

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

November 9, 1927.

Hon. Ralph O. Brewster, Governor of Maine, Augusta, Maine.

DEAR GOVERNOR BREWSTER: I am in receipt of papers from the prison physician and State Department of Health concerning condition of Albert Barker, a life inmate of the Maine State Prison who is suffering from tuberculosis.

I call your attention to Section 37 of Chapter 142 of the Revised Statutes, which section gives authority to "inspectors and warden" of the State Prison to cause any convict suffering from a "contagious sickness" to be removed to some suitable place of security where they shall receive all necessary care and medical assistance, "to be returned as soon as may be to the prison."

I also call attention to Section 9 of Chapter 19 of the Revised Statutes, which declares tuberculosis to be an infectious and communicable disease, or in other words, contagious disease within the meaning of Section 37.

This department, therefore, advises that full authority seems to be given to inspectors and warden to remove this man to any place of security for suitable care and medical assistance.

Respectfully yours,

RAYMOND FELLOWS,
Attorney General.

November 30, 1927.

Hon. Ralph O. Brewster, Governor of Maine, Augusta, Maine.

DEAR GOVERNOR BREWSTER: I am in receipt of your inquiries relative to the State Highway Police established under Chapter 144 of the Public Laws of 1925.

Section 1 of this Act provides that the Chief shall be appointed by the Governor with the advice and consent of the Council, to serve "during their pleasure." The Chief; therefore, may be removed at any time by the Governor and Council, with or without cause, and without the necessity of formal hearing.

In regard to the appointment of a Chief of the State Highway Police, the statute provides that the Governor "shall appoint" and it would appear under Article 5, Section 8 of the Constitution

of Maine that it is necessary, in order, to make the appointment valid, that nomination be made seven days prior to the appointment.

With relation to the suggestion that the person now holding the office of Adjutant General may be selected at some time in the future to serve also as Chief of the State Highway Police, this Department advises that there does not appear to be any legal reason to prevent one person from holding both of said offices. The constitution of Maine, Article 9, Section 2, prohibits the Adjutant General from holding the office of Judge, Register of Probate, Register of Deeds, Sheriff, Deputy Sheriff, or member of the legislature; and Article 3, Section 2, provides that no person belonging to any one of the three Departments of the Government shall exercise any of the powers properly belonging to either of the others. The fact that under some circumstances the Chief of the Highway Police may have the same "powers" as sheriffs would have no weight, because the legislature might give similar "power" to officers of the National Guard. The office of Adjutant General is an office under the Executive Department, as is also the office of Chief of the State Highway Police. Under Section 15 of Chapter 174 of the Public Laws of 1923, the Adjutant General has express authority to perform the duties ex officio of the "Chief of Staff, Quartermaster General, and Paymaster General"; and the same paragraph, by inference at least, recognizes the fact that the Adjutant General may have other duties, and provides that the senior officer during absence or disability may perform the offices of the Adjutant General. In other words, there is nothing that indicates that either the Adjutant General or the Chief of the Highway Police is a full time official, and the only incompatibility if there is any, is practical rather than constitutional. Whether one man can properly perform the duties of both offices is a question that the Governor and Council must decide.

Respectfully,

RAYMOND FELLOWS,

Attorney General.