

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

January 5, 1951

To Harold J. Dyer, Director, State Park Commission  
Re: Licenses, leases, etc.

In your memorandum of January 4, 1951, you state that the State Park Commission wishes to be relieved of the administrative detail involved in the annual task of issuing licenses, leases, and other agreements, and you inquire as to whether or not the Park Commission can delegate to the Director of State Parks the authority to process such licenses and agreements in behalf of the Park Commission under the provisions of Section 23 of Chapter 32, R. S. 1944.

The provisions of Section 23 of Chapter 32, R. S. 1944, as amended, do not contemplate that the Commissioners must personally handle administrative detail, but the statute does contemplate that the Commissioners shall have the administrative responsibility. There is no reason why all the negotiations with respect to the business of the Commission should not be handled by the employees of the Commission, but it is essential to the validity of any final action taken that the same be taken by the Commission and that those things requiring the consent of the Governor and Council have the consent of the Governor and Council before final consummation.

JOHN S. S. FESSENDEN  
Deputy Attorney General

January 8, 1951

To Honorable Frederick G. Payne, Governor of Maine  
Re: Correspondence with Housing and Home Finance Agency re Addition to State House, Augusta, Maine

Mr. Mudge has handed to me a letter dated January 3, 1951, addressed to you by the office of the Administrator of the Housing and Home Finance Agency relative to the addition to the State House at Augusta, Maine, to which letter is attached a photostatic copy of an "Agreement and Public Voucher for Advance", which form is approved by the Federal Works Agency. There was also attached a copy of the Act under which advances were made for plans and surveys, together with the Regulations dated January 3, 1946, effective January 1, 1946.

I am informed that pursuant to the application made by Governor Hildreth, dated the 23rd day of June, 1947, and appropriate federal legislation, there was advanced to the State of Maine the sum of \$21,000 for the purpose of plans preparation.

From my study of the federal law and of the Regulations issued pursuant thereto, it appears that this amount of money is purely in the nature of a loan without interest, which loan is to be repaid in either of two events:— 1) if

construction is started upon the project for which the money was advanced for preparation of plans, the money is repayable when the first contract is let for construction; 2) it is repayable if the applicant fails to take prompt steps to initiate and prosecute to completion the final plans and specifications for the project.

The Federal Government in the letter to you takes the position that since the advance was made in July of 1947 and final plans have not materialized, the advance is now repayable for failure to take "prompt steps".

In any event, Section 8 of the Regulations contemplates that there should be reasonable expectation of initiating the construction of the proposed works within four years after the receipt of the advance. I am informed that the plans as of this date have not been finally approved and I am informed that there is little likelihood that actual construction will start within four years from the date of the advance. From my study of the Law and Regulations, read in the light of my information as to the status of the building project, it appears to me that the advance is now repayable, whatever view may be taken of the matter.

I would therefore recommend that the repayment be made at an early date.

JOHN S. S. FESSENDEN  
Deputy Attorney General

January 22, 1951

To Fred M. Berry, State Auditor  
Re: Expenditures in Excess of County Estimates

By R. S., Chapter 79, Section 26, county commissioners may borrow, not exceeding \$10,000 without first obtaining the consent of the county. By Section 27, temporary loans are provided for, to be paid within one year, not exceeding \$175,000 in Cumberland, \$75,000 in Washington County, \$50,000 in Kennebec County, and the commissioners in each of the other counties may thus raise by temporary loans, to be thus paid out of money raised during the current year by taxes, not exceeding 1/5 of 1% of the assessed valuation of their respective counties.

The consent of the county is to be obtained by vote in the several towns and cities before obtaining any additional loans, as provided in Section 24.

These limitations indicate the amount which may be lawfully expended in excess of county estimates, once the funds are available. We deem it to be incumbent upon the county commissioners to maintain a complete record of all such transactions for the inspection of the State auditors, including the commissioners' vote to obtain such loans.

The moneys of the county are kept and handled by the county treasurer. His general duties, arising from the very nature of his office, are to receive the money of the county lawfully deposited with him, keep it safely, and pay it out on the commissioners' order, according to law. He is bound to exercise good faith and reasonable skill and diligence in the discharge of his trust, or