

FILE NO. 72210

August 28, 1940

To the Honorable Board of Estimates
City Hall
Baltimore, Maryland

Gentlemen:

On August 20, 1940, the Board of Estimates referred to the undersigned for study and report the report of Assistant Chief Engineer W. Rayner Straus, Deputy Comptroller A. L. Dell and Deputy City Solicitor Lawrence B. Penneman, regarding the matter of leave of absence with pay to city employes who are members of the National Guard of Maryland. It is my understanding that the National Guard of Maryland was recently engaged in field defense training for a period of three weeks in accordance with orders and authorization issued by the Governor of the State.

Rule No. 49 of the City Service Commission provides that unless otherwise provided by ordinance or resolution of the Board of Estimates leave of absence with pay will be recognized only in certain specified cases, none of which cases, however, deal with the point at issue.

I find nothing in those provisions of the Charter creating the City Service Commission which delegates to that Commission power to make rules and regulations governing leaves of absence to municipal employes. While it is true that Section 270 of the Charter authorizes the Commission to provide for appointments and employments in all positions in the classified service based on merit, efficiency, character and industry, I do not believe that this power can be construed as authorizing the City Service Commission to make rules and regulations regarding the routine administration of the various municipal departments.

There is no provision of the City Charter dealing specifically with leaves of absence. However, Section 31 of the Charter provides in part as follows:

"The several heads of departments, heads of sub-departments, municipal officers not embraced in a department and special commissions or boards shall have the power to pass such rules and regulations not inconsistent with the laws or ordinances for the government of their respective departments as they may deem right and proper."