

MAINE STATE LEGISLATURE

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no

September 22, 1944

To F. K. Purinton, Executive Secretary, Executive Department
From Abraham Breitbard, Deputy Attorney General
Removal of James Lewey, Special Constable for Pleasant Point Indian Reservation

With reference to the above subject in your inquiry of September 20th to me, I beg leave to advise you:

The act under which James Lewey was appointed provides as follows:

"The governor with the advice and consent of the council, is hereby authorized to appoint one or more reliable and well commended Indians, without pay, in each of the Indian tribes in this state, as special constables with like powers and duties of constables and police officers, within towns and cities, in the enforcement of the laws of the state, within the limits of the reservation of his tribe, with authority to take any offender before any court of competent jurisdiction, within his county.
"Sec. 2. Said constables shall be appointed for one year, and may be removed at any time by the governor." P. L. 1885, c. 493.

You will notice that while the appointment is made by the Governor with the advice and consent of the Council, the statute specifically authorizes removal "at any time by the governor." This provision would permit the Governor alone to remove him without the advice and consent of the Council.

I believe, however, that the safest course would be to have the Governor give him notice by ordering him to appear before the Governor at a time to be fixed by the Governor and show cause why he should not be removed as special constable under the commission which he now holds, because of representations in writing that have been made to the Governor:

- 1) That while holding said commission and engaged in the performance of his duties thereunder, he disabled himself from fully performing his duties by the excessive use of intoxicating liquor during the week of September 10, 1944;
- 2) That he was guilty during the week of September 10, 1944, of conduct unbecoming a peace officer of the State of Maine.

I doubt whether he would appear at such a hearing. The Governor could then make the order.

You will also notice that the statute authorized the appointment of one or more Indians as special constables. Thus the Governor may make an immediate appointment in accordance with the suggestion of Mr. MacDonald.

I am returning herewith the original communications from Mr. MacDonald and Oscar H. Brown, the Indian Agent, which you submitted with your memo to me.

Abraham Breitbard
Deputy Attorney General

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