

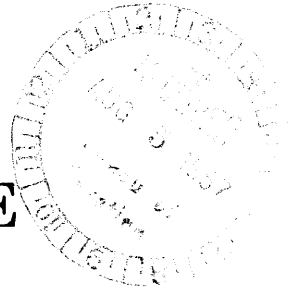
MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT
OF THE
ATTORNEY GENERAL

for the calendar years
1955 - 1956

February 24, 1955

To Roland H. Cobb, Commissioner of Inland Fisheries and Game

Re: Town Clerks as Agents

We have your memo of February 18, 1955, in which you draw our attention to the provision on page 37 of your Biennial Revision which states, "The commissioner may appoint additional agents," and in the next line, "Licenses shall be issued to a resident by the clerk of the town," with respect to which you ask, "Does the Commissioner have the right to refuse those Town Clerks, who are yearly bad in handling their records, the privilege of issuing licenses, and to appoint some other Agent?"

It is the opinion of this office that though you may appoint additional agents in a town the clerks of all towns have been designated by the legislature to be authorized agents and that you are without power to deprive them of that privilege.

JAMES GLYNN FROST
Deputy Attorney General

February 28, 1955

To Earle R. Hayes, Secretary, Maine State Retirement System

Re: Gisela K. Davidson, M.D.

We have your memo of February 9, 1955, in which you ask our opinion as to whether or not Gisela K. Davidson, M.D., who is employed by the Department of Health and Welfare in the capacity of X-ray consultant, is in fact an employee of the State within the meaning of the Retirement Law and eligible for membership in the System. . .

We do not feel that you have given us sufficient facts to determine whether or not she is an employee. However, we are herewith setting forth what we believe to be a rule of thumb to assist you in determining whether or not persons are employees within the meaning of the Retirement System Law:

A person working for the state must fulfill the following requirements to be considered an employee of the State:

- a. work as a regular classified or unclassified officer or employee in a department (including commission, institution or agency); and
- b. work either in a position that has been properly established by an appointing authority and recognized as properly filling that position by the Personnel Department, if it is in the classified service; or
- c. work in a position that has been contemplated by the legislature, if in the unclassified service (Chapter 63, Section 11, R. S. 1954); and
- d. obtain that position through appointment by a properly constituted appointing authority.

You should be able to determine within this formula whether or not a person is an employee, particularly if he is on a payroll. However, in cases of doubt, the Board has the authority under Section 1 to determine whether any person is an employee as defined in Chapter 64.

JAMES GLYNN FROST
Deputy Attorney General