

MAINE STATE LEGISLATURE

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December 15, 1948

To Herbert L. Pinkham, Sheriff, County of Lincoln

Your letter of December 13th received. . . in which you ask:

"1. Many calls, both by telephone and in person, come to the Court House, Wiscasset, relative to business of the Sheriff's office. Is there any provision made whereby a Sheriff's office is established in the Shiretown of a county, either by statute or common usage?"

Answer. Section 16 of Chapter 79, R. S. 1944, provides: "The county commissioners shall, in the shire town of their county, provide and keep in repair court-houses with a suitable room in each for the county law library; jails, with apartments for debtors separate from criminals; and fire-proof building of brick or stone for the safe-keeping of records and papers belonging to the offices of register of deeds, and of probate and insolvency, and of the clerk of courts. . . and also any other necessary buildings."

In my opinion the words "and other necessary buildings" include an office in a jail for the county sheriff, and if the commissioners fail to provide an office in the jail for the sheriff, they must provide one in some other county building. County commissioners in other counties provide an office for the sheriff at the Court House and also at the jail in counties where a jail is maintained. It is absolutely necessary for the law enforcement officers of the State to be in a position at all times to contact the sheriff of each county, and calls by telephone should come to a central office in a county building, as the law does not contemplate that the sheriff shall maintain an office in his private residence, for the reason that Section 165 of Chapter 79, which provides for the salaries of the several county sheriffs, provides free rental of the house or living apartment connected with the county jail in each county, including the necessary light and fuel; and all actual and necessary expenses for traveling and hotel bills within their respective counties and such necessary incidental expenses as are just and proper, incurred in the performance of their public duties, including all necessary expenses for aid in keeping the jails, shall be allowed by the respective boards of county commissioners of said counties and paid from the county treasuries.

Question 2. "I have endeavored to maintain a suitable place in the Court House where such calls may be received, by placing there during the working hours a department representative, same being paid from the estimated budget set up by the Board of County Commissioners. Am I permitted under statute the amount necessary for maintenance of such a place?"

My answer to Question 2 is in the affirmative. I cited the statute providing for your necessary expenses in the performance of your public duty as sheriff, in my answer to Question No. 1.

Question 3. "Within Lincoln County there is no organized police department. We, in conjunction with the State Police, take care of practically all violations which come to our attention. The Board of County Commissioners make a biennial estimate of the amount, in their opinion, necessary for proper enforcement. In this budget estimate, I am in no way consulted. In your opinion, must this estimate cover enforcement of all statutory laws within our jurisdiction? In case of murder or other major felonies, am I confined to expenditures as estimated by the County Commissioners, or is the amount expended for my department left to my proper judgment and discretion?"

Answer to Question 3. As I stated in my answer to Question No. 1, the Attorney General's office, the office of the Maine State Police at Augusta, and the office of the Secretary of State, especially the Motor Vehicle Division, expect a sheriff to have an office where he can be reached conveniently by telephone, and every person elected or appointed sheriff of Lincoln County must give a bond to the Treasurer of the State with at least three sufficient sureties, or a surety company bond in the amount of \$25,000., conditioned for the faithful performance of the duties of his duties, and to answer for all neglect and misdoings of his deputies. The office of sheriff is a Constitutional office. See Article IX, Section 3 of the Constitution of Maine. The office of county commissioner is a statutory office, and the statute imposes certain duties upon the board of county commissioners. Some of these I have enumerated in my answer to your Question No. 1. It is the duty of the county commissioners under the statute to furnish sufficient money for the sheriff's department for the proper performance of their duties in enforcing the laws of the State and the county. In case of murders or other major felonies you are to use your best judgment in the matter of expenditures of money for the investigation of the crimes and the apprehension of the criminals. While the statute does not require the county commissioners to confer with you in regard to the budget estimate for the enforcement of the criminal laws of the State in Lincoln County, yet I deem it advisable that they so consult you, so that you can explain any deficiencies in the budget for this purpose. The county commissioners are amenable to the statutes of the State, as well as any other persons, and if they wilfully violate the statutes of Maine, they can be prosecuted for so doing. It seems to me that you and the county commissioners should get together and have an understanding as to the situation with regard to furnishing sufficient money for the purpose of enforcing the laws, as this is a serious situation in our State, as our State is infested with law violators and hold-up men, and we in this office need all the co-operation that we can get from State and county boards which have to do with the enforcement of the criminal laws.

Ralph W. Farris
Attorney General

RWF:c.