

MAINE STATE LEGISLATURE

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June 11, 1974

George A. Davala, Director

Public Safety - Administrative
Services

Charles R. Larouche, Assistant

Attorney General

Accidental death benefit of widow of State Police not a member of
State Retirement System

This replies to your memorandum request of May 21, 1974, as
amplified by your May 30, 1974 memorandum.

I understand your first question to be whether or not, based upon
the facts as summarized by you, there is any evidence from which the
present Chief of State Police could arrive at a conclusion that Colonel
Parker F. Hennessey died "as a result of injury received in the line of
duty" within the meaning of that phrase as used in 5 M.R.S.A. § 1125.
The answer to that question is negative.

Although it does appear that he died from a heart attack received
while on duty, that is not enough to constitute his death the "result
of injury received in line of duty." To constitute such injury it
must appear that the heart failure was brought about by his duty.

However, it seems to me that the importance of this question to
his widow and to any of his surviving children under 18 should merit
a more thorough investigation and presentation of the underlying facts,
including medical opinions, than is apparent from your brief summary of
conversations with two of Colonel Hennessey's assistants. It should
also merit an opportunity to the widow to present her contentions to
the current Chief of State Police before it is finally decided.

Your second question reads:

"In the event of the death of the widow, would the
adopted child under 18 continue to receive the pension?"

In view of the answer to the first question, the second question
seems to be moot at this time. However, since you may further develop
the facts relative to the first question, it may be helpful to point
out to you that your statement of facts asserts that "Mrs. Hennessey
has an adopted child," whereas 5 M.R.S.A. § 1125 is concerned with
children of a deceased State Police member. In this connection, see
5 MR.S.A. § 1001, subsection 6 for definition of "child."

If I can be of any further help to you in this matter, please
advise me.

CHARLES R. LAROUCHE
Assistant Attorney General

CRL:mfe

AN INFORMAL OPINION