

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
ATTORNEY GENERAL

for the calender years

1961 - 1962

June 5, 1962

To: Colonel Robert Marx, Chief of Maine State Police

Re: Appointment of State Police officer as a private detective

In answer to your inquiry of May 31, 1962 relative to appointment of a State Police officer as a private detective, we believe there would be a conflict of interest.

Private detectives are licensed by the Governor with the advice of the Council. They are issued commissions and must qualify as do other appointed officers. We believe this type of office would be in conflict with the provision in Chapter 15, Section 3, that members of the State Police "shall hold no other office during this term of service."

FRANK E. HANCOCK

Attorney General

June 8, 1962

To: Madge E. Ames, Labor and Industry

Re: Application of Section 53, Chapter 30, R.S. 1954, as amended, to waitresses

Reference is made to your memo of June 7, 1962. In your memo you ask the following question:

Must a restaurant owner pay waitresses some compensation under the provisions of Chapter 30, section 53?

The question is answered in the affirmative. The pertinent provisions of this section read:

"No person, firm or corporation shall require or permit any person as a condition of securing or retaining employment to work without monetary compensation . . . ."

It is very obvious that this section shows the intent of the legislature that no one may hire an employee except for monetary compensation. This monetary compensation must be paid by the employer. The employer cannot hire a person and depend upon the generosity of customers to supply wages to his employees. Such an arrangement would not constitute monetary compensation between the employer and employee.

GEORGE C. WEST

Deputy Attorney General

June 12, 1962

To: Joseph Edgar, Deputy Secretary of State

Re: Campaign Expenses—Liability Incurred

The Campaign Reports Committee has asked this office to give an interpretation or definition of "liability incurred" as used in R. S., c. 3-A, sections 172 and 173-III.

"Liability" as used in these two sections should be interpreted as a "debt."

A definition would be "any obligation of a candidate or committee for services rendered by request of a candidate or committee for which a bill has been received but not fully paid." The word "services" includes radio and television time, advertising and all other items which a candidate or committee purchases.

GEORGE C. WEST

Deputy Attorney General

June 14, 1962

To: Paul A. MacDonald, Secretary of State

Re: Mileage for the Executive Council

The question asked is stated in the following language:

"I have been requested by the Executive Council to make inquiry of you as to whether the provision of Section 31, Chapter 16 of the Revised Statutes, as amended by Chapter 415 of the Public Laws of 1957 relating to automobile travel by State Employees applies to members of the Executive Council."

Chapter 11, § 3, covers the pay and expenses of the executive council. This section provides that from January to adjournment of the legislature the council members shall receive the same compensation and travel as representatives to the legislature. The second sentence provides that at other sessions of the council the members shall receive \$20 for each session "*and actual expenses.*"

Section 44, Chapter 15-A (formerly § 31, chap. 16) as enacted by chapter 340, § 1, Public Laws 1957, provides that the state shall pay for the use of privately owned automobile for travel by employees of the state not more than 8c per mile for the first 5,000 miles and 6c per mile after 5,000 miles traveled in each fiscal year.

The latter section does not say that the figures paid for travel by employees are "actual expenses." The statute merely says that the state will pay not more than those amounts.

The Executive Council members are to receive "actual expenses" hence they are not bound by the provisions of section 44, chapter 15-A.

GEORGE C. WEST

Deputy Attorney General

June 20, 1962

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Religious Instruction in Public Schools

This is in answer to your inquiry as to the legality of the rental or lease of a public building to a particular religious denomination for use outside of regular school hours.

It appears that the previous opinions of this office, which you referred to in your memorandum, do not rule directly on the question of leasing a public building to a religious denomination before or after regular school hours.

There is a split of authority in those states which have considered this prob-