STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

notice, did, however, state comprehensively the several subjects on which the director sought enlightenment. In our opinion the notice was sufficient."

This is cited to indicate the type of notice necessary and further to point out the functions of the Commission.

In my opinion, a hearing held three years ago regarding the subject of bulk tank premiums would not contain proper evidence for the Commission to base a decision on at this time. I conclude this for two reasons:

(1) during the interim conditions may have changed and
(2) the Commission felt that the evidence presented at the hearing on June 21, 1956, was not sufficient to establish a premium.

My gratuitous advice to the Commission in considering the bulk tank premium is to investigate and call a public hearing to determine the amount of the increase.

I did not attempt to answer your last two questions since I do not have enough factual information and these questions, in my opinion, have no bearing on the main issue here involved.

GEORGE A. WATHEN
Assistant Attorney General

October 16, 1959

To: Carleton L. Bradbury, Commissioner of Banks and Banking

Re: Ever-Ready-Chek Plan by Small Loan Companies.

We have your memo of September 10, 1959, and the attached material relating to "Every-Ready-Chek Plan" with the request that we examine the "Plan" to determine if such "Plan" violates any provision of the small loan law.

In essence the "Plan" works as follows:

Upon application, the client is extended a line of credit, definite in amount, but not exceeding $2500. This credit is evidenced by undated check or checks issued to the client, in the total amount of the credit extended.

When and if client desires to use the credit, he endorses and cashes the check, or one of the checks, if more than one such check is issued. At that time, as stated on the sample form supplied by the Small Loan Company, a loan is made.

> "The endorsement by me of any such check and its negotiation shall constitute a loan to me in the amount of the check, effective as of the date of such check, and each such loan shall constitute a renewal of this agreement which will include the amount of the aforesaid check and any prior unpaid principal balances outstanding as of the date thereof . . ."

Payment of the loan is made in monthly installments, which payments may vary in amount, from month to month, as checks are cashed.

Monthly billings would be made to the borrower showing debits and credits to his account.

The interest rate on the loan would, of course, vary from time to time as the balance on the loan were increased or decreased. No passbook in which all payments are recorded is furnished. The monthly statement would supplant such passbook.

We are of the opinion that the "Plan" as submitted to you, and as briefly outlined above, violates express provisions of the small loan law.

Under the "Plan" a prospective borrower has not obtained a loan until such time as he endorses and negotiates a check. While his top credit is established in a piece of paper he has in hand, he receives no further word from the loan company until a date some time after he "borrows" a sum of money. Periodically thereafter he receives a statement, but the mailing of statement has no relationship to the time of the loan; many such loans could in practice, be made, after receipt of the first such statement, before the receipt of a monthly statement.

Such "Plan" is in conflict with our small loan law, especially Chapter 59, section 219, Revised Statutes of 1954, which provide that the loan company shall:

> "I. *Deliver to the borrower, at the time a loan is made,* a statement . . . showing in clear and concise terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, and the rate of interest charged.
>
> "II. Give to the borrower a plain and complete receipt for all payments made on account of any such loan *at the time such payments* are made, . . ."

It is clear that the formula of the "Plan" does not permit compliance with the above-quoted provisions of law, which provisions of law are mandatory upon the licensee small loan company.

JAMES GLYNN FROST
Deputy Attorney General

October 19, 1959

To: Governor Clinton A. Clauson

Re: Sheriff, Removal of

We are herewith returning to you the petitions requesting that the sheriff of be removed from office.

The petitions were presented to this office with the request that we determine if such petitions constitute an adequate complaint under the terms of the constitution.

It is our opinion that the petitions are insufficient to grant to the governor and council the necessary authority to proceed to a hearing.

The petitions are in the following form:

> "Whereas Article IX, sec. 10, of the Constitution of the State of Maine provides ". . . whenever the governor and council, upon complaint, due notice and hearing shall find that a sheriff is not faithfully or efficiently performing any duty imposed upon him by law, the governor may remove such sheriff from office and with the