

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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eligible to become members of the State Employees' Retirement System, if the directors or trustees of the Water Company vote to approve such participation.

ABRAHAM BREITBARD
Deputy Attorney General

December 27, 1945

To Hon. Horace Hildreth, Governor of Maine
Re: Application for Pardon

It has been brought to my attention that an application for a pardon has been made by the mother of a fourteen-year-old boy who was recently committed to the State School for Boys, upon adjudication by the Judge of the Municipal Court that he was guilty of juvenile delinquency.

Under Section 2 of Chapter 133, judges of the municipal court, when sitting in a cause where a minor under seventeen years of age is charged with a criminal offense (in this case, a misdemeanor) exercise exclusive jurisdiction and hold a "juvenile court." It is further provided by specific provision in said section that "Any adjudication or judgment . . . shall be that the said child was guilty of juvenile delinquency, and no such adjudication or judgment shall be deemed to constitute a conviction for crime."

I am of the opinion that this case does not present a proper case for pardon under the provisions of the Constitution of Maine, since the adjudication is not a conviction of crime, which is an essential requirement under the Constitution which empowers the Governor with the advice and consent of the Council to exercise the powers of pardon therein enumerated.

It is very plain to me that it is only in cases of conviction of crime that the Governor is empowered to act, as in the last sentence of Section 11 of Article V, Part First, of the Constitution, it is provided that the Governor "shall communicate to the Legislature at each session thereof, each case of reprieve, remission of penalty, commutation or pardon granted, *stating the name of the convict, the crime of which he was convicted*, the sentence and its date, the date of the reprieve, remission, commutation or pardon, and the conditions, if any, upon which the same was granted."

It seems, where the legislature has by express provision protected minors from the stigma of having been convicted of crime, by providing that the adjudication shall be one for juvenile delinquency which shall not be considered a conviction for crime and cannot be used in any court or any other place as a record of conviction, that the grant of a pardon or reprieve would be a contradiction of what the legislature, by the legislation referred to, has tried to accomplish.

ABRAHAM BREITBARD
Deputy Attorney General