

MAINE STATE LEGISLATURE

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no

March 6, 1963

**Mr. Ronald T. Speers, Commissioner
Inland Fisheries and Game
State House
Augusta, Maine**

Re: Warden Charles Cochran, retroactive pay.

Dear Commissioner Speers:

Your letter of February 28, 1963 addressed to the Honorable Frank M. Hancock, Attorney General, has been referred to me for reply.

You ask whether your Department can legally follow the State Personnel Board's recommendation of February 27, 1963 that Mr. Cochran, in the act of being reinstated, be paid wages from January 12, 1963.

Material facts reveal that from January 14, 1963 to March 10, 1963 Mr. Cochran was on a leave of absence from the Department without pay due to illness. The Personnel Board held the hearing on January 18 and 19, 1963. On or before January 12, 1963 Mr. Cochran had exhausted his accumulated credits, i.e., vacation, sick leave, and compensating days representing those holidays he may have worked. It is noted that Mr. Cochran, by written request directed to your Department dated January 17, 1963, sought an extension of his leave of absence without pay due to illness.

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Section 21 of the Personnel Law provides for the reinstatement by the Personnel Board of an employee to his former position with no loss of pay but that the statutory prerequisites for such action is a finding by the Board that the appointing authority acted contrary to the provisions of the Personnel Law and rules in laying off, demoting or otherwise depriving the employee of rights under said Law and rules. According to the facts, your Department did not lay off, demote or otherwise deprive Mr. Cochran of his rights under the particular Law; the employee requested a leave of absence without pay status due to illness and was granted such leave of absence. Section 21 of the Personnel Law, then, is not material to the question which you pose. I find no other provision in the Personnel Law pertaining to the payment of wages as recommended by the Board.

I find no statutory provision in the Law authorizing the payment of wages to a classified employee while such person is on a leave of absence without pay from his employment.

Very truly yours,

John W. Benoit, Jr.
Assistant Attorney General

JWB/slf