

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1928

March 17, 1928.

Hon. Wilbur D. Spencer, Insurance Commissioner, Augusta, Maine.

DEAR SIR: I am in receipt of your letter asking the following question:

"Has a town any right to elect a fire chief, in absence of any by-laws to that effect?"

This Department is of the opinion that no town has the right to elect a fire chief without an ordinance or by-law, for the reason that it is well established that a "town does not possess the power to create or abolish offices unless such power has been expressly delegated to it by the constitution or by statute."

Chapter 30, Section 1 of the Revised Statutes, provides that any town may by ordinance or by-law prescribe rules and regulations for the care and management of fire apparatus and "for the appointment of officers * * * and may prescribe their style, rank, powers and duties."

Section 2 of the same chapter provides that "the engineers or other officers chosen by any town under any ordinance or by-law, shall in addition to the powers thereby conferred, exercise all powers and duties of fire wards."

Section 6 of Chapter 30, however, permits each town without an ordinance or by-law, to "elect as many fire wards as it deems necessary".

It would seem necessary, therefore, unless there is a special law applying to the particular locality, as suggested in Section 9, to have an ordinance or by-law authorizing the same before the town can elect a chief engineer or fire chief with authority to act. A fire chief is not a "usual town officer" as provided for in Sections 12 and 14 of Chapter 4.

Yours very truly,

RAYMOND FELLOWS,
Attorney General.

January 12, 1927.

Hon. Charles O. Beals, Commissioner of Labor, Augusta, Maine.

DEAR SIR: Answering your communication of January 7th, I am pleased to inform you that it is my opinion that female

employees cannot be legally employed eleven hours a night for four nights and ten hours a night on the fifth night, the same being in violation of Section 1 of Chapter 350 of the Public Laws of 1915, as amended by Chapter 198 of the Public Laws of 1923, which provides:

"No female shall be employed in any workshop, factory, manufactory, or mechanical establishment or laundry more than nine hours in any one day; except if a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week."

Yours very truly,

SANFORD L. FOGG,
Deputy Attorney General.

December 7, 1928.

Hon. Henry E. Dunnack, State Librarian, Augusta, Maine.

DEAR MR. DUNNACK: In answer to your inquiry relative to taxation of property belonging to Waldoboro Public Library Association, I understand that the Library Association owns a block in the town of Waldoboro, a portion of which block is used by the library for public library purposes, and a portion being rented by the Association to others.

Your question relates to whether or not this property is taxable or whether it is exempt under the provisions of Paragraph III of Section 6 of Chapter 10, as amended. It is a fundamental rule laid down by our Court that "taxation is the rule and exemption the exception." The statute exempts property of literary institutions, but it does not exempt property owned by libraries and other literary institutions from which revenue is derived. I call your attention to the following cases: Foxcroft v. Straw, 86 Maine 76; Foxcroft v. Campmeeting Assn. 86 Maine 78; and Auburn v. Y. M. C. A., 88 Maine 244, which cases decided that property of literary and religious institutions is taxable, so far as it is not used or occupied by the Association for its own purposes, or is rented for the sake of obtaining revenue therefrom.