

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