

# 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  
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1909

"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,

therefore, appear necessary for you to have a meeting with the selectmen or other local officers having jurisdiction, and if a majority of those selectmen or other local officers, and yourself, agree to reject any or all bids, we think it would be competent for you to so act.

The act for 1907 gives the right to reject any or all bids, "if in their opinion good cause exists therefor." We regard this power as being judicial rather than ministerial, and in the absence of any fraudulent or improper conduct on the part of the persons making the decision, we think that decision would be final. It would only remain for you to form an opinion for good cause and if in your opinion (meaning in the opinion of yourself and a majority of the selectmen or other local officers) a good cause did actually exist, then we think you would have a perfect right to reject any or all of the bids. On the other hand, if in the opinion of the majority of the selectmen or other local officers and yourself, there was not good cause to reject any or all of the bids then the statutes plainly require that you should award the contract to the lowest responsible bidder.

### SALARIES OF PUBLIC OFFICERS.

*Hon. Charles P. Hatch, State Auditor, Augusta, Maine:*

DEAR SIR:—Relative to your inquiry of this department which practically is whether or not the payment of the "salaries of the superintendent, four assistants, the steward and treasurer, chaplain and matron" of the insane hospital can be made from the appropriation for "Salaries of Public Officers," I have the honor to report as follows: It is my opinion that such payment can be made as within the spirit and intent of our existing laws.

In your communication to this department you say:

"It has been the practice heretofore to pay the salaries of superintendent, four assistants, the steward and treasurer, chaplain and matron of the insane hospitals from the appropriation for 'Salary of Public Officers.'"

You further call our attention to section 20 of chapter 2, of the Revised Statutes, which provides that,

"Money appropriated for the various branches of expenditure in the public service shall be applied solely to the object for which the appropriation is made."