

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

during the preceding calendar year. . . Said funds shall be used solely to defray the expenses incurred by the insurance commissioner in administering *all* fire preventive and investigative laws, rules and regulations. . .”

At the present time the Insurance Department is unable to keep abreast of the necessary inspections with regard to child boarding homes, because of insufficient funds and personnel, and it has again asked if it may accept funds from the Department of Health and Welfare in order that the Insurance Department may employ two additional inspectors to carry out these inspections. The answer must be, No.

The amendment to Section 243, Chapter 22, R. S. 1944, is a law designed to prevent a duplication of the Auburn baby-farm fire and in effect will tend to do just that. The inspections contemplated by this section are of such a nature that they should not be neglected. The section provides:

“. . . The insurance commissioner *shall*, if requested, direct such inspections to be made. . .”

It must be assumed that it is the intention of the legislature that laws enacted by them be put into effect.

It is, then, mandatory, a duty to be performed by the Insurance Department if alternative inspections are not made and inspections are requested of them.

As stated above, Section 29 of Chapter 85, R. S. 1944, provides a fund to be used solely to defray the expenses incurred by the Insurance Commissioner in administering *all* fire preventive and investigative laws, rules and regulations.

Without a doubt, inspection by the Insurance Department under the provisions of Section 243, Chapter 22, is embraced by the phrase, *all* fire preventive and investigative laws, rules and regulations,” in Section 29, Chapter 85.

The legislature has, in effect, by enacting Section 29 of Chapter 85, appropriated a sum of money to be used for a particular purpose, just as money is appropriated by that body for the functioning of the other departments and units of our State government. If that sum is insufficient, it is not contemplated that one department borrow from another; but it is presumed that action will be taken to secure additional funds from the proper source.

JAMES G. FROST  
Assistant Attorney General

January 28, 1952

To Robert L. Dow, Commissioner, Sea and Shore Fisheries  
Re: Municipal Regulations — Time Limit

We have your memo of January 22, 1952, relative to the length of time that municipal regulations enacted under the provisions of Section 62 of Chapter 34, R. S. 1944, as amended, remain in force.

The statute above mentioned permits a town by vote at an annual or special town meeting to make regulations concerning several matters. With respect to most of these regulations it is our belief that a town need not annually vote on such regulations, but that the usual regulation would remain in force until repealed.

However, with respect to the right granted by Section 62, permitting the town to provide for municipal licenses, it is felt that such licenses must be for a particular period of time. In other words, licenses under this provision should remain valid for a year or another definite period of time.

Of course, all regulations enacted by the town are subject to examination and possible repeal from time to time as conditions require; but quite generally the usual regulation remains in effect until repealed.

JAMES G. FROST  
Assistant Attorney General

January 29, 1952

To Honorable Frederick G. Payne, Governor of Maine  
Re: Cumberland County Sheriff and State Troopers

With reference to letter from you relative to request of Charles Murphy, foreman of the Grand Jury in Cumberland County, that, as the Governor and Council had seen fit to exonerate Sheriff Dearborn on charges of unfaithfulness and inefficiency in office, it is the feeling of the majority of the Grand Jury that State Troopers James Adams and Stephen Regina should also be absolved from blame, the following is offered:—

For misconduct of a sheriff the Governor and Council have authority to remove him from office. There seems to be no other, minor, disciplinary action that can be taken against a sheriff.

With respect to misbehavior by members of the State Police, there are two courts martial procedures, summary and general, which provide that a person being guilty of misbehavior may be suspended from duty without pay, demoted in rank, or fined; or, under a general court martial, given such other disciplinary measures as seem proper, or dismissed.

With respect to Troopers Adams and Regina, these two men were court martialled for their participation in the slot machine affair, but were not removed from their positions. Apparently, then, some minor disciplinary measure was taken against them, there being insufficient misbehavior, apparently, to warrant removal from their positions.

With respect to Sheriff Dearborn, the Governor and Council found that, in so far as his activities were concerned, there was insufficient evidence to remove him from office. The two cases, then, were similarly handled and arrived at similar conclusions. None of them was guilty of such an offense as was sufficient to remove him from office or position. The fact that the trying body could, in the case of the troopers, impose minor disciplinary action, whereas in the case of the sheriff none was possible, does not ultimately render their decisions different.

To the effect that Sheriff Dearborn was not exonerated, but rather that his activity was not sufficient to warrant removal from office, the following are two quotations from the Governor's decision:—

“The Council wishes me to express the following: That it was their united opinion, together with the Governor's, that the facts as presented were not sufficient to warrant removal of the Sheriff for inefficiency in office.”