (1918), wherein the court determined that a bridge building committee chosen by town vote had been given no legal power to employ counsel.

On November 3, 1925, this office forwarded an opinion to the department of education which involved powers of a building committee; that opinion contains language which applies to the present matter. I quote from the last paragraph of that opinion:

" . . . They were appointed for a specific purpose; they were authorized by the vote of the town to do certain things. They had no power to act in any other matter. The power to provide the equipment and furnishings was not given them by the town, hence they cannot act in this regard."

A reading of the vote of the Town upon Article 4 does not reveal any grant by the townspeople authorizing the committee to oversee construction of an addition to a school building. The town elected a committee and embellished it with certain directives. The committee had no power to act upon any other matter.

Because we find that the committee possesses no authority to oversee the proposed construction, the questions which you pose become moot. Nevertheless, we would not be remiss, we think, in opining that the committee has served its purpose and presently does not function.

JOHN W. BENOIT

Assistant Attorney General

April 23, 1963

To: E. L. Walter, Assistant Executive Secretary
Maine State Retirement System

Re: Definition of Payments made under Survivor Benefits Plan

Reference is made to your memo of April 19, 1963. You have asked for an opinion as to whether payments made under the so-called Survivor Benefits plan are payments to the widow or to the children or whether they are separable.

From the facts of the two cases named it is evident that Chapter 63-A, section 9 I B 1 (a) does not apply because neither deceased employee had 17½ years of creditable service at the time of his death.

It, therefore, follows that section 9 I B 1 (b) and (c) are the applicable provisions of the statute. The pertinent provisions of (b) read:

"A spouse, alive and not remarried at the time of the death of the member who has the care of unmarried children of the

deceased member under 18 years of age . . . shall be paid \$75 a month, commencing the first month after such death occurs and continuing during his lifetime for such time as such children or progeny are in his care and he has not remarried."

This can only mean one thing — the widow or widower who has the care of unmarried children of the deceased employee under 18 years of age is to have \$75 per month as reimbursement for such care.

The pertinent provisions of (c) read:

"The unmarried child or children under 18 years, . . . shall receive benefits as follows:

"One child shall be paid \$75 a month.

"Two children shall be paid \$100 per month, which shall be divided equally between them.

"Three children or more shall be paid \$125 per month, which shall be divided equally among them."

It follows from this that payments beyond \$75 a month to the widow are payments to the children.

Specifically, the question asked by the Veterans Administration says:

"*Child Care* Benefits are payable to Eligible Beneficiaries as follows:

A. Widow or Widower

caring for 1 child	\$150
caring for 2 children	175
caring for 3 or more children	200"

Actually, only \$75 per month of the amounts listed in the question are payments to the widow or widower. The remaining amounts are payments to the child or children.

Although this is not a part of the question asked, it might be well to anticipate and save another opinion. There are two circumstances under which a widow is entitled to payments in her own right.

1. If the deceased member had 17½ years of creditable service at the time of his death.
2. If the widow attains age 60 and is not remarried.

GEORGE C. WEST

Deputy Attorney General

April 24, 1963

To: David Garceau, Commissioner of Banks and Banking

Re: Deposits in Industrial Banks

This memo may be considered as a supplement to my opinion of September 11, 1962. In a letter dated March 22, 1963, to Claude C. Phillippe, Supervising Examiner, Federal Deposit Insurance Corporation, the following was stated:

"I note that on page 2 of my opinion in the second paragraph I stated, 'The conclusion must be that the legislative intent was to deny the right to 'receive deposits,' as such, to industrial banks unless there is some other wording that means the same thing.'