

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years  
1951 - 1954

June 21, 1951

To Honorable Frederick G. Payne, Governor of Maine  
Re: Eligibility.

Inquiry has recently been made of this office as to the eligibility of a member of the Legislature for appointment as a member of the State Highway Commission when that person was a member of the Legislature which increased the salary of the Commissioners of the State Highway Department.

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."

This constitutional provision was considered by the Court in answer to questions propounded by the House of Representatives, March 20, 1901, (95 Me. 564, 588) and the Court in its answer held that the Constitution (Art. IV, Part Third, §10) "prohibits the appointment of a senator or representative, during the term for which he shall have been elected, to any civil office of profit under this State, which shall have been created or the emoluments of which increased during such term. As to such office the appointment itself is prohibited, and the prohibition continues, not only while the member retains his seat in the legislature, but continues until the expiration of the term for which he was elected. He cannot, therefore, be appointed to such office during that term, even though he has resigned his seat in the legislature."

The constitutional provision clearly indicates that no senator or representative is eligible for appointment to any office which has been created, or the salary of which has been increased during the term of his office.

The salary of each member of the State Highway Commission has been increased by the past Legislature in Chapter 330, Public Laws of 1951. It is my opinion, therefore, that a senator or representative of the 95th Legislature cannot be appointed a member of the State Highway Commission, and this disability continues during the entire term for which he was elected.

JAMES G. FROST

Assistant Attorney General

June 21, 1951

To H. H. Harris, Controller  
Re: Mileage

In response to your memo of June 18, 1951, in which you inquire as to the effective date of Chapter 430, Public Laws of 1951, which chapter changes the rate of pay for use of private automobiles on official state business, and your further inquiry as to Fire Inspectors under Chapter 339, Public Laws of 1951, the following answers are submitted.

1. Chapter 340, Public Laws of 1951, which changes the rate of pay for use of private automobiles on official state business is an ordinary bill coming