

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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June 3, 1946

To Earle R. Hayes, Secretary, Employees' Retirement System

Your memo received May 21st, stating that you have checked back through various opinions handed down by the Attorney General and that you have found one written by Clement F. Robinson under date of September 25, 1931, addressed to Richard Small, Esq., attorney on Workmen's Compensation Act cases, in which Mr. Robinson holds that employees working on Third Class Highways must be considered State employees in so far as the Workmen's Compensation Act is concerned, even though their salaries may be paid directly by the towns in which they are employed. You state that you gather that Mr. Robinson based his contention on the fact that the towns reimburse the State for part, if not all, of the salaries paid.

In paragraph 2 of your memo you state that in addition to Third Class Highways, you also have State Aid, Special Resolve and Maintenance work, which is often paid for by town checks. Later the payrolls and receipted bills are submitted to the State, and the State pays for the State's share of the work. You have been considering such employees as being in State employ for the purpose of the Employees' Retirement System, and you inquire if your position in this matter is correct.

In reply I will say that your position is correct in this matter as outlined in the ruling from Attorney General Robinson in 1931. While I was in charge of the State Workmen's Compensation cases, we paid compensation to employees of Third Class Highways, State Aid, and Special Resolve work, for the reason that the State supervised the work and reimbursed the towns for the actual receipted bills which they presented to the State, and they were also required to file their payrolls with the State Highway Commission for approval before they could receive reimbursement from the State.

So I should consider the employees on Third Class Highways and Special Resolve work to be State employees for the purposes of the State Employees' Retirement System, if they see fit to contribute.

RALPH W. FARRIS
Attorney General

June 3, 1946

To the Milk Control Board

In reply to your inquiry dated May 16th, which arrived at this office on May 20th: The facts, which involve an interpretation of the Milk Control Law, are as follows:

A dealer whose principal established place of business is in Bristol, which is within the Rockland area, and who sells milk within the Rockland area to consumers for fluid consumption, receives delivery of this milk at Wiscasset from the company dealer located in the Auburn area;

and the question is whether the company dealer should pay for said milk at the producer price prevailing at Wiscasset or the producer price of the Rockland area, which is higher. The company dealer contends that the delivery of the milk is made at the dealer's premises located in Wiscasset. The fact, however, is that the dealer has no premises located in Wiscasset, nor is he a dealer in that area.

I am of the opinion that the computation should be made on the price fixed in the Rockland area, in view of the prohibition contained in subsection 6 of Section 4 of Chapter 28 of the Revised Statutes of 1944, in the 5th paragraph thereof, which forbids a dealer, store, or other person handling milk in such market to buy or offer to buy, sell or offer to sell milk for prices less than the scheduled minimum applicable to the particular transaction in such market. The retail dispenser to whom I have referred in the above as dealer, as aforesaid, handles the milk in the Rockland area, where his business is located. This section thus prohibits him from buying milk at a price less than the scheduled minimum in that market.

I therefore advise you that computations on these transactions are to be based upon the prices established by the Board for the Rockland area.

ABRAHAM BREITBARD
Deputy Attorney General

June 24, 1946

To H. H. Harris, Acting Controller
Re: Executive Council

I have your memo of June 29th requesting me to advise your office as to the rate of compensation which members of the Executive Council are entitled to receive while in session during special legislative sessions, and calling my attention to Section 3 of Chapter 11, R. S. 1944, which provides:

"Members 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 and for services at other sessions of the council each member shall receive \$20 for each session and actual expenses, etc."

In answer to your question I call your attention to the fact that the provision for the same compensation as a Representative to the legislature applies only during the session commencing in January and closing immediately after adjournment of the legislature, and does not apply to special sessions of the legislature.

Section 2 of Chapter 9, R. S. 1944, was amended by Chapter 362, P. L. 1945, which provides that each member of the legislature shall be paid \$10 for every day's attendance at a special session. This will be found in Section 3 of Chapter 362 aforesaid, but it has no application to Section