

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1943--1944

engaged in teaching," upon entering the military or naval service shall have the benefits of the Act and during such service, in addition to its own share, the State shall contribute such amounts as the member would have been required to contribute, if he had been teaching within the State, etc. Thus, in order to have the benefits of this section, one of the requirements is that he shall have been a member for more than a year, and members who have been such for less than that period cannot have the benefits of this law.

The subject of the inquiry had been a member for approximately five months before entering the service, and you ask whether his membership can be made retroactive to commence as of the date when he began teaching, some two and a half years before he became a member. We find nothing in the statute which permits this and hence the question must be answered in the negative.

ABRAHAM BREITBARD

Deputy Attorney-General

February 18, 1944

Mrs. Mildred Akin  
36 Davis Street  
Old Town, Maine

Dear Madam:—

This office has previously ruled, and adheres to the same ruling, that under the Revised Statutes, Chapter 13, Section 6, Paragraph VIII, the polls and estates of Indians are not taxable.

However, in case an Indian votes, his estates are taxable.

Very truly yours,

ABRAHAM BREITBARD

Deputy Attorney-General

February 18, 1944

Harrison C. Greenleaf, Commissioner of Institutional Service

In answer to your memo of February 16, 1944, relative to Section 11 of Chapter 131 of the Revised Statutes: You inquire if this statute applies to members of the State legislature and whether they are State officers within this section.

I have looked through the files of this department and find that apparently this has been an ever-recurring question. On March 23, 1931, the late Chief Justice Pattangall wrote to the Attorney-General, Clement F. Robinson, as follows:

"Section 11, Chapter 131, Revised Statutes 1930, reads, 'No trustee, superintendent, treasurer, or other person holding a place of trust in any state office or public institution of the state,' etc.

"I hardly see how a member of the legislature could be said to be either a trustee, superintendent, treasurer, or other person holding a place of trust in any state office or public institution of the state. I am not even sure that this section applies to members of the Governor's Council. The wording is quite different than I supposed."

I noticed also in the file that numerous copies were made of this, and I should judge perhaps for distribution, as it does not seem that the Chief Justice would have written an answer to this inquiry unofficially, that is to say, not acting as the court, unless the problem was then of some concern.

I do not find where any change has been made, nor has any action ever been taken to include a member of the legislature in this provision. Nor do I find any legislation on the subject which would invalidate any contract made with the State. While dealings between a member of the legislature and the State would arouse suspicion with some people and while many of us would not look upon such dealings with favor, nevertheless I find nothing in the law which would prevent them or void them.

ABRAHAM BREITBARD

Deputy Attorney-General

February 24, 1944

Arthur R. Dickson, Chairman  
Board of Selectmen  
Old Orchard Beach, Maine

Dear Sir:

I have your letter of February 21st, asking the following question: "Is there any necessity of a man paying a poll tax in the community in which he votes or can he pay it in his former home."

The poll tax law and the law in regard to registration of voters are entirely separate. The poll tax law (P. L. 1939, c. 191, §1) reads, in part, as follows: "The poll tax shall be assessed on each taxable person in the place where he is an inhabitant on the first day of each April."

The registration law provides as follows: (P. L. 1935, c. 80) "Every person ..... who ..... shall have his residence established in this state for a term of six months next preceding ..... election shall have the right to vote at every such election in the city, town or plantation where his residence is so established; and such right to vote at national and state elections in such city, town or plantation shall continue for a period of three months after his removal therefrom if he continues to reside in this state during said period; ....."

From the above it is very clear that a person might have lived in a certain city, town or plantation for six consecutive months prior to (1) the November National election (2) the November or December city or town election (3) a March town meeting (4) a special election held at any time between October 2nd or April 1st, and be eligible to be registered as a voter although he has not been taxable in the municipality prior to the time of such registration.

Very truly yours,

FRANK I. COWAN

Attorney-General