

# 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, 1928

May 18, 1927.

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

DEAR GOVERNOR BREWSTER:

In re State and State Aid Highways.

Answering your inquiry regarding the authority of the Highway Commission to lay out, construct and maintain a system of state and state aid highways, I am pleased to inform you that Section 7 of Chapter 25 of the Revised Statutes, as amended by Chapter 258 of the Public Laws of 1917, provides as follows:

"The commission shall lay out, construct and maintain a system of state and state aid highways substantially as herein described, and the expense of constructing such state highways shall be borne wholly by the state, except as otherwise provided in section twenty-two. The commission shall be sole arbiter of the designation of the state and state aid highways, but shall, as to state highways, after reasonable notice by publication give all parties interested an opportunity to be heard thereon before commencing such construction. Except as provided in section twenty-two, the construction of state highways shall be paid for wholly from the proceeds of the state bond issue and the fund for the construction of state highways herein provided for and such proceeds of the aggregate of such bonds and such state highway fund shall be expended equitably among the various counties."

In Section 6 of said Chapter 25, as amended by Chapter 258 of the Public Laws of 1917, and by Chapter 215 of the Public Laws of 1921, it is provided as follows:

"The commission may from time to time make and shall enforce rules and regulations relating to construction and maintenance of all state and state aid highways and relating to the manner of conducting all investigations and hearings and the administration of its office, powers and duties, subject to the provisions of this chapter; and shall, with the approval of the governor and council, direct the expenditure of all moneys for construction and maintenance of all state and state aid highways."

From the foregoing, it is evident that the Commission has exclusive power to lay out a system of state and state aid highways, and that they shall, with the approval of the governor and council, direct the expenditure of all moneys for construction and maintenance of all such highways.

In Section 13 of said Chapter 25, it is provided that:

"The commission may alter, widen or change the grade of any state or state aid highway whenever in its judgment the public exigency may

require, and may lay out, establish and open a new highway as a state or state aid highway. It may also discontinue a highway as a state or state aid highway and the same shall be thereafter maintained by the town or county originally liable therefor except as herein otherwise provided."

Trusting that the foregoing will give you the information you you desire, I am,

Yours very truly,

SANFORD L. FOGG,  
*Deputy Attorney General.*

June 1st, 1927.

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

DEAR GOVERNOR BREWSTER: I have examined the letter dated May 20, 1927 from Edward P. Warner, Acting Secretary of the Navy, which letter contains offer of disposal to the State of Maine under Act of June 7, 1926, of site of the former U. S. Naval Coal Depot on Frenchman's Bay, containing fifty-five acres, at an appraised value of fifty-seven hundred fifty dollars. Under "An act to authorize the disposition of lands no longer needed for naval purposes" 44 Stat. 700, the state has six months option after said date of May 20, 1927, to acquire this property at the appraised value, or to notify the Secretary of the Navy that the State desires to exercise the option but has not the money available, in which case it would be held for a period of two years to enable the State to exercise the option, and to pay. The property is limited to the use "for public purposes", and "upon cessation of such retention and use shall revert to the United States without notice."

Under Chapter 164 of the Public Laws of 1925, relating to the contingent fund, the Governor and Council have authority "to pay bills arising out of some emergency\*\*\*not provided for by the legislature", upon warrants drawn upon the contingent fund, duly audited. The question of whether or not this is desirable property for the State to own is a matter for the Governor and Council to decide, and without expressing any opinion as to the legal right under the Laws of Maine of the Governor and Council to acquire valuable property for the State