

MAINE STATE LEGISLATURE

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February 17, 1944

To J. A. Mossman, Commissioner of Finance
From Frank I. Cowan, Attorney General

I have your memo of February 11th in regard to the billing of Mr. Purinton as occupant of the staff house. The statutes have never contemplated that the State shall be in the business of owning and leasing real estate to private individuals. The problem has arisen, due to a series of accidents. The State has kept certain buildings on properties purchased for other uses, instead of tearing those buildings down.

The fact that there is no statutory provision for the protection of the property does not mean that they cannot be cared for, proper repairs made on them, and rent collected for their use. In the absence of statute the Governor and Council have general authority to protect the rights of the State.

P. L. 1943, Chapter 176, section 2, in its use of the words "leased property" was referring to property held by the State on leasehold.

The Governor and Council are the only State officials having authority to lease to individuals State-owned property. They can, if they see fit, delegate to some State official authority to perform the actual duties in connection with the matter.

There is nothing in the statutes to suggest that it would be improper for the Governor and Council to delegate this authority to either the superintendent of public buildings or the State purchasing agent.

In connection with the restaurant in the State House, your statement of facts indicates that Council Order No. 145, dated April 8, 1943, provides an arrangement for operating the restaurant shall be made by the superintendent of buildings. As I recall the lease, which bears date July 14, 1943, Mr. Farrington felt at that time that the Purchasing Agent was a proper person to execute it, although I know there was considerable talk about it and the lease lay around here for some time. I don't remember who in this office finally wrote a memorandum on the subject. I don't know whether or not Council Order No. 145 was called to the attention of Mr. Farrington. I do recall that Mr. Farrington spoke to me about some difficulty that Mr. Thompson, superintendent of public buildings, on April 8, 1943, and Mr. McAuley had about coming to terms on the lease. Thompson was apparently authorized and instructed to make the arrangements under the provisions of the last sentence of the first paragraph of Section 29 of R.S. Chapter 2. Some confusion may have arisen by reason of the change in the incumbent of the office of superintendent of public buildings. In any case, it seems to me, a new lease should, within a reasonable time, be prepared to cover all the property in connection with the restaurant facilities, said new lease to be executed either by the Governor and Council or by reason of a new Council Order, the original Council Order having been drawn to apply to the office of superintendent of public buildings as it existed at the date of the Order.

Frank I. Cowan
Attorney General

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