

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

We would therefore appreciate your accepting this assignment, in view of the law, and accordingly reserve for the State the amount of money stated therein, namely \$71.60.

ROGER A. PUTNAM
Assistant Attorney General

December 31, 1953

To Norman U. Greenlaw, Commissioner of Institutional Service
Re: Invoice for Reportorial Service

You have made inquiry of this office whether or not it is proper for an institution of the State to pay a bill rendered by a reporter for a transcription of testimony in a case before the Industrial Accident Commission, where the State institution was a party under the Workmen's Compensation Act and the transcript was called for by the institution's counsel. Counsel for such institution is the Attorney General or his designated Assistant.

Claims by State employees under the Workmen's Compensation Act are by law assigned for settlement to the Attorney General, as are all such claims against the State.

The settlement of these claims may be defended before courts or commissions or may be compromised as agreed to by the Attorney General or, with his authority, by his Assistant.

As is usual, the counsel speaks for his client and the engaging of witnesses and the record of a hearing are usual expenses attendant upon such proceedings.

Hence it is that this office is of opinion that the employing department or institution should make payment of the item referred to.

JAMES G. FROST
Deputy Attorney General

January 5, 1954

To Hon. Burton M. Cross, Governor of Maine
Re: Duties of Chairman, Highway Commission

This office has been asked to interpret Chapter 398 of the Public Laws of 1953 in so far as it affects the duties of the Chairman to be appointed under the provisions of the Act, particularly with reference to Section 4 of Chapter 20 of the Revised Statutes. The last sentence of Chapter 398, which amends Section 3 of Chapter 20, R. S., provides:

"The chairman shall be the chief administrative officer, having general charge of the office and records, but all policy decisions of the commission must be by a majority of its total membership."

This section, imposing additional duties upon the chairman, removes from the chief engineer the general charge of the office and records, such charge having been granted him by Section 4 of Chapter 20. While the "general charge of the office and records" is directly dealt with by the new Act, and

as a result it indirectly repeals that portion of Section 4 of Chapter 20 which grants that power to the chief engineer, it appears that additional matters have been contemplated by making the chairman the *chief administrative officer*. Normally, it is an administrative function to employ clerical and other assistance, and the right to employ such help, subject to the right and direction or the approval of the commission, have been given to the chief engineer under the provisions of Section 4 of Chapter 20. It is the opinion of this office that there should not be the inconstancy resulting when, on the one hand X by statute is made the chief administrative officer, and on the other hand the chief engineer may select the personnel, subject to the approval or under the direction and control of the commission. The employment of personnel being one of the primary functions of the chief administrator, we believe that Section 4 of Chapter 20 has been further repealed, to the extent that such employment of personnel is now subject to the direction and control of the chairman of the commission — the chief administrative officer.

It should be noted that the chief engineer *shall* have general charge of all construction and maintenance work under the control of the commission and *may*, subject to the direction and control of or with the approval of the chairman, employ personnel. While the chief engineer will continue, under our interpretation of the law, in charge of all construction and maintenance work under the direction and control of the commission, employment is under the supervision of the chairman. That is, the chairman may directly control such employment or he may delegate that power, subject to his supervision, to the chief engineer.

An examination of the first above quoted sentence clearly reveals that the chairman has now been given by the legislature all administrative duties with the exception of policy decisions, which latter decisions remain with the commission as a whole. The commission, in addition to deciding policy matters, will have its other normal quasi-judicial functions and other statutory duties not administrative in nature.

JAMES G. FROST
Deputy Attorney General
L. SMITH DUNNACK
Assistant Attorney General

January 6, 1954

To I. W. Russell, Superintendent of Public Buildings
Re: House and Senate Chambers

In response to your memo dated December 31, 1953, please be advised that under the provisions of Section 7 of Chapter 9 of the Revised Statutes, as amended by Chapter 375 of the Public Laws of 1945, Harvey R. Pease, Clerk of the House, has general oversight of chambers and rooms occupied by the legislature, when the legislature is not in session.

It would appear, therefore, that you have no authority in connection with the giving out of the House and Senate chambers.

JAMES G. FROST
Deputy Attorney General