

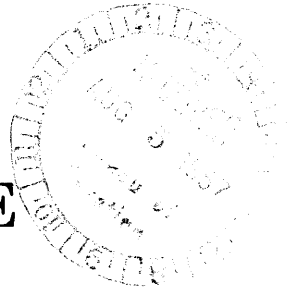
MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT
OF THE
ATTORNEY GENERAL

for the calendar years
1955 - 1956

“2. Is the Board empowered to hold special meetings on call of the chairman or commissioner?”

Confirming an oral opinion given by the Attorney General a short time ago, we would answer your questions in the following manner:

1. Your policy of holding monthly meetings is legal. We would, however, advise that you comply with that portion of Section 3 which calls for quarterly meetings in the office of the department, such meetings being, in our opinion, mandatory, and being the minimum compliance with the statute.

2. The Board is empowered to hold special meetings on the call of the chairman or the Commissioner. We would suggest that in such instances the 5 days' notice in writing be given.

JAMES GLYNN FROST
Deputy Attorney General

December 15, 1955

To Honorable Edmund S. Muskie, Governor of Maine

Re: Creation of a Committee by the Governor

We have your request for an opinion as to your right to appoint a committee to inquire into the price differential of gasoline and fuel oil between the State of Maine and other States, more particularly Maine and Massachusetts.

We are assuming that, implicit in the above question, are the further questions of the right to reimburse the members of such committee for services rendered and the right to create a committee that would have some authority, that is to exercise a portion of the sovereignty, or in some respect represent the sovereign State of Maine.

We are of the opinion that you are without authority to create such a committee.

The Governor of the State of Maine is an executive officer, and his authority is limited by the Constitution and statutes of the State.

We have been unable to find either constitutional or statutory provision authorizing you to appoint such an officer.

Without such express authority, then the act of creating the office would be an infringement upon the powers of the Legislature, which body alone has the right to determine whether or not the establishment of such an office is necessary, its duties, powers and duration.

In the case of *State v. Butler*, 105 Me. 91, the Legislature by Act had authorized the Governor to create the office of special attorney for any county, the office to continue during the pleasure of the Governor.

The Court held that the Act was unconstitutional because it authorized the Governor to create the office, whereas the creation of a public office is a legislative power, and such cannot be delegated.

FRANK F. HARDING
Attorney General