

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

“Furthermore, the statute was not intended as simply an affirmation of a principle of the common law, but as a more comprehensive legislative rule founded in public policy. The legislature must be presumed to have had in contemplation all of the contracts which might have been made by the different State officers, and to have enacted the statute for the purpose of removing any temptation on their part to bestow reciprocal benefits upon each other, and of preventing favoritism, extravagance and fraudulent collusion among them under any circumstances which might be reasonably anticipated as likely to arise under different State governments in the years to follow. . . . But it was obviously impracticable to anticipate and specify in the statute the great variety of situations that might arise, and in order to accomplish the purpose of the statute and prevent the mischief designed to be remedied, *the legislature was compelled to declare in general terms that no State officer should have a pecuniary interest in ‘any contract’ made in behalf of the state.*” (Emphasis supplied). *Opinion of the Justices*, 108 Maine 545 at 552. See also *Lesieur v. Rumford*, 113 Me. 317 at 322.

From the foregoing it becomes obvious that any contracts that might be made by the state with a member of the aeronautics commission would be void.

GEORGE C. WEST
Deputy Attorney General

January 6, 1964

To: Miss Edith L. Hary, Consultant
Informal Committee on Legislative Apportionment
State House
Augusta, Maine

Dear Miss Hary:

Re: Apportionment of House of Representatives

Facts:

The 101st Legislature approved amendments to the Constitution creating a new method of apportioning the House of Representatives. This was chapter 75, Resolves of 1963. These amendments were ratified by the people in November, 1963.

An informal committee was appointed to prepare a suggested apportionment resolve to be acted upon at a special session in January, 1964. Two questions have arisen as a result of the committee's deliberations.

Question No. 1:

Does the constitutional provision re apportionment (Const. Art. IV, Part First, Sec. 3) permit the combination of a town — or towns — not containing the county unit base number with a municipality which does fully contain the county unit base number one or more times?

Answer:

No.

Opinion:

The last sentence of section 2, Part First, Article IV of the Constitution reads as follows:

“The number of Representatives shall at the several periods of making such enumeration, be fixed and apportioned by the Legislature among the several counties, as near as may be, according to the number of inhabitants. Each county shall be entitled to that number of Representatives which is in the same proportion to the total number of Representatives as the number of inhabitants of the county bears to the number of inhabitants of the State, fractional excesses over whole numbers to be computed in favor of counties having the larger fractional excesses.”

The above provision sets forth the method by which is determined the number of Representatives to which each county is entitled.

Article IV, Part First, section 3, of the Constitution reads as follows:

“Section 3. Apportionment of representatives within each county shall be made by dividing the total number of inhabitants in the county by the number of Representatives to which the county is entitled to determine a unit base number. Each city or town having a number of inhabitants greater than the *unit base* number shall be entitled to as many representatives as the number of times the number of its inhabitants fully contains the unit base number; and the remaining cities, towns and plantations within the county which have inhabitants in numbers less than such unit base number shall be formed into representative class districts in number equal to the remainder of county representatives unallocated *under the foregoing procedure* by grouping whole cities, towns and plantations as equitably as possible with consideration for population and for geographical contiguity. Provided, however, that no such representative district shall contain fewer inhabitants than the largest fraction remaining to any city or town within such county after the allocating of one or more representatives *under the foregoing procedure*; and, provided further, that additional representatives, drawn from the remainder of county representatives unallocated *under the foregoing procedure*, shall be allocated to cities or towns having the largest fraction remaining after the allocation of one or more representatives *under the foregoing procedure* if such be necessary to insure that no such representative district contain fewer inhabitants than the largest fraction remaining to any city or town within such county after the allocating of one or more representatives *under the foregoing procedure*. Cities and towns entitled to two or more Representatives *under the foregoing procedure* may, by affirmative vote of two-thirds of both Houses of the Legislature, be organized into single member districts whereby each legally qualified elector therein is entitled to vote for only one Representative, provided that all such cities and towns are so organized.”

The second sentence contains a part of the answer. A city or town having more inhabitants than the unit base number is entitled to as many representatives as the number of times the number of its inhabitants fully contains the unit base number. After this the "remaining cities, towns and plantations" smaller than the unit base number are grouped into representative class districts. This wording clearly states that the cities and towns entitled to one or more representatives cannot then be grouped with smaller communities into a representative class district.

Question No. 2:

Does the constitutional provision re apportionment (Const. Art. IV, Part First, Sec. 3) prohibit the combination of municipalities which do not contain the county unit base number into a representative district which exceeds the unit base number?

Answer:

No.

Opinion:

Actually section 3 uses the "unit base number" for only one purpose.

"Each city or town having a number of inhabitants greater than the *unit base number* shall be entitled to as many representatives as the number of times the number of its inhabitants fully contains the *unit base number*;" (Emphasis supplied).

The unit base number is used only to determine what municipalities are entitled to one or more representatives. Once that fact is determined and the number of representatives for such municipalities is determined, the unit base number is no longer used.

In representative class districts there are two limitations. Such districts shall not "contain fewer inhabitants than the largest fraction remaining to any city or town within such county" after determining the representatives to which municipalities having population greater than the unit base number are entitled.

The other limitation is the "grouping whole cities, towns and plantations as equitably as possible with consideration for population and for geographical contiguity."

There is nothing said about the relationship of the unit base number to representative class districts. Hence, a representative class district may have more or less population than indicated by the unit base number.

GEORGE C. WEST

Deputy Attorney General

January 6, 1964

To: Walter B. Steele, Executive Secretary, Maine Milk Commission

Re: Classification Of and Price For Milk Which Has Been Or Which Will Be Transported In Interstate Commerce

Facts:

In recent years, bulk milk traffic has increased both in imports and exports among certain licensed Maine dealers. Historically, this milk has