

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

August 6, 1942

Ralph Leavitt, Esquire
Executive Secretary
Maine Maritime Academy
179 Commercial Street
Portland, Maine

Dear Mr. Leavitt:

In reply to your letter of July 31, 1942, you are advised that employees of the Maine Maritime Academy cannot be considered, under present legislation, to be employees within the meaning of the definition of employees as found in Chapter 328 of the Public Laws of 1941, an Act to Provide a Jointly Contributory Retirement System for State Employees Except Teachers.

The authority for this ruling is the decision of the court in the case of *Inhabitants of Orono vs. Sigma Alpha Epsilon Society*, 105 Maine 214, in which the court held that the University of Maine is not an agency nor an instrumentality of the State but a corporation, a legal entity wholly separate and apart from the State.

I do not know of any reason why the Legislature could not include employees of the Academy within the definition of employees as set forth in Chapter 328 if the Legislature should so desire.

Very truly yours,

JOHN S. S. FESSENDEN

Deputy Attorney General

August 20, 1942

From:

Frank I. Cowan, Attorney General

To:

Earle R. Hayes, Director of Personnel

Mr. Kane has shown me your memorandum of August 13th designating him as the proper person to certify all State payrolls. In my opinion, in spite of the general language used in P. L. 1937, Chapter 221, Section 21, paragraph 1, Mr. Kane is not a proper person to be so designated. The law, it seems to me, places the duty squarely on the shoulders of the Director of Personnel. The provision for his designating some person to approve the payroll is, it seems to me, to enable him to designate some person *in his Department* who can act in his absence. There is no provision in the law for a Deputy Director and so, without some such provision as the one we have in this statute, it would be absolutely necessary for him to approve each payroll job in person and if he were away from the State House no payrolls could be met.

I am, therefore, advising Mr. Kane that he is an improper person to be so designated and that he must not serve in that capacity.

Attorney General