

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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December 5, 1945

To Hon. Horace Hildreth, Governor of Maine
Re: University of Maine

The chairman of the Council has requested that I advise you whether a trustee of the University of Maine is by law required to be a resident of the State.

I find that the act establishing the college, then under the name of State College of Agriculture and Mechanic Arts, Chapter 532, Private and Special Laws of 1865, provided in Section 4 thereof that "No person shall be a trustee who is not an inhabitant of this State, nor anyone who has reached the age of seventy years."

I am of the opinion that the term "inhabitant," as used in the Act of 1865, is synonymous with domicile or legal residence, and implies a permanent abode in the State of Maine.

I also find, however, that "all vacancies occurring in the Board of Trustees shall be filled by the Governor and Council *on the nomination of the trustees. In case the nomination by the Trustees shall not be confirmed by the Governor and Council, the Trustees shall make another nomination, and so on until a nomination shall be confirmed.*" (Emphasis mine.) Chapter 362 of the Private and Special Laws of 1867.

ABRAHAM BREITBARD
Deputy Attorney General

December 6, 1945

To Hon. Frank E. Southard, Chairman, Public Utilities Commission

You have orally inquired from this department whether George E. Hill, a member of the Public Utilities Commission, who was filling an unexpired term, which term ended on November 28, 1945, held over until the appointment and qualification of a successor to that office.

I have examined the statutes on the subject, including the act of 1913 (Chapter 129) which created the Commission, and from cases which I have read where the question was considered I am of the opinion that the incumbent would hold over until a successor is appointed and qualifies. See *Bath v. Read*, 78 Maine 280; *Bunker v. Gouldsborough*, 81 Maine 194; *Bowen v. Portland*, 119 Maine 282 at page 286.

In these cases a general rule of law is recognized that the incumbent of an office will hold over after the conclusion of his term, even though there is no express provision in the statute to that effect, unless the statute shows an intent to limit it to the term therein provided.

The department so ruled with reference to the members of the Liquor Commission. See opinion of the writer at page 161 of the Report of the Attorney General, State of Maine, 1943-1944.