

MAINE STATE LEGISLATURE

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STATE OF MAINE.

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1908.

WATERVILLE
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required before the insurance commissioner can give his official certificate to the association, and it must be made before the association shall incur liabilities or issue any benefit certificate, because before the association can thus engage in business, it must receive the certificate from the insurance commissioner. Said section 139, in express language states that this \$1,000 is a part (and therefore not the whole) of the emergency or reserve fund.

The deposit with the treasurer of state of the fifteen per cent of the total mortuary receipts for the year ending December 31st, noted in said section 140, appears to be a further, distinct and an annual deposit required of the association. It is credited to the emergency or reserve fund and therefore is another part thereof. It is a deposit made annually after the association has been organized and appears to be entirely additional to the said deposit of \$1,000 provided for in said section 139.

STATE ROAD MATTER.

*Hon. Paul D. Sargent, State Commissioner of Highways,
Augusta, Maine:*

DEAR SIR:—Referring to your inquiry concerning the State road law it would seem to us that under Public Laws of 1907, chapter 112, provision is made for an available fund for permanent road building consisting of three factors, as follows:

(a) A portion of the amount annually raised and appropriated by the city for the repair of its highways, this amount depending upon the valuation of the city; (b) a special appropriation by the city equal to 50% of the amount required to be set apart, and herein denominated as (a); (c) the fund which comes from the State.

Considering the situation all over the State and the various parts of the State road law it would seem to us technically that we must advise that all these funds as a joint fund should be spent under the act in question, practically under your direction. To establish a different precedent would be unwise if our position is tenable. It seems to us that the State road law justifies our position. See for example, Public Laws 1907, chapter 112, section 7, where the fund of the various parts above cited is noted as "a *joint fund* for the permanent improvement," etc.

It would also seem clear, technically, that under section 8 of said chapter 112, when the work is of a sufficient size the law requires competitive bids.

STATE ROAD LAW.—CONTRACT WORK.

*Hon. Paul D. Sargent, State Commissioner of Highways,
Augusta, Maine:*

DEAR SIR:—I have the honor to inform you that this department has considered the subject matter of your recent inquiry concerning your right as State Commissioner of Highways to insist upon *contract* work under section 8, of chapter 112, of the laws of 1907, in the expenditure of sums properly raised by the towns entirely outside of the so-called "joint fund" specified in the State road act, to wit, said chapter 112, of the laws of 1907.

We have looked through the act with much care and we do not find any *specific authority* for you to *so* assume control of any fund except the so-called "joint fund." We advise that you should not attempt to exercise authority beyond what is clearly given. We therefore recommend that your administration in this matter should be confined to the "joint fund."

For the same reason where a town by an independent and distinct vote has raised money entirely outside the "joint fund" and to be devoted to drainage, since the State road act above referred to does not clearly provide that you can insist upon contract, etc., as noted in said section 8, we would similarly advise that you should not attempt to assume authority to so require the contract work, etc., covering the drainage.

STATE ROAD LAW.—COMPLETION OF CONTRACT.

*Hon. Paul D. Sargent, State Commissioner of Highways,
Augusta, Maine:*

DEAR SIR:—Your inquiry as to the liability of a town to complete its contract made for the construction of a section of State road under Public Laws, 1907, chapter 112, section 8, has been duly received and we have given the same consideration.