

grammar. See *Minor v. Mechanics Bank*, 7 L.Ed. 47, *Appeal of Burnap*, 94. Conn. 286, 108 A. 802, *Stapler v. El Dora Oil Company*, 27 Cal.App. 516, 150 p. 643.

That the Legislature intended to limit the expenditure in any one year is clear from a study of the Act in question. If such were not their intention, then what need would there have been for Section 2? Sections 1 and 3 would have allowed the disbursing authorities under the Act to expend the \$1,000 appropriation at their discretion during the two year period.

Therefore, any portion of the \$500 remaining unexpended during the first year, July 1, 1953, to June 30, 1954, reverts to the State. The same is true of any unexpended portion of the \$550 earmarked for the second year.

Respectfully submitted,
HARVEY DICKERSON, *Attorney General*.

OPINION NO. 1955-59. Constitutional Law—Employment with school district by Assemblyman during term of office prohibited.

CARSON CITY, May 9, 1955.

HONORABLE L. E. BLAISDELL, *District Attorney, Hawthorne, Nevada*.

DEAR MR. BLAISDELL: This is in answer to your letter dated April 18, 1955.

We quote from your letter the facts involved in this problem.

An employee of the Hawthorne Elementary School District No. 7 in the capacity of inspector and maintenance man for the elementary school is also a member of the Nevada Assembly having been elected in 1952 and reelected in 1954. He has served as inspector and maintenance man for two years last past on a monthly salary basis, except for a period of time from January 15, 1955, when he resigned—to March 28, 1955, when he resumed said employment. During the interim he served as Assemblyman.

QUESTION

We quote your question as follows:

Is it legal for a Board of Trustees of a school district to employ with remunerations an elected member of the Nevada State Legislature during the time the Nevada State Legislature is not actually in session?

OPINION

The answer is in the negative.

Section 1, Article III of the Constitution of the State of Nevada provides as follows:

The powers of the government of the State of Nevada shall be divided into three separate departments—the legislative, the executive, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments

shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted.

An assemblyman is not only an assemblyman during the legislative session but also during his entire elective term of office. He is charged during that term, with the exercise of powers properly belonging to the legislative branch of our State Government. He is subject to special session duty during his term of office and may and oftentimes does serve on interim committee or commission activity all during his two year term.

The school districts are political subdivisions of our State Government and a part of its executive branch. An employee of the school district is exercising a function appertaining to the executive branch. If that employee is at the same time an assemblyman, the activity is in conflict with the above-quoted constitutional provision.

Respectfully submitted,
HARVEY DICKERSON, *Attorney General*.
By: WILLIAM N. DUNSEATH, *Deputy Attorney General*.

OPINION NO. 1955-60. Wages—Interpretation of Sections 2775 et seq., 2785 N.C. L. 1929. Penalty provisions of Sections 2775, 2785, N.C.L. 1929, do not contemplate inclusion of welfare, vacation, and travel pay.

CARSON CITY, May 16, 1955.

HONORABLE GEORGE M. DICKERSON, *District Attorney, Clark County, Las Vegas, Nevada*.
Attention: Mr. Arthur Olsen, Deputy.

DEAR MR. DICKERSON: Your office has requested an opinion interpreting the law regulating the payment of wages under Sections 2775 through 2787 N.C.L. 1929 and Acts amendatory thereof.

From the contents of your letter it appears that a workman after one day's work was fired. He demanded a day's salary or wage and the employer refused to pay. The employer did not tender the amount due until seventeen days had elapsed. The employee demands the amount of his daily wages or salary for the entire seventeen days, and in addition thereto a prorated amount for vacation, welfare and travel time.

Your inquiry is directed to the question as to whether a complaint filed by your office, on behalf of the employee, against the employer, should include other than wages due the employee at the time his employment was terminated.

OPINION

In order to cogently answer your inquiry it is necessary to study and to interpret the various sections of the Act which apply, especially Sections 2776 and 2785 N.C.L. 1929 and Acts amendatory thereof.

Our Supreme Court in the case of *Doolittle v. District Court*, 54 Nev. 319, has held that Section 2776 is the penal section of Chapter 71, Statutes of 1919, which deals with semi-monthly pay days, and it must therefore be construed with relation to Section 2775 N.C.L. 1929. Section 2775 was amended in 1937 and became Chapter 31 of the 1937 Statutes of Nevada. Said Section 2775 reads as follows: