

# MAINE STATE LEGISLATURE

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**PUBLIC DOCUMENTS**

OF THE

**STATE OF MAINE**

BEING THE

**REPORTS**

OF THE VARIOUS

**PUBLIC OFFICERS  
DEPARTMENTS AND  
INSTITUTIONS**

FOR THE TWO YEARS

**JULY 1, 1926 - JUNE 30, 1928**

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

# STATE OF MAINE

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## REPORT

OF THE

# ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1926

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PRESS OF MERRILL & WEBBER CO.  
AUBURN, MAINE

Receipt of your request of the 7th, inst., for an opinion relating to the legality of certain balances being transferred from the State School Fund and State Equalization Fund into the State Contingent Fund, is hereby acknowledged.

Our answer is in the negative. Revised Statutes, Chapter 2, Section 85, as amended by Chapter 226, Public Laws of 1917, and as further amended by Chapter 96, Public Laws of 1921, provides that all balances of unexpended appropriations which exist on the first day of January of each year and which are not continued by law shall be transferred and credited to the State Contingent Fund.

In Chapter 123, Section 15, of the Public Laws of 1921, it is provided that "All unexpended balances of the State School Fund or of any funds or appropriations deducted therefrom shall, at the close of the year for which said fund or appropriation is available, be added to the permanent school fund of the State."

Chapter 69, Public Laws of 1921, provides that the State fiscal year shall end June 30, of each year. Construing the foregoing, it is our opinion that unexpended balances of the State School Fund cannot, in any event, be lawfully transferred to the State Contingent Fund prior to the end of the year, June 30th.

Yours very truly,

SANFORD L. FOGG;

*Deputy Attorney General.*

February 25, 1925.

*To His Excellency Ralph O. Brewster, Governor of Maine,  
Augusta, Maine.*

DEAR GOVERNOR BREWSTER: In answer to your request for a construction by this department of Section 59 of Chapter 4 of the Revised Statutes, as amended by Chapter 87 of the Public Laws of 1917, relative to appropriations by cities and towns for advertising, this department makes the following reply:

Section 59, as amended, provides as follows:

"Any city or town may appropriate any sum, not exceeding one mill on a dollar, based on the valuation of the preceding year, to be ex-

pended and used for advertising the natural resources, advantages and attractions of such city or town."

The usual act of incorporation of a city or town provides that certain defined territory, with the inhabitants therein, be incorporated into a city or town by the name designated. The act of incorporation has none of the elements of a contract but it is simply an act of legislation enacted for the public good. The citizens of the city or town, as such, have no power to change even its name. Thus created it becomes an institution of the State, established for a public purpose and for effecting those purposes, it is invested with certain corporate powers, and is charged with corresponding duties; all either expressly or impliedly provided for in the statutes and adapted to their peculiar nature. Within the proper scope of these purposes, powers and duties, its corporate acts bind the corporation. While all others being foreign thereto, are of no binding effect.

Among the corporate powers of a town is the power given by virtue of Section 59 to appropriate money to be expended and used for advertising the natural resources, advantages and attractions of the city or town. It is the opinion of this department that any city or town in Maine may vote to raise and appropriate for advertising any sum not exceeding one mill on a dollar, based on the valuation of the city or town for the preceding year, provided that the money is used for advertising the natural resources, advantages and attractions of the municipality making the appropriation. The agency employed by the town to expend the money appropriated is not material, so long as the money is "used for advertising . . . . such city or town." To illustrate, it would not be proper for some Aroostook County town to raise money to advertise the attractions of Cumberland County, nor would it be proper for the town of Kittery to appropriate money for advertising the advantages and attractions of Moosehead Lake region. A description of the sea coast, our farms, our lakes and forests, might, however, be so written that it would advertise the resources, advantages and attractions of, and apply to, each and every town and city in the state. If the advertising circulars contain a general description of the natural resources, advantages and attractions of the state, and *as a matter of fact* the natural resources, advantages and attractions of the

city or town appropriating the money are advertised, or if in the general advertisement the name of the town which has appropriated money and its resources, advantages and attractions are given, it is the opinion of this department that such advertising would come within the purview of the statute.

Very respectfully,

RAYMOND FELLOWS,  
*Attorney General.*

March 26, 1925.

*Hon. Ralph O. Brewster, Governor of Maine, Augusta, Maine.*

MY DEAR GOVERNOR BREWSTER: Section 20 of Chapter 45, Revised Statutes, provides as follows:

"The officers ordering the commitment of a person unable to pay for his support or becoming unable to pay for his support after commitment, or their successors, or any officer with like power to commit, shall in writing certify that fact to the trustees and that he has no relatives liable and of sufficient ability to pay for his support, and such certificate shall be sufficient evidence in the first instance to charge the town where the insane resided or was found at the time of his arrest for the expenses of his examination and commitment, and to charge the state for the expenses of his support in the hospital, and the treasurer of the hospital shall charge to the state the reasonable expense of his support which shall be paid from the state treasury upon itemized bills therefor audited by the state auditor and approved by the governor and council."

Section 21 of the same chapter provides that the trustees of the hospital may, in their discretion, investigate or cause to be investigated, allegations contained in any certificate provided for in Section 20 and if such investigation discloses the fact that any person was or may be liable for the support of the insane person mentioned in any such certificate, the trustees shall collect, by action in the name of the State if necessary, all sums which have been paid by the State to the hospital for board of such insane person, from persons lawfully liable as aforesaid to pay for the support of such insane person. The foregoing is with reference to the support of persons committed charged to the State.

Section 28 of the same chapter has reference to the liability