

MAINE STATE LEGISLATURE

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February 21, 1935

To the Honorable Senate
of the State of Maine:

There has been received at the office of the Attorney-General from Honorable Royden V. Brown, Secretary of the Senate, an attested copy of the following order appearing to have been read and passed in the Senate on February 14, 1934:

"That the Attorney-General be requested to give his opinion to the Senate as to the meaning of the word 'session' as used in chapter 125, section 2, of the Revised Statutes."

I assume that the Senate is interested merely in the meaning of the word "sessions" appearing in the second sentence of the section referred to.

The statutes afford no specific definition of the word "session", and the courts of our state have never passed upon its meaning. Prior to 1905, the compensation of councillors, except during a regular session of the legislature, was fixed upon a per diem basis. The law then read as follows:

"Each member of the executive council shall receive the same compensation and travel as a representative to the legislature for services as a councillor during the session of the council commencing in January and closing immediately after the adjournment of the legislature. For services at other sessions of the council, each councillor shall be paid two dollars for every day's actual attendance, and two dollars for every ten miles travel, one way, from his place of abode to the capitol; and for authorized services on committees, when the council is not in session, three dollars and a half a day and necessary expenses."

Sec. 8, Ch. 115, Revised Statutes, 1903.

In 1905 the law was amended by changing from a per diem basis to a session basis, the wording of the 1905 amendment remaining unchanged to the present time. The law as it now reads is as follows:

"Each member of the executive council shall receive the same compensation and travel as a representative to the legislature for services as a councillor during the session of the council commencing in January and closing immediately after the adjournment of the legislature. For services at other sessions of the council, each member thereof shall receive twenty dollars for each session, and actual expenses; for authorized services on committees when the council is not in session, each councillor shall receive five dollars a day and actual expenses." Sec. 8, Ch. 125, Revised Statutes 1930.

It seems apparent that the word "session" is not synonymous with the word 'day' although a session may in given instances coincide with a day. This is obvious for the reason that the meaning of the word "session" as revealed in the words of the legislature renders it absurd to suppose that the legislature, in the second sentence of the law in question, intended a different meaning that is employed in the first sentence. In the first sentence the word "session" is intended to embrace all of the time from the convening of the council during the first of January of legislative years, and lasting until after the legislature has taken final adjournment. Again, it is not reasonable to suppose that the legislature intended in 1905 to increase the daily compensation of councillors from \$2 per day to \$20 per day.

Also in the definitions found in the courts of other states, the word "session" nowhere appears to be synonymous with the word

'day'. In a Texas case the Court has said:

"The word 'sessbn' is defined as the time, period, or term during which a court, council, legislature, etc. meets daily for business, or the space of time between the first meeting and the prorogation or adjournment."

Emerson v. Missouri K. & T. R. Co.
37 Texas Civ. Apps. 110

In an Oklahoma case the Courthas defined the word "session" as follows:

"The meaning of the word 'session' is the sitting of a body, competent for the transaction of its business; the time during which it is convened and actually engaged in business; the time during which a legislative body or other assembly sits for the transaction of business."

Ralls v. Wyand et al., 40 OKL 323

The word "session" is defined in Bouvier's Law Dictionary as follows:

"The time during which a legislative body, a court, or other assembly, sits for the transaction of business; as a session of Congress, which commences on the day appointed by the Constitution, and ends when Congress finally adjourns before the commencement of the next session; the session of the court, which commences at the day appointed by law and ends when the court finally rises."

The Century Dictionary defines the word "session" as follows:

"The sitting together of a body of individuals for the transaction of business; the sitting of a court, academic body, council, Legislature, etc., or the actual assembly of the members of these, or any similar body, for the transaction of business; as, the court is now in session (that is, the members are assembled for business); the time, space or term during which a court, council, Legislature, or the like, meets daily for business, or transacts business regularly, without breaking up.*****"

From the definitions of the courts and lexicographers it is obvious that the word "session" in its commonly accepted meaning must be construed as describing the period of time from the con-

vening of the council at the call of the Governor until the business for which the call was issued has been completed, together with any other business that may arise without an additional call, and adjournment of the council had. The Constitution of the State provides for the convening of the council:

"There shall be a Council, to consist of seven persons, citizens of the United States, and residents of this State, to advise the Governor in the executive part of government, whom the Governor shall have full power, at his discretion, to assemble; and he with the Councillors, or a majority of them, may from time to time, hold and keep a council, for ordering and directing the affairs of State, according to law."

Sec. 1, Art. V., Part Second - Constitution

From the above words of the Constitution, the Council is convened only at the discretion of the Governor who has the full power to assemble it, and without his call it is not lawfully convened. Accordingly, in the light of the definitions of the word "session", and in view of the fact that the Governor alone may call the council together for a meeting, the word "session" as used in section 2 of chapter 125 of the Revised Statutes, means at the call of the Governor and running until the business for which the call was issued has been finished and the dissolution of the council by adjournment.

Respectfully submitted

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Attorney General