

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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July 2, 1945

To John W. Moran, Executive Secretary to Governor Hildreth

This department is in receipt of your memorandum of June 27th, inquiring whether any member of the present Legislature may be appointed to any civil office of profit under this State which has been created by the legislature, or the emoluments of which have been increased during the session.

Article IV, Part Third, §10 of the Constitution is as follows:

“No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which increased during such term except such offices as may be filled by election by the people. . . ”

It is very clear from this provision that the answer to your inquiry is in the negative. Therefore, no senator or representative is eligible for appointment to any office created, or the salary of which has been increased during the term and the disability continues, of course, during the whole term for which he was elected.

ABRAHAM BREITBARD
Deputy Attorney General

July 2, 1945

To Harry V. Gilson, Commissioner of Education
Re: Authority to Approve School Building Plans

This office acknowledges receipt of your memo of June 28th, relative to the approval by the Commissioner of plans and specifications of proposed school buildings, or reconstruction or remodeling of any school building where the cost is in excess of \$500. R. S., Chapter 37, §21.

Your inquiry is whether the Governor and Council may withhold State school funds in the event that the school committee fails to have the plans approved, or fails to provide for suitable “heating, lighting, ventilating and hygienic conditions,” as you require.

I am of the opinion that you may, in that event, recommend to the Governor and Council that such funds be withheld under section 26. This ruling also applies to cases where the Federal Government makes a grant or gift to the town of funds to build such schools. Our statutes above cited cannot be ignored by the town or the Federal Government.

ABRAHAM BREITBARD
Deputy Attorney General