

MAINE STATE LEGISLATURE

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*Legislative Compensation Expense Increased,
Maine Const Art 4 Pt 3 Sec. 7
3 M.R.S.A. 2*

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April 25, 1978

Honorable Lawrence P. Greenlaw, Jr.
Oceanville Road
Stonington, Maine 04681

Dear Representative Greenlaw:

This responds to your request for an opinion as to whether there is any method by which a particular Legislature may raise the compensation paid to that Legislature consistent with the terms of the Maine Constitution.

Article IV, Part Third, Section 7, of the Maine Constitution, the provision at issue here, provides as follows:

"The Senators and Representatives shall receive such compensation, as shall be established by law; but no law increasing their compensation shall take effect during the existence of the Legislature, which enacted it. The expenses of the Members of the House of Representatives in traveling to the Legislature, and returning therefrom, once in each week of each session and no more, shall be paid by the State out of the public treasury to every member, who shall seasonably attend, in the judgment of the House, and does not depart therefrom without leave."

Compensation to Maine Legislators is currently paid pursuant to 3 M.R.S.A. § 2. This section provides for legislative salary, per diem payments, and certain other payments including payments for travel. Article IV, Part Third, Section 2, in its terms, distinguishes travel as an expense separate from other "compensation."


In 1963, the Maine Legislature proposed legislation to provide reimbursement for expenses other than travel expenses at a rate of \$10 a day for members of the Legislature. The legislation, under consideration in February 1963 would have been retroactive to the January convening of the Legislature in that year. The Supreme

Judicial Court addressed that legislation in Opinion of the Justices, 159 Me. 77 (1963). In that Opinion, the Justices distinguished between compensation and travel expenses. The Justices then proceeded to hold that all other forms of reimbursement for personal expenses, except reimbursement for travel expenses, were to be deemed compensation by the terms of Article IV, Part Third, Section 7. Therefore, the Justices held in 1963 that it was unconstitutional to increase amounts for expense reimbursements, other than travel expenses, during the term of the Legislature which enacted the expense increase.

The Court made clear, however, in confirming a 1957 opinion, Opinion of the Justices, 152 Me. 302 (1957), that travel expenses are not "compensation" within the meaning of the Constitution prohibiting increases during a current legislative term. Therefore, while a Legislature may not increase its own salary or personal expense or per diem allowances, the Legislature may increase reimbursements for travel expenses. Such legislation must be by act or resolve, not joint order, 152 Me. 302.

I hope this information is helpful.

Sincerely,



DONALD G. ALEXANDER
Deputy Attorney General

DGA:mfe

cc: Bill Brown