

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

thereby tacitly authorize those who do attend to do the voting for the town. I doubt if one voter would have the right to hold a meeting all by himself; but if a sufficient number congregate to elect the necessary officers for holding a meeting (provided the regular town officers are not present) I see no reason why the meeting should not be a legal one.

The only mention of a minimum number of voters in connection with a town meeting that I have noticed is R. S. Chapter 5, Section 4, as amended by the Public Laws of 1933, Chapter 198. This provides that not less than 10% of the voters registered in the biennial State election then last past, or in any case, *not less than ten registered voters*, may apply to a justice of the peace and have a special meeting called. It is possible that our courts might interpret that as setting a minimum number of voters for a town meeting. That, however, is a question for the courts, and any expression of opinion on my part would be without legal value.

You understand, of course, that the Attorney-General is not, under the law, attorney for the town of Perry and that the above reply is simply as a matter of courtesy. Under the law the Attorney-General can act as adviser to the Governor and Council, the two branches of the legislature, and heads of State departments.

Very truly yours,

FRANK I. COWAN
Attorney-General

May 11, 1944

Harry V. Gilson, Commissioner of Education

I have your memo of April 18th in regard to school board members who contract to teach in the same town or union.

It seems to me that a proper procedure is as follows:

- 1) Assume that the office of member of the school board and the office of teacher under that board are so incompatible that the acceptance of the position as teacher automatically vacates the position of member of the school board.
- 2) Advise the remaining members of a school board to fill the vacancy.
- 3) In case the teacher-member insists that he is still a member of the school board and the other members hesitate to elect someone to fill the vacancy, due to their fear of creating confusion and uncertainty, you have authority to instruct the local superintendent that State funds will be withheld while that teacher is occupying the dual position.

The statutes seem to be explicit on the subject of committee members being employed as teachers. There seems to be no discretion left in the Department of Education on this particular subject.

FRANK I. COWAN
Attorney-General

June 6, 1944

Guy R. Whitten, Deputy Commissioner of Insurance

Subject: Admission of Ohio Casualty Insurance Company
With reference to your memo relating to the application of the Ohio

Casualty Insurance Company of Hamilton, Ohio, to be admitted to write casualty insurance in this State, including workmen's compensation.

The statement of facts in your memo and the pamphlet you submitted of Ohio Insurance Laws (annotated) shows that no insurance company, domestic or foreign, is permitted in that State to write workmen's compensation insurance. All employers there contribute to a state fund which is administered by the State and from which benefits are paid to injured employees.

Under provisions of the Ohio Code, its domestic companies may provide in their charters for writing this form of insurance in other States where the same is permitted.

Your inquiry is as follows:

"If the Ohio Casualty Company otherwise qualifies for admission to do business in the State of Maine and in view of the monopolistic laws of Ohio as recited in this memorandum, would this Department under its retaliatory law be within its rights in limiting the business which this Company might write in its other lines of insurance, thus excluding their privilege of writing workmen's compensation in the State of Maine."

My answer is, "Yes."

Sec. 109 of Chapter 60, R. S. 1930 amended by Chapter 103, Laws of 1941, so far as here pertinent, provides:

"When by the laws of any other state of the United States . . . any fines, penalties, licenses, fees, deposits or other obligations or prohibitions *in excess of those imposed by the laws of the state upon foreign insurance companies and their agents*, are imposed on insurance companies of this state and their agents, the same fines, licenses, fees, deposits, obligations or prohibitions shall be imposed upon all insurance companies of such state of the United States . . . and their agents doing business in or applying for admission to this state. . . ."

Under our statutes foreign insurance companies may be admitted to write workmen's compensation insurance in this State.

The absolute prohibition contained in the Ohio laws would thus be "in excess of those imposed by the laws of the (this) state upon foreign insurance companies" and would be a bar to companies of that State from writing such insurance in this State.

ABRAHAM BREITBARD

Deputy Attorney-General

June 7, 1944

F. K. Purinton, Executive Secretary, Executive Department

The council order providing for payment to ***** of the full amount of his salary while he is recovering from the effects of an accident sustained in 1943, until he is able to resume his work, has come before me for attention.

Mr. ***** received his injury, according to the statement of facts, while in the performance of his duties and is entitled to the