

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

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REPORT

OF THE

# ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1918

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MERRILL & WEBBER CO., AUBURN, MAINE

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tion to the fact that the appointment was for a period of five years and that removal was by the Governor and Council for cause. In my opinion the attempt on the part of Mr. Smith to act as superintendent of construction is not sufficient cause for removal and unless some sufficient cause appears he is entitled to serve out the balance of his term of appointment.

Yours very truly,  
GUY H. STURGIS,  
*Attorney General.*

ARMORY AT UNIVERSITY OF MAINE—VALIDITY OF  
RESOLVE APPROPRIATING FOR AS WAR MEASURE.

13th April, 1917.

*Hon. Carl E. Milliken, Governor of Maine, Augusta, Maine.*

DEAR SIR: In my opinion the legislature of 1917 overstepped its power, in the Resolve to Provide for the Building of an Armory at the University of Maine passed by both branches of the legislature under date of April 7, 1917, in appropriating from "the funds to be derived from the loan authorized by the legislature at this session for the purpose of suppressing insurrection, repelling invasion or for purposes of war, such sum or sums as may be necessary for the purpose of building an armory at the University of Maine."

The loan authorized by the legislature for the purpose of suppressing insurrection, etc., will create a debt against the State in excess of the general Constitutional limitation of the State debt and is permissible only by virtue of the exception appearing in Section 14 of Article IX of the Constitution of Maine permitting the creation of debt or debts by the State without limit as to amount "to suppress insurrection, repel invasion or for purposes of war." This exception must be strictly construed and any debt created thereunder must be contracted and the proceeds of any loan negotiated therefor must be expended and applied only for such purposes as are expressly or impliedly within the terms of this Constitutional provision.

It cannot be questioned that this loan was authorized to suppress insurrection, repel invasion or for purposes of war which might or would occur or exist in the war between the United

States and the Imperial German Empire which was at the time of the passage of this act imminent and almost certain.

The question for determination, therefore, is whether or not the construction of an armory at the University of Maine as provided in this resolve of the legislature is in fact or will be in fact an act upon the part of the State, begun and carried to completion with the intention and for the purpose of suppressing an insurrection or repelling an invasion or for any purpose connected with or required by or necessary to the carrying on of the war now existing between this country and Germany.

The construction of an armory at the University of Maine means the building of a permanent structure to endure and to be available for the use of the students of that University for years to come. It will be one of the college buildings. It is to be constructed under the supervision and direction of the trustees of the University. It will not be subject to the control of the military organizations of this State or of the United States. Military training as provided by the rules and regulations of the University will undoubtedly be conducted in that building but such military training is a part of the college education of the students of the University and not a part of the military system of this State.

It does not seem to me that the building of such an armory can be deemed to be for the purpose of suppressing insurrection, repelling invasion or for purposes of war which may arise or be involved in the war which this country is now waging and, therefore, I must state that in my opinion no part of the money appropriated by Chapter 187 of the Public Laws of 1917 can properly be used or expended for such a purpose.

Very truly yours,

GUY H. STURGIS,

*Attorney General.*