

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

In regard to the phrase, "in a manner and an extent inconsistent with the public interest," this means that when the pollution becomes a public nuisance, the courts can be resorted to. I do not feel that the phrase "or so pollute said waters" has any special significance in this Act. It does not limit the exemption from pollution of the so-called exempted rivers to saw-mill waste, oil and possibly waste from pulp and paper mills, as Chapter 345, P. L. 1945 limits pollution to new sources, which further weakens the enforcement of the statute under consideration.

RALPH W. FARRIS
Attorney General

May 28, 1949

To Raymond C. Mudge, Commissioner of Finance and Budget Officer
Re: Chapter 214, P&SL 1949, §2-A, cost-of-living increase to State Employees

I have your memo of May 24th relating to Chapter 214, P&SL 1949, providing for a salary increase of \$3 per week for all full-time employees for the period July 1, 1949 through June 30, 1950, except those whose salaries are set by the legislature or by the Governor and Council. You state that your attention has been called to the fact that while the first sentence of §2-A provides for a \$3 a week increase to "all full-time state employees or substitutes," the last sentence expresses the intent to provide "a substitute for the so-called \$3-\$4-\$5 increases as granted by the personnel board on October 4, 1948, and continued by chapter 21 of the resolves of 1949," and that these provisions are inconsistent, since the so-called \$3, \$4 and \$5 increases provided only \$1.50 per week increases for employees of institutions who live in. You therefore ask for a ruling on the question whether you shall authorize an increase of \$1.50 per week or \$3 per week for institutional employees who live in.

It is my opinion that it was the intent of the legislature to provide \$1.50 per week increase for those employees in State institutions who live in and have maintenance furnished, as this is, strictly speaking, a cost-of-living increase, and in estimating the amount of money to be used for this purpose, the legislature figured an increase of only \$1.50 per week on the State institution employees who live in. Otherwise, the legislature would have figured on a larger amount for the payment of these institutional employees, to the amount of \$75,000.

You will note in the last part of §2 of Chapter 214 this language: "It is the intent of the legislature under the provisions of this section to provide for the fiscal year ending June 30, 1950 a substitute for the so-called \$3-\$4-\$5 increases as granted by the personnel board on October 4, 1948 and as continued by the provisions of chapter 21 of the resolves of 1949." The Personnel Board granted only \$1.50 per week to State institution employees who live in and to whom maintenance is furnished by the State. Therefore we must follow the intent as stated in the act, and follow out the increases granted by the Personnel Board on October 4, 1948, in so far as the \$3 increases are concerned for State employees who do not live in and \$1.50 for those who do live in.

You also direct my attention to Senate Paper 705, passed by both the Senate and the House on May 7th, which reads as follows:

"That all reasonable administrative economies should be effected in an effort to permit the continuation of existing salary and wage schedules through the second year of the next biennium."

This order, it seems to me, authorizes your office to continue this wage schedule through the second year of the biennium, provided you can find the money.

RALPH W. FARRIS
Attorney General

June 7, 1949

To Carl L. Treworgy, Secretary, Racing Commission
Re: Chapter 388, P. L. 1949, §15

Your memo of May 31st received, stating that the Racing Commission would like a ruling on the last sentence of Section 15 of Chapter 388, P. L. 1949, and asking, "Does this mean that all race meets are subject to the $\frac{1}{2}\%$ 'Stipend' payment or only those fair meets that are competing with the 8-week night harness race meets?"

In reply I will say that this sentence applies to any race track where is held a race or race meet licensed and conducted by the Maine Racing Commission authorizing the sale of pari mutuel pools described by said Commission.

RALPH W. FARRIS
Attorney General

June 7, 1949

To Jean L. Bangs, Assistant Attorney General

I have your memo of May 26th sending me a letter written by the chief attorney of the Veterans Administration at Togus, Maine, in which he disagrees with the way that we administer the law in regard to minors who are receiving State aid and in which he makes several comments and citations of other jurisdictions relating to this subject matter.

However, I do not wish to change my opinion in this matter.

I will state in passing that the statute provides that the Department of Health and Welfare shall have all the powers as to the person, property, care and education of every child committed to its custody during the term of commitment, which a guardian has as to a ward. That is merely an enabling act, and the State is not in the same position as a private person who has been appointed by a judge of probate and is not subject to the same laws as provided in other provisions of the Revised Statutes.

The question of liability is one for the courts. Of course the State is at liberty to bring an action at any time at any stage of the liability, if there are assets of a child in the custody of the State sufficient to take care of its education, care and maintenance. It is the policy of the State not to burden the taxpayers with the property to pay for their own care and maintenance.

RALPH W. FARRIS
Attorney General