

MAINE STATE LEGISLATURE

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May 26, 1943

Governor Sewall

Executive

Frank I. Cowan & Frank A. Farrington

Attorney General

State Police Chief - Acting Chief

In reply to your memo of May 19th and answering your questions in the order asked, it is the opinion of this department that:

1. The provisions of the statutes lead to the conclusion that the chief of the state police is not a "member" of the state police. He is the executive head appointed for a term, whereas "members" are enlisted by him. He possesses certain disciplinary powers over the members which are inconsistent with his being considered a member himself. (Sec. 122, Ch. 29, R.S. 1930, as amended). It is of the chief that members request retirement under Ch. 182, P. L. 1935, as amended. If a member is appointed chief, his status as to membership is the same as though he had resigned.

2. A member of the state police named as acting chief would not lose his status as a member. He would continue in his membership status with additional duties. As acting chief, however, he would not be able to carry on all the functions of the chief, due to the fact that his status as a member is inconsistent with some of the powers of the chief. Service as acting chief would, therefore, have to be on a temporary basis.

3. Time served as chief is not service as a member and would not count as service toward retirement under the state police retirement system. Time served as acting chief would be service as a member and would count as service toward retirement.

4. Upon ceasing to be chief, a former member would not automatically resume his former status. Upon ceasing to be acting chief, no question arises as to resuming former status, as he has never abandoned his status as a member.

Certain practical difficulties would be encountered if any other conclusion were to be reached. When a member becomes chief, it is assumed that advances would have to be made to fill the position he vacated, as well as other vacancies resulting all the way down the line. If on ceasing to be chief he were to resume his former status, there would then arise the question of what to do about those members who had advanced to fill the vacancies created.

Frank I. Cowan
Attorney General

Frank A. Farrington
Deputy Attorney General