

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**R E P O R T**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1949 - 1950**

by a system of competitive bids in accordance with the provisions of the following section and such other conditions and restrictions as the governor and council may from time to time prescribe."

While we do not quote herein, attention is also directed to Sections 44, 45, 46, 47, and 48 of Chapter 14, which sections are designed to implement Section 43 quoted herein. A reading of the pertinent sections of Chapter 14 makes it appear obvious that contracts requiring the prior approval of the superintendent of public buildings and final approval by the Governor and Council are those contracts involving construction or repair of State buildings when the cost of the same exceeds \$3,000, which contracts must be awarded by a system of competitive bids in accordance with the provisions of law. This system contemplates the performance of contracts by independent contractors and not repair and construction work performed by persons directly employed by the State. It follows therefore that mere expenditures for supplies and materials for the use of State employees in maintenance, repair and construction work within the regular scope of their duties, either in the respective departments or under the supervision of the superintendent of buildings, do not need Governor and Council approval, any more than the purchase of consumable supplies for the use of any other State employees.

I think that it should go without saying that supplies for the use of State employees in repairing, maintaining and doing minor construction work on State buildings are to be purchased in accordance with the State's standard practice as provided in Chapter 14.

JOHN S. S. FESSENDEN  
Deputy Attorney General

December 19, 1949

To Fred M. Berry, State Auditor

Re: Contract between State of Maine and M.C.R.R., Carleton Bridge

I received your memo of December 9th calling my attention to the new contract which was consummated with the M.C.R.R. relating to their share of the cost of the Carleton bridge, which reduced their annual payment from \$76,569.90 per year to \$70,000. per year. In arriving at the new figure of \$70,000. the amount deposited in the Kennebec Bridge Sinking Fund and recorded on the State's books at June 30, 1948, of approximately \$102,000. was considered. You state in the second paragraph of your memo that since this contract was made, you have analyzed the figures of the Sinking Fund and found that a credit of \$30,865.57 was included in the account as of June 30, 1942, which credit appears to be in error, and if it is, you state that the new annual payment of \$70,000. should be changed by a subsequent act of the legislature. In the third paragraph of your memo of December 9th, you call my attention to the fact that this error was occasioned by a journal entry having been made as of June 30, 1942, by former Finance Commissioner Mossman; that this amount of money was the balance in the Carleton Bridge Operating Account at June 30, 1942 and was transferred to the account "Sinking Fund to Retire Kennebec Bridge Bonds." You state that the only explanation that can be found as to why this transfer was made is as follows:

"To transfer unexpended balance as of June 30, 1942, in Appropriation Account 9065 to Sinking Fund Account 363." You state in the fourth paragraph of your memo that you have found in the files in regard to this matter some correspondence between Mr. Mossman, then Finance Commissioner, and Mr. Hayes, State Auditor at that time. In that correspondence you find that Mr. Hayes questioned this entry and pointed out the provision of Chapter 81 of the Resolves of 1941, An Act Freeing the Carleton Bridge of Tolls, which provided that after sufficient money had been collected from tolls and from excise taxes to retire 45% of the bonds, all tolls and excise taxes received by the State in excess of those necessary to take care of bond retirement, interest charges, etc., as set forth above, shall go into the general highway maintenance fund of the State. You ask my opinion as to whether or not this transfer of \$30,865.57 was rightly made from the Carleton Bridge Operating Account to the Sinking Fund to retire Kennebec Bridge bonds account, or whether it should have been made to the general highway maintenance fund, as stipulated in Chapter 81, Resolves of 1941.

In reply I will state that it is my opinion that the mandate of the legislature as set forth in Chapter 81 of the Resolves of 1941 should have been followed by the Finance Commissioner at that time, and all tolls and excise taxes received by the State in excess of those necessary to take care of bond retirement, interest charges, etc., should have been made to the general highway maintenance fund, as provided by the legislature in said Resolve.

RALPH W. FARRIS

Attorney General

December 19, 1949

To Hubert Ryan, Clerk, County Commissioners' Court,  
Franklin County

Re: Fees

I have your letter of December 7th relating to the Judge of the Franklin Municipal Court at Farmington presenting a bill to the County of Franklin in the amount of \$33 for appeal fees at \$1.50 each under the provisions of Section 28 of Chapter 133, R. S. 1944.

I beg to advise that it was the intent of the legislature when the Franklin Municipal Court Act was amended, that the salary of the Judge and his \$400 additional for traveling expenses should be in full for his services; and that all fees should go to the County of Franklin. The salary was set in 1943 at \$800, amended in 1945, raising it to \$1000, and Chapter 95, P&SL 1949 raised the salary to \$1600, allowing not exceeding \$400 for necessary traveling expenses. I have checked with the other municipal courts and the other Judges who are on full salary do not charge any fees. All fees on appeals under Section 28 of Chapter 133 go to the county that pays the salary.

Prior to 1947 Trial Justices received fees for their services. The 1947 Legislature by Chapter 262 of the Public Laws of 1947 provided that their salaries should be determined by the County Commissioners and paid from the county treasury, and that they should receive no other compensation except their salaries established by the County Commissioners. It also provided in Chapter 262 that all fines, costs, fees and forfeitures, except as otherwise provided by law, shall be paid over to their respective counties.