

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

repair or construction of buildings the total cost of which exceeds \$3000, ultimately formal contracts be executed. We cannot overestimate the solemnity involved when parties undertaking an agreement affix their signatures to an instrument under seal, said instrument crystallizing all that the agreement previously set out, and for that reason we recommend that such formal contracts be made.

JAMES G. FROST  
Assistant Attorney General

December 3, 1951

To Irving W. Russell, Superintendent of Public Buildings  
Re: Advertising for Bids

Your letter of November 7, 1951, relative to advertising for bids has been received by this office.

Section 44 of Chapter 14, R. S. 1944, states:

"The trustees, commissioners, or other persons in charge of such construction (involving a total cost of more than \$3000) shall advertise for sealed proposals not less than 2 weeks in such papers as the governor and council may direct; . ."

Your question is: "Are we definitely tied down in advertising of newspapers or can we also advertise with the F. W. Dodge Corporation, commonly known as the Dodge Reports, whose services are subscribed to by the contractors throughout the industry?"

It is our opinion that you may extend your advertising to include advertising in the Dodge Reports, with the approval of the Governor and Council. While newspapers are the common medium for such advertising, in the face of the fact that advertising in the Dodge Reports will reach more contractors, we feel that, though you may not limit advertising to such Reports, you may include them, along with your newspaper advertising, as the medium which you will use.

JAMES G. FROST  
Assistant Attorney General

December 4, 1951

To Commissioner of Finance and Treasurer of State  
Re: Chapter 201, P&SL 1951

We have your memo of November 8, 1951, relative to Chapter 201 of the Private and Special Laws of 1951.

You quote that portion of Article IX, Section 14, Constitution of Maine, which states:

"The credit of the State shall not be loaned in any case."

You then ask: "The Economic Advisory Committee asks the Attorney General if, after considering the above limitation, in his opinion, the state could legally issue the \$27,000,000.00 in bonds authorized by the 95th Legis-

lature (Chapter 201, P.&S. 1951) and approved by referendum of the people on September 10, 1951 before these funds will be needed?"

You state that the reason for your question is to take advantage of favorable interest rates in selling bonds, then to invest the proceeds in other securities until such time as the funds are needed.

Please be advised that it is the opinion of this office that the issuance of bonds an unreasonable length of time before the maturity of indebtedness for the avowed reason you state, to establish an investment fund for gain and profit, will create a new debt or liability on behalf of the State and for that reason would be in violation of Section 14, Article IX, of the Constitution.

To the same effect, see Opinion of the Justices, 139 Maine 416 at 419.

JAMES G. FROST  
Assistant Attorney General

December 14, 1951

To Harold J. Rubin, Esquire, County Attorney, Sagadahoc  
Re: Salaries of Trial Justices

. . . We have looked into this matter and can find no constitutional or statutory provision prohibiting the diminution in salary of a Trial Justice during his term of office.

Chapter 262, P. L. 1947, gives the power to the County Commissioners to set the salaries of Trial Justices and provides that they shall be paid monthly. That chapter does not restrict their power over salaries in any way.

30 Am. Jur. 28 states: "In the absence of constitutional prohibitions, the legislature may increase or diminish the salary of a judge during his term of office, and its discretion in this respect cannot be inquired into by the courts. However, it has been held that constitutional authority to change the amounts of salaries does not empower the legislature to work a practical abolition of the court by the diminution of the salaries to nominal amounts."

Perhaps the last sentence above is applicable to the situation at hand, but as there is no intimation in your letter to the effect that the County Commissioners are trying to abolish that office, we express no opinion on that point.

It is further stated in 43 Am. Jur. 348 that where the power to fix compensation of public officers has been delegated to a subordinate political division of the state, such as a county board, the compensation of such officers may, in the absence of any constitutional or statutory prohibition, be changed during their term of office.

In conclusion, we will say that the County Commissioners have the right to diminish the salary of a Trial Justice during his term, provided they are not trying to abolish that office by the diminution.

ROGER A. PUTNAM  
Assistant Attorney General