

MAINE STATE LEGISLATURE

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May 5, 1928

To Elbert D. Hayford, State Auditor
Re: Use of Sinking Fund to pay off Bonds and Interest Thereon.

I am in receipt of your inquiry relative to the validity of Council Order of April 24, 1928, which order reads as follows:

"ORDERED, That \$579,000.00 be hereby made available from the Sinking Fund Reserve for payment of maturing highway bonds and interest accruing on highway bonds, prior to June 30, 1929; and that the transfer of the foregoing amount be authorized from the appropriate accounts of Maintenance to the account of Improvement of State Roads; and that \$400,000.00 be hereby made available from the Sinking Fund Reserve for payment as aforesaid and for credit on payments heretofore made during the present fiscal year on maturing interest coupons on highway bonds to the amount necessary to absorb the foregoing allotment, and that the transfer of the aforesaid amount be authorized from the appropriate accounts of Maintenance to the account of Construction and Reconstruction of State Highways."

I have carefully examined this order in relation to Chapter 164 of the Public Laws of 1925, the various constitutional amendments and statutes providing for bond issues, and the statutes pertaining to state and state aid highways, and amendments thereto, and do not find that the same is illegal. Under the act establishing the sinking fund reserve it is "to be applied to the payment of outstanding obligations, . . . and to the purchase of outstanding bonds". The word "obligations" is a very broad term, and has been construed by the courts to embrace any debt, payment or legal duty. With the wisdom of passing such an order as the one in question, neither your department nor this one is concerned. That is a matter wholly for the determination of the Governor and Council, and the Governor and Council have acted. If the Legislature intended to prevent the Governor and Council from passing an order of this nature it should have so stated, and in my opinion it has not done so. The payment of bonds, the interest on bonds accrued and accruing, the statutory promise of the state to meet appropriations of towns under state aid highway statutes, as well as various other highway requirements, are all undoubtedly "obligations".

Raymond Fellows
Attorney General

RF/P