File No. 12400 Continued.

94 of the Act of 1910 went into effect. By Sec. 2 of that act laborers are not permitted to work more than eight (8) hours per day (with certain excepted cases) and are to receive a per diem of $2.00.

This Act ipso facto changed the contract existing between the city and its day laborers, and, thereafter, the city was bound to pay, and the day laborers entitled to receive, $2.00 per day.

If, owing to the inadequacy of the appropriations, payment was continued at the old rate and the laborers accepted without protest and signed the payrolls stating that they had been paid in full, then, perhaps, legally the laborers may have no cause of action. If, however, the laborers accepted payment under protest and made the proper reservations at the time of signing the payrolls, then the laborers would be entitled to the difference between what they did receive and $2.00 per day.

It does not seem to me, however, that the city should attempt to escape its liability under a mere technicality. The Legislature intended the city to pay $2.00 a day and, as the validity of this legislation is not in question, it seems to me that the city should pay to those laborers who make demand the difference between the amount actually paid them and $2.00 per day.

I have assumed, of course, that Heinritz is within the purview of the Act, (as he is in case he is a mere day laborer), and that there are no conditions which take his case out of the general rule.

Very truly yours,

(Signed) Sylvan Hayes Lauchheimer

Deputy City Solicitor.

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