

MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA

February 14, 1934

Honorable Louis J. Bramm
Governor of Maine
Augusta

My dear Governor Bramm:

In response to your recent oral inquiry relative to the matter mentioned by Convers E. Leach, President Maine Institution for the Blind, in his letter of February 18, I beg to call your attention to Chapter 52 of the Resolves of 1917, Page 756, where it appears that the sum of \$14,000 for each of the years 1917 and 1918 was appropriated for said institution. On Page 758 there is a provisional, or explanatory, note as follows:

"That in the case of the Maine Institution for the Blind, the board of directors shall be so reorganized as to provide for not less than six nor more than ten directors, one-half of whom shall be appointed by the governor with the advice and consent of the council for overlapping terms. Such appointment shall be non-partisan."

This Resolve was approved March 28, 1917.

I would further call your attention to Chapter 96 of the Private and Special Laws of 1933 which provides:

Section 1.

"The board of directors of the Maine Institution for the Blind shall consist of eleven persons, six of whom shall be appointed by the governor with the advice and consent of the council, of which number the state superintendent of schools shall be one. The remaining five shall be by election of the said institution as now provided in its by-laws."

Section 2.

"The term of the state superintendent of schools as a director of the Maine Institution for the Blind shall be co-existent with his term as such superintendent, the remaining five appointed by the governor as aforesaid shall be for the overlapping terms as now held."

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Section 3.

"The Maine Institution for the Blind may change its by-laws to cover this change in the law and a majority in number of directors appointed by the governor shall be a condition precedent to the money aid extended by the state."

While the words "overlapping terms" may be somewhat ambiguous, it is probable that the legislature intended that the term of the first directors elected or appointed should be for the terms of 1, 2, 3, 4 and 5 years respectively, and that their successors should be elected or appointed for the full term of 5 years. It evidently was with this understanding that the by-laws of the institution, a copy of which is annexed to the letter from Mr. Leach, were made. It appears that this plan has been followed in the election of members by the institution.

The Governor and Council, at the expiration of the terms of the directors first appointed, evidently through some misunderstanding, appear to have made the appointments for the term of four years. It is quite probable that the provisions of the explanatory note in the Resolve of 1917 and the by-laws of the institution were not called to the attention of the Governor and Council so that the appointments were made under the provisions of R. S. Chapter 2, Section 54, which provides that,--

"All civil officers, appointed by the governor and council, whose tenure of office is not fixed by law or limited by the constitution, otherwise than during the pleasure of the governor and council, ****, shall hold their respective offices for four years and no longer, unless re-appointed; subject to removal at any time within said term by the governor and council."

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As indicative of the foregoing, I find on investigation in the Secretary of State's office that Mr. Cordwell was appointed July 29, 1921 for a term of 4 years, was re-appointed December 29, 1925 for a term of 4 years, and again re-appointed on December 17, 1929 for a period of 4 years.

It also appears that other members of the board appointed by the Governor and Council have been for a term of 4 years.

It is probable that in each case where such appointments have been made a commission has been issued to the appointee for the term of 4 years.

Respectfully yours,

Sanford L. Fogg

Deputy Attorney General

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