

# MAINE STATE LEGISLATURE

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STATE OF MAINE.

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REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1908.

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WATERVILLE  
SENTINEL PUBLISHING COMPANY  
1909

have the honor to reply that I have given the subject matter examination, and advise as follows:

It is my opinion that all parts of R. S., chapter 23, including sections 1 to 15 inclusive, and amendments thereof and additions thereto, relating to ways, and sections 99 to 105 inclusive, and amendments thereof and additions thereto, relating to State roads should be construed together, while any or all of the same may be in force. Similarly I believe that all parts of R. S., chapter 23, and amendments thereof and additions thereto, should be construed so far as possible (except parts expressly repealed) with the so-called State road law of 1907, namely, chapter 112, of the Public Laws of 1907. Bearing these principles in mind, upon a careful consideration of all the statutes in question, it is my opinion that R. S., chapter 23, sections 1 to 15 inclusive, and any amendments thereof or additions thereto, giving the county commissioners authority to alter highways, have not been repealed, and that county commissioners, therefore, have authority in proper cases, on procedure before them, to make alterations in question.

#### STATE ROAD LAW.—ARTICLES IN TOWN WARRANT.

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

DEAR SIR:—I have the honor to acknowledge receipt of your communication of the 31st, making inquiry for your official use as to proper form of articles, which should be inserted in the warrants for town meetings under section 5, of chapter 112, of the Public Laws of 1907, entitled "An Act to provide for State aid, and for the expenditure of other public moneys, in the permanent improvement of main highways or State roads."

Upon an examination of the section in question, it would seem as if the two things required by the towns are first, to adopt the provisions of the act in question, and second, to appropriate and set apart for the permanent improvement of the main highways such sum of money as is contemplated and directed by said section. I would, therefore, suggest for your consideration as proper, the following articles, namely:

"Article . . . To see if the town will vote "yes," or "no," upon the adoption of the provisions of chapter 112, of the Public Laws of Maine, for the year 1907, relating to the appropriation of money necessary to entitle the town to state aid for highways for the year 1908."

"Article . . . To see if the town will raise, appropriate and set apart, for the permanent improvement of the main highways within the town, such sum of money as is contemplated and directed by section 5, of chapter 112, of the Public Laws of Maine, for the year 1907."

### CONTRACT FOR STATE ROAD.

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

DEAR SIR:—Replying to the following inquiry, may any or all of the bids now submitted for the construction of the State road at B be rejected, I have the honor to advise as follows:

Chapter 112, section 8, of the Public Laws of 1907, provides as follows:

"The selectmen or other local officers having jurisdiction and the state commissioner of highways shall have the right to reject any or all bids, if in their opinion good cause exists therefor, but otherwise they shall award the contract to the lowest responsible bidder."

This language seems to make the selectmen or other local officers having jurisdiction, and the State commissioner of highways, a joint board for determining whether any or all bids may be rejected. So far as the action of the municipal officers is concerned, it was settled in this State as early as 1840, and has been the law of this State ever since, "that the selectmen of towns, being agents for the public and discharging duties of a political or municipal character may act by majorities." *Stevens vs. Foss*, 18 Me. 19. If the board of municipal officers is not unanimous to reject or accept bids, then we are of opinion that a majority of the selectmen or other local officers may act with the State commissioner of highways to reject or accept the bids under the act of 1907 above referred to. It would,