

MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

August 1, 1977

Honorable Barry L. Valentine
P.O. Box 61
York Harbor, Maine 03911

Dear Representative Valentine:

We are responding to your request for information concerning removal of municipal officials from office. Your specific question is whether there are any provisions under the Constitution or statutes of Maine for removal of a town selectman.

Our research indicates that there is no provision in Title 30 M.R.S.A. (Municipalities and Counties) and no specific provision in the Constitution for removal of a town selectman. There is, however, a constitutional provision for removal of officers in general, found in Article IX, Section 5, which reads as follows:

"Every person holding any civil office under this State, may be removed by impeachment, for misdemeanor in office; and every person holding any office, may be removed by the Governor on the address of both branches of the Legislature. But before such address shall pass either House, the causes for removal shall be stated and entered upon the journal of the House in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defense."

To the best of our knowledge, the foregoing constitutional provision for removal by impeachment or address has never been used to remove town selectmen. However, these options may be available if it is determined that the constitutional provision was intended to extend to municipal officials.

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In addition to the possible application of these constitutional provisions, it also may be possible that there are provisions for such removal set forth in the charter of any given municipality. This alternative would depend, of course, upon the specific provisions in the particular charter.

Since the question of removal of municipal officials is one that has arisen on several other occasions, and since it is a subject which is not treated by statute, this may be a matter which the Legislature would wish to address in some form of suitable legislation.

Please continue to call on us whenever you believe we may be of assistance.

Sincerely,



S. KIRK STUDSTRUP
Assistant Attorney General

SKS:mfe