

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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creased subsidy available to towns which, during the previous year, met the requirements on the minimum salary then in effect. You state that this provision (Chapter 151, P. L. 1945) reads as follows: "The distribution of state school funds to towns on account of teaching positions in December, 1945, shall be based upon the minimum program as established by section 204;" and you further state that such provision was necessary for upwards of 40% of the communities of the State, whose local abilities would not permit an increase in the minimum salaries of teachers from \$720 to \$1000 until additional State aid under the provisions of this section was made available. You state in paragraph 2 of your memo: "Unfortunately, however, the sponsor of this measure added to this statement the provision, 'provided, however, that no town shall be apportioned more than \$100 for any teaching position for which the town pays an annual salary of less than \$1000,' thus making this sentence in the law utterly contradictory, since it required in the first part a minimum of \$720 and in the second part a minimum of \$1000. This action on the part of Representative McKinnon resulted from his failure to understand that the \$1000 minimum salary requirement was insured in a previous part of the paragraph."

You state in your third paragraph that when this ambiguity was discovered, a conference was held in my office, attended by Representative McKinnon and Senator Noyes of the legislature; Mr. Ladd, Mr. Kenney and yourself of the Department of Education; Mr. Breitbard and myself deciding, on the grounds that it was the obvious intent of the legislature, that increased subsidies should be made available in 1945 on a basis of the provisions of Section 204, in effect as of July 1st of that year; and I instructed you orally to proceed with the allocation of the subsidy on that basis.

On the statement of facts contained in the foregoing paragraphs you state that the State Auditor requested you to secure a memorandum from the Attorney General confirming the interpretation given at the conference above described.

I recall the conference in this office in the closing days of the 92nd Legislature and that it was agreed at that time that you would be justified in proceeding with the allocation of State subsidies in December of 1945 on the basis of this amendment in Chapter 151 of the Public Laws of 1945, as it was agreed that that was the intent of the legislature, by the sponsors of the bill providing for the amendment.

RALPH W. FARRIS
Attorney General

December 23, 1946

To David H. Stevens, State Assessor

I received your memo of December 17th relating to the taxation of telephone and telegraph companies under the provisions of Sections 120 and 126 of Chapter 14, R. S. 1944, which provide that the tax base is

on the gross receipts collected by the companies within the State of Maine. You further state that in compliance with the regulations of the F. C. C. the revenue, which I presume is the gross receipts, is broken down into various classifications, and according to a ruling of the Attorney General's Department in 1942, the revenues from most of these classifications are subject to the tax.

You further state that the F. C. C. has allowed the American Telephone and its subsidiaries to change their system of accounting, and that under the present method all revenue of the New England Tel. & Tel. Company goes into one pot. From the money in the pot each central office is given credit for its annual expenses. The balance is divided among the several central offices according to the ratio which the investment of each office bears to the total investment of the entire company.

For the year 1946, you say, the figure submitted by the N. E. Tel. & Tel. Co., as subject to the tax, was the total of its expenses within the State, plus the total of the division of the gross profit as explained above.

You further state that, to satisfy your department, for practical purposes, that this method produced at least as much tax, the Boston office of the New England Telephone Company was asked to furnish the operating expenses per phone in Maine as compared with the other New England States, and also the average investment per phone in Maine as compared with the other New England States; and a tabulation has been furnished you by the New England Telephone Company. A copy of the same, attached to your memo, indicates that on this basis of figuring the gross receipts of the New England Telephone Company and the American Telephone Company, the State of Maine is collecting more tax than would have been collected under the old system of accounting.

On the basis of the foregoing statements, you ask whether it is permissible for your department to accept a return of the New England Tel. & Tel. Co. showing gross receipts collected in Maine, based on the computation as outlined above.

After studying the tabulation and your explanation of the old system of accounting and the reason for the change of accounting under the jurisdiction of the F. C. C., I am of the opinion that it is permissible for you to accept the returns of the New England Tel. & Tel. Co. and the American Telephone Company on the regulation form which you are now using, showing the gross receipts based on the computation, which is a division of the five New England States, Connecticut being excepted. As I understand that this is the only system that the New England Telephone Company has at this time upon which to compute its gross receipts collected within the State of Maine, and inasmuch as the State is receiving more revenue, it would be practical for you to have an understanding with the telephone companies involved that you will accept their returns, showing the gross receipts on the computations as authorized by the F. C. C., showing as nearly as possible the amount collected in gross revenue from the State of Maine.

RALPH W. FARRIS
Attorney General