

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

MAINE STATE
LIBRARY

July 6, 1945

To: Hon. Harold I. Goss, Secretary of State
Re: Chapter 342 of the Public Laws of 1945

. . . This statute provides for what are called reciprocity privileges. It provides:

“No motor truck or trailer travelling in this state only in interstate commerce, and owned in a state wherein an excise or property tax shall have been paid on said vehicle, and which grants to Maine owned trucks and trailers the exemptions herein contained, shall be subject to this excise.”

I note that in making up your schedule of reciprocal privileges to be granted to motor vehicle operators resident in States other than Maine you learned that two States on the Atlantic seaboard have no provision for the assessment of either excise or personal property tax on motor vehicles owned in said States, and that your interpretation is that the legislature intended by this reciprocity law to grant to the owners of vehicles resident in other States all privileges that such States grant to owners of motor vehicles resident in the State of Maine.

It is my opinion that the reciprocity privilege of operating in Maine in interstate commerce without the payment of the Maine excise tax should be extended to owners of vehicles resident in States wherein no excise or property tax is levied.

RALPH W. FARRIS
Attorney General

July 10, 1945

To Harrison C. Greenleaf, Commissioner of Institutional Service
Re: Salaries of Institution Heads

Agreeably to my conversation with you yesterday relating to the salaries of the institution heads, I will say that I have made a study of the history of the establishment of the Department of Institutional Service, and find that in 1939, under the provisions of Section 5 of Chapter 223, the legislature provided as follows:

“The salary of the commissioner, the director and all other employees established under this act shall receive such compensation as shall be fixed by the governor and council.”

You will note that Section 5 of Chapter 223 of the Public Laws of 1939 is incorporated in Section 1 of Chapter 23, R. S. 1944; and Chapter 300 of the Public Laws of 1941 is also incorporated in Section 1, Chapter 23, R. S. 1944. Section 1 of said Chapter 23, R. S. 1944, provides as follows:

“Said commissioner shall have the power to appoint institution heads as shall be necessary for the proper performance of the duties of said department said appointments to be with the approval of the governor and council.”

It is my opinion that inasmuch as the legislature in 1939 provided that all salaries should be fixed by the Governor and Council, and inasmuch as the Governor and Council must approve your appointments of institution heads, it would be necessarily implied that the Governor and Council should fix and regulate the salaries upon your recommendation.

You told me in our conference yesterday that the institution heads were in the classified service under the Personnel Law, and I wish to call your attention to the ruling of former Attorney General Frank I. Cowan, which will be found on page 114 of the Report of the Attorney General for 1943-1944, and I quote from the last paragraph of said opinion, on page 115 of said Report:

"Whether or not the institution heads are within the provisions of the State Personnel Law is a matter on which I do not wish to comment without further information. It has been consistently held that persons appointed to definite terms should be classified as Bureau Directors under Section 7 of the Personnel Law, so as to be in the unclassified service. Unless there is some strong reason for interpreting the law otherwise, said reason being found in the facts with regard to each particular case, I shall continue in the opinion that 'institution heads' are to be regarded as 'Bureau Directors.'"

The provision for unclassified service is now Section 7 of Chapter 59, R. S. 1944, and I quote from Subdivision III of said section:

"Heads of departments and members of boards and commissions required by law to be appointed by the governor with the advice and consent of the council, bureau directors, and the official clerk of the public utilities commission and of the state liquor commission."

I will say that I concur with the opinion of Mr. Cowan, and I think you will agree with me that the institution heads are heads of departments or bureau directors required by law to be appointed by the Governor and Council; and it would naturally follow that they would be in the unclassified service and that their salaries, upon your recommendation, should be fixed by the Governor and Council.

I just talked with Mr. Hayes, Secretary of the Personnel Board, and he informed me that the institution heads have not been in the classified service since February 17, 1944, the date of the opinion of former Attorney General Cowan.

RALPH W. FARRIS
Attorney General

July 11, 1945

To C. P. Bradford, State Park Commission
Re: Lapsing of Funds

I received your memo dated March 7th on July 9th, as per my request, as I cannot find my office copy of said memo. With the memo of March 7th you enclosed copies of letters from the State Controller and the State Auditor, referring to the lapsing of Commission funds.