

MAINE STATE LEGISLATURE

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September 2, 1964

Philip J. Macy, Deputy Commissioner

Economic Development

George C. West, Deputy

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Status of State Geologist

FACTS:

The 101st Legislature amended the law relating to the Department of Economic Development. In section 2 was added a paragraph reading:

"The commissioner shall organize a Division of Research and Planning, a Division of Industrial Promotion, a Division of Vacation Travel Promotion, a Division of Publicity and Public Relations and a Division of Geological Survey."

Section 8 was repealed and replaced. The first paragraph now reads:

"The commissioner may employ a State Geologist to serve at the pleasure of the commissioner. The State Geologist shall perform such duties as shall be required of him by law or assigned to him by the commissioner, and he shall act as division director."

The first paragraph of section 2 was also amended to now read:

"The commissioner may employ division directors, deputies, assistants, industrial development specialists and such other employees as may be necessary, subject to the Personnel Law; "

All of these amendments appear in P.L. 1963, Chapter 417.

Prior to 1963, the State Geologist was hired on a contractual basis. Following the effective date of Chapter 417, he was placed in the classified service under the Personnel Law. In preparing the departmental budget, a question was raised as to his inclusion in Part I (Current Services).

QUESTION:

Should the State Geologist properly be in the classified service under the Personnel Law and hence be properly included in Part I (Current Services) of the departmental budget?

ANSWER:

Yes.

OPINION:

The legislative history of P.L. 1963, Chapter 417, sheds much light on the intention of the legislature. This bill was introduced as "An Act to Clarify and Revise Laws of Department of Economic Development." H.P. 834, L.D. 1221. It was referred to the Committee on State Government. That committee reported it out as "Ought to Pass." This bill contained none of the provisions of Chapter 417 as finally enacted.

At some stage of the proceedings the bill was referred to the Committee on Industrial and Recreational Development. This committee reported out a New Draft, H.P. 1089, L.D. 1561 under new title "An Act to Reorganize the Department of Economic Development."

The paragraph of section 2 quoted first in the Facts was included as finally enacted. Section 8, as finally enacted, and quoted in part in the Facts, was included.

The first sentence of section 2 in the New Draft read as follows:

"The commissioner may employ division directors, deputies, assistants and industrial development specialists; same shall not be subject to the Personnel Law."

A reading of these three pertinent parts indicated a clear intent of the committee that division directors should not be under Personnel. A Division of Geological Survey was to be created. The State Geologist was to serve at the pleasure of the commissioner and "he shall act as division director." These three portions were, at that time, entirely consistent.

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On June 22, 1963, House Amendment "B". (H - 514) was introduced. This amended a portion of the first paragraph of section 2 (the third quoted portion in the Facts) to read as it was finally enacted.

At some point on the last day of the session a deadlock ensued between the Senate and the House. The House sought to keep Division Directors and all personnel under the Personnel Law. The Senate sought to remove them. A committee of conference was appointed. Eventually the committee agreed to leave all the personnel subject to the Personnel Law. House amendment "B", supra, was adopted and the bill enacted.

This résumé of the history of the bill shows clearly the intent of the legislature that the Director of the Division of Geological Survey was intended to be subject to the Personnel Law. Therefore, his position is properly included in Part I (Current Services) of the departmental budget.

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GCW:H

cc: Raymond Mudge
cc: Roland Berry