



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable D. M. Wiggins, President
College of Mines and Metallurgy
El Paso, Texas

Dear Mr. Wiggins:

Opinion No. 9-5238

Re: Whether or not the President
of the College of Mines and
Metallurgy may serve as Pub-
lic Panel Member of the
Eighth Regional War Labor
Board.

We beg to acknowledge receipt of your inquiry con-
cerning the above captioned subject matter, as follows:

"I am inclosing a letter which I have just
received from the National War Labor Board. I
shall be grateful to you if you will counsel me
in regard to this matter.

"In the first place, I should like to know
if it is legal for me to accept such appoint-
ment or any other, as to that matter, of this
nature. I know that there has been some ques-
tion in regard to state employees accepting ap-
pointments with the Federal Government.

"In the second place, if it is legal to ac-
cept such appointment, I should like your friend-
ly counsel as to whether you think it would be
wise for me to undertake this type of service. I
sincerely want to do whatever I may to assist in
the war program, but at the same time I do not
want to involve myself in such a manner as might
be hurtful to the State program which I represent.

"***"

Honorable D. M. Viggins - page 2

Section 33 of Article XVI of our State Constitution provides:

"The accounting officers of this State shall neither draw nor pay a warrant upon the treasury in favor of any person, for salary or compensation as agent, officer or appointee, who holds at the same time any other office or position of honor, trust or profit, under this State or the United States, except as prescribed in this Constitution. Provided, that this restriction as to the drawing and paying of warrants upon the treasury shall not apply to officers of the National Guard of Texas, the National Guard Reserve, the Officers Reserve Corps of the United States, nor to enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States."

The President of the College of Mines and Metallurgy is paid a salary from the State treasury. The position of Public Panel Member of the Eighth Regional War Labor Board is an office, or at least a position of honor, trust and profit under the United States, for which reason, by virtue of the Section of the Constitution above quoted, the President would not be entitled to draw a salary from the State treasury while holding at the same time the office or position of Public Member of the Regional Board, under the United States.

Our reasons are more fully stated in Opinion No. 0-5107, wherein we held that this Section of the Constitution forbade the payment to a District Judge of his salary while he was holding the identical position under the United States mentioned by you. We hand you herewith a copy of that opinion.

Very truly yours

[Handwritten Signature]
DEPUTY ATTORNEY GENERAL
ATTORNEY GENERAL

ATTORNEY GENERAL OF TEXAS

BY

[Handwritten Signature]
Ocie Speer
Assistant

OS-MR
Enclosure

*all
JWN*

