

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, 1930 - JUNE 30, 1932

STATE OF MAINE

REPORT

OF THE

Attorney General

for the calendar years

1931-1932

the obligation is a moral one is whether or not an appropriation should have been made before the act was performed. In this case the legislature appropriated relief to the widow of a public officer killed in the performance of his duties. The court presumed that the legislature investigated the facts and found them to be such as to warrant the making of the appropriation.

Summarizing, therefore, it seems to me that the litigation in this case involves no public interest such that the legal representatives of the state should take part in it in behalf of the officer sued. He should secure his own counsel. It is his privilege to apply to the legislature for a reimbursement of his outlay, and the courts will hardly go behind the legislative determination of such a request. It is not, however, for the Governor and Council, for the department with which he is connected, nor for the legal representatives of the state, to admit any responsibility or incur any expense in behalf of the state in the matter. Anything which they do is personal rather than official, and done as a matter of courtesy rather than right.

ELECTION FRAUDS—AROOSTOOK COUNTY

September 28, 1932

To the Honorable Governor and Council

Immediately after the recent state election I received complaints of irregularities in the voting methods in several of the communities in the northern part of Aroostook county. Details were not given, but it was said that the statutes for the conduct and protection of elections had been flouted.

It is not the duty of this department to investigate the proceedings at an election for the benefit of private citizens who may wish to check the apparent with the true result of the election; although of course the Governor and Council may call on me to aid them in assembling facts on any matter within their jurisdiction on which they are called to act. Nor is it particularly my duty to moralize on conditions generally. It is the duty of this department, in cooperation with local prosecutors and arresting officers to see that the criminal laws of the state are enforced.

On receipt of these complaints, therefore, I made arrangements for a simultaneous one day's investigation of the facts in eleven of these towns by ten investigators under the general oversight and direction of Richard K. Gould, Esq., a Portland attorney. The sheriff of the county on request furnished ten deputies to accompany and introduce these investigators; he himself went with Mr. Gould; and the county attorney, informed of the proceedings, stood ready to cooperate during or subsequent to the investigation. I believed that such an investigation, though necessarily incomplete, would give a trustworthy clue to the general situation. It seems to me that it has.

Since considerable public interest has accompanied the investigation, I am reporting my conclusions to the Governor and Council. My object was to learn whether there were indications that serious crimes were committed, such that further action by this department might be necessary. My conclusion is: No. Crimes are of two general classes,—felonies and misdemeanors. The election laws specify many misdemeanors which may be committed in connection with registration, balloting, and the returns, but no felonies. The investigation indicates plenty of irregularities in the method of conducting the registration and balloting, but if any misdemeanors were committed, they appear to have originated in carelessness, ignorance, and the practice of past years. As far as this department is concerned, these may be much better corrected by education and an enlightened public opinion in the future, than by seeking to punish any individuals on this occasion.

There are of course felonies which may originate from elections. Were these indicated by the investigation, grand jury action at the instance of this department might well be required. It would of course be a felony for election officials or voters to conspire together with the deliberate intent to produce a fraudulent election. Such a conspiracy might be shown by evidence from statements made and results reported, tending to show a concert of mind between different persons for the purpose of avoiding the election laws and falsifying the balloting or the returns. That was the theory on which the state proceeded in the case of several election officials in Portland some years ago, where the result of the polling showed that the ballot box had been stuffed with marked but unvoted ballots. The prosecution failed, and a verdict was directed against the state, because of lack of evidence to connect the defendants on trial with the wrongdoing. The present investigation wholly fails to substantiate any ground for proceeding on any such theory against any persons.

In short, I find no occasion for the taking of any action whatever by this department to enforce criminal liability upon any persons.

ELECTION LAWS—POWER OF GOVERNOR AND COUNCIL

October 18, 1932

To Hon. Wm. Tudor Gardiner
Governor of Maine

I have your inquiry regarding the action proper for the Governor and Council to take on the petition of Fred C. Sturtevant under date of October 12, asking an investigation on the eligibility of James Boyle of the town of Sumner to hold the office of representative to the eighty-sixth legislature of the State of Maine.

In my opinion this investigation is not within the province of the Governor and Council. The legislature itself is the judge of the qual-