

MAINE STATE LEGISLATURE

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December 14, 1951

yes

To Harold J. Rubin, Esquire, County Attorney, Sagadahoc
Re: Salaries of Trial Justices

. . . We have looked into this matter and can find no constitutional or statutory provision prohibiting the diminution in salary of a Trial Justice during his term of office.

Chapter 262, P. L. 1947, gives the power to the County Commissioners to set the salaries of Trial Justices and provides that they shall be paid monthly. That chapter does not restrict their power over salaries in any way.

30 Am. Jur. 28 states: "In the absence of constitutional prohibitions, the legislature may increase or diminish the salary of a judge during his term of office, and its discretion in this respect cannot be inquired into by the courts. However, it has been held that constitutional authority to change the amounts of salaries does not empower the legislature to work a practical abolition of the court by the diminution of the salaries to nominal amounts."

Perhaps the last sentence above is applicable to the situation at hand, but as there is no intimation in your letter to the effect that the County Commissioners are trying to abolish that office, we express no opinion on that point.

It is further stated in 43 Am. Jur. 348 that where the power to fix compensation of public officers has been delegated to a subordinate political division of the state, such as a county board, the compensation of such officers may, in the absence of any constitutional or statutory prohibition, be changed during their term of office.

In conclusion, we well say that the County Commissioners have the right to diminish the salary of a Trial Justice during his term, provided they are not trying to abolish that office by the diminution.

Roger A. Putnam
Assistant Attorney General

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*See also - Farwell v Rockland
62 Me 296*