

# MAINE STATE LEGISLATURE

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June 26, 1972

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T.32 55-P  
Private Detectives and Watch, Guard or Patrol Agency

**SYLLABUS:**

A statute authorizing the Governor and Executive Council to grant licenses does not require posting and confirmation by the Executive Council as in the cases of civil, judicial and military officers.

**FACTS:**

The 105th Legislature in Special Session enacted P.L. 1971, Chapter 582, An Act Relating to the Regulation of Private Detectives. By this Act the Governor and Council issue licenses to private detectives, watch, guard or patrol agencies.

**QUESTION:**

Is the Governor required to post the names of potential licensees for Executive Council confirmation.

**ANSWER:**

No.

**REASONS:**

The Constitution of Maine Article V, Part First, Section 8, says:

"He shall nominate, and, with the advice and consent of the Council, appoint all judicial officers (except judges of probate), coroners, and notaries public; and he shall also nominate, and with the advice and consent of the Council, appoint all other civil and military officers, whose appointment is not by this Constitution, or shall not by law be otherwise provided for, except the land agent; and every such nomination shall be made seven days, at least, prior to such appointment."

The above section provides that the Governor shall nominate judicial, civil and military officers. He must nominate at least seven days before appointment with advice and consent of the Council.

An officer is one to whom is delegated a portion of the sovereign power of the State. Cf. *Burkett ex rel. Leach v. Ulmer*, 137 Me. 120. *Bowden v. Cumberland County* 123 Me. 359.

Private detectives, watch, guard or patrol agencies are not delegated any portion of the sovereign power of the state. They are simply licensed to perform such duties for which they are employed, generally by private persons or businesses. Hence, they are not subject to nomination by the Governor and confirmation by the Council.

An application for a license need only be approved by the Governor and Council acting as a bipartite body in such manner as they may determine.

George C. West  
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