

MILES LORD
ATTORNEY GENERAL
STATE CAPITOL
ST. PAUL 1, MINNESOTA

June 30, 1955

Hon. Joseph L. Donovan
Secretary of State

Attention: W. E. Howes
Assistant Motor Vehicle Registrar

1340

Dear Sir:

In your letter of June 21, 1955, you referred to the statutes
and made the comments which are noted below:

"M.S.A. 168.33 provides:

"* * * The registrar, in the order of appointment of each deputy hereunder, shall designate the amount to be paid annually to each such deputy as compensation for his services, the services of his employees and the expense of the bureau maintenance, which amount shall be fixed and determined or have the approval of the executive council endorsed thereon. If the amount designated to be paid annually to such deputy as compensation for his services, the services of his employees, and expense of the bureau maintenance is less than the total of the filing fees he collects, the amount so provided for shall be paid semi-monthly by the registrar from the amount of the filing fees collected and deposited by such deputy, as herein provided with respect to registration taxes he collects; but the amount so paid shall not in any case exceed the total amount of filing fees so collected and remitted. ***"

"The section above quoted refers specifically to our Minneapolis office. The appointment of the deputy for that office is submitted to the Executive Council and is approved each year."

You made these further comments:

"The office of the Commissioner of Administration calls attention to M.S.A. 43.09, Subdivision 2 (4) which reads:

June 30, 1955

"All deputy registrars of motor vehicles and seasonal help employed by the registrar and his deputies to assist in the issuance of motor vehicle licenses;"

"The foregoing statute places such employees in the unclassified service.

"The Appropriation Act passed by the 1955 Session (Chapter 856) carries in Section 48 the following language:

"The salaries of all employees, except attorneys appointed by the Attorney General, in the unclassified service of the state for which an appropriation is made in this Act, whose salary is not herein or otherwise fixed by law, shall be adjusted to the class of persons in the classified service performing comparable work and having comparable responsibility, as determined by the director of civil service, but in no event to an amount in excess of the maximum of such class."

You asked this

QUESTION:

"In view of the provisions of M.S.A. 43.09, Subdivision 2(4) and Chapter 856, Laws 1955, Section 48, will you please advise whether any provisions of those laws in any way change the ruling of the Attorney General dated January 8, 1941 wherein it was held that employees of the deputy registrars are not state employees. In other words, are employees of our deputy registrar in Minneapolis considered to be in the unclassified service?"

OPINION

We understand that the employees of the Minneapolis Deputy Registrar, to whom you referred, are not "seasonal help" as that term is used in Subdivision 2 (4), M.S.A. 43.09, but are, rather, full time employees who work in, and operate that office on a year round basis. In view of this, we do not believe that the provisions of L. 1955, c. 856, to which you have referred us, constitute the

Hon. Joseph L. Donovan --3

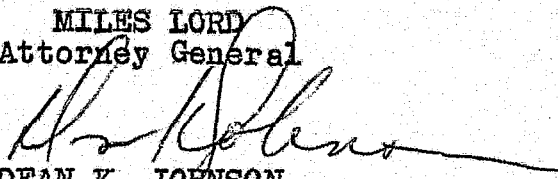
June 30, 1955

basis for changing the January 8, 1941 opinion of the Attorney General, which you mentioned.

For your convenience we are sending you a copy of that opinion (our file 385-B).

Yours very truly

MILES LORD
Attorney General



DEAN K. JOHNSON
Special Assistant
Attorney General

DKJ:DK

1340