

MAINE STATE LEGISLATURE

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March 10, 1933

Hon. William S. Owen
State Purchasing Agent
Augusta, Maine

Dear Sir:

You have requested the opinion of this office on three questions as follows:

1. Has the Governor and his Council, or any individual member thereof, any authority by virtue of his office, to make an award to any firm or individual with reference to any contract for the purchase of supplies, materials, and equipment, required by the state government, or by any department or agency thereof?

The answer to this question is that the Governor and his Council, or any individual member thereof, has no authority under Chapter 216 of the Public Laws of 1931, commonly referred to as the "Code", Section 18, as far as paragraph 2, provides as follows:

"The department of finance, through the bureau of purchases, shall have authority:

- "1. To purchase all supplies, materials and equipment required by the state government or by any department or agency thereof subject to the provisions set forth in this act."

In line with this provision it must be pointed out that there were no other provisions of the Act which give the Governor and Council, or any individual member of the Council, any authority to make purchases. The last paragraph of Section 1 provides that the Act shall not be construed to apply to the Executive Council except when expressly specified. That fact, however, in no wise affects the answer to your question since before the passage of the Act the Executive Council had no power to purchase supplies or make awards, and no individual member of the Council enjoyed such a privilege.

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Your Question 2 is as follows:

"If so, what is the extent of such authority, and with what class of materials or transactions does such authority, if any extend?"

The answer to Question 1 being as it is, the answer to Question 2 is obvious.

Your Question 3 is as follows:

"What, if any, is the personal financial liability of the Commissioner of Finance or the State Purchasing Agent, for contracts and awards made by him at the direction of the Governor and his Council, or any individual member thereof?"

The answer to this question is that the Governor and Council have no control over contracts and awards made by the Commissioner of Finance or the State Purchasing Agent, nor does any individual member of the Council have such control. The duties of the Commissioner of Finance or the State Purchasing Agent are specifically enumerated in the above Chapter 216, and there is no provision that the acts performed by the Commissioner of Finance or the State Purchasing Agent are to be in any way directed or controlled by the "Code" is obvious and any such attempt to in any way unduly influence the Commissioner of Finance or State Purchasing Agent is repugnant to the purposes which brought the "Code" into existence.

Most cordially yours,

Attorney General

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