

# MAINE STATE LEGISLATURE

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January 17, 1973

E. L. Walter, Exec. Director

Retirement

Charles R. Larouche, Assistant

Attorney General

Porter Memorial Library - Retirement or Social Security Coverage

This replies to your memo of January 8, 1973 concerning the above subject. You ask whether or not Porter Memorial Library Association is eligible for coverage under the Maine State Retirement System. The answer to that question is that eligibility cannot be determined based upon the evident submitted and available to me at this time. 5 M.R.S.A. § 1092, sub-§ 1 provides that the employees of a "public library corporation or any other quasi-municipal corporation -" may be eligible to participate in the Maine State Retirement System.

The letter submitted by Mr. Hollis Ingalls states that the library was "incorporated June 12, 1891". The Corporation Division of the Secretary of State has no record of such a corporation. Of course, corporations were not required to file with the Secretary of State until 1898, but such earlier formed corporations can and sometimes have subsequently filed their charters with the Secretary of State and with various registries of deeds.

There is no indication that such a corporation was ever formed under the Private and Special Laws. The document submitted by Mr. Ingalls seems to be the by-laws of such a corporation. While this would seem to make it quite likely that such a corporation in fact was formed, there ought to be further evidence of it, and evidence that in fact it has continued to function as such until the present time. Accordingly, I would suggest that you advise Mr. Ingalls to try to come up with further evidence.

You also ask whether or not the Porter Memorial Library Association is eligible for Social Security coverage under Chapter 103 of Title 5. In my opinion, the answer to that question also cannot be determined from the evidence submitted or available to me at this time. Chapter 103 limits coverage to a "political subdivision" which is defined in § 1222, sub-§ 6 of Title 5 to include "an instrumentality" of one of the political subdivisions of the State. If this library association has been accepted and functioning as an instrumentality of the Town of Machias or of some other political subdivision of this State, then it would be eligible for coverage under Chapter 103. Accordingly, I would suggest that you request Mr. Ingalls to submit further evidence in this connection.

CRL/ec