

MAINE STATE LEGISLATURE

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May 4, 1956

To Harlan H. Harris, State Controller
Re: Resolves of 1953, Chapter 117, Lapsing of Park Appropriation Funds

Reference is made to an opinion dated April 13, 1956, from this office addressed to Mr. Mudge, Finance Commissioner, in regard to the above mentioned Resolve. Acting in accord with said opinion you lapsed the sum of \$19,265.82 to General Fund Surplus.

Subsequent to that time it was disclosed that certain other contracts had been entered into, subsequent to June 30, 1955, but prior to April 13, 1956, on the premise that the money appropriated by the Resolve above mentioned did not lapse on June 30, 1955, but carried forward under the provisions of Section 23 of Chapter 16, R.S. 1954.

It appears from an accounting made by the Park Commission and approved by your office that the sum of \$10,226.64 will be necessary to pay the contracts which have been let subsequent to June 30, 1955.

Without attempting at this time to break down and show the various contracts and supplements which require the above mentioned payments, it is to be noted that the greatest amount is a contract in the amount of \$7,150 with the Hammond Iron Works, being contract designated R-126-R, which contract was in existence and legally binding on the State prior to June 30, 1955, and which, under the Attorney General's opinion dated July 10, 1953, to Mr. Mudge, would have been a legal encumbrance. Due to certain matters outside the control of the parties, the contract reposed in this office for some time awaiting the filing by Hammond Iron Works of appropriate agent's certificate with the Secretary of State, at the request of this office, so that we would be able to have someone to serve in this State if a contract dispute arose. It took some time to procure this, and the contract, while signed in June, did not have the approval of this office until some time in July. It was evidently mis sent to the Highway Commission and with all the attendant delays did not arrive in the Controller's office until some time in the month of August, 1955.

The difference between the amount necessary to pay the Hammond Iron Works contract and the above total is required by extra work orders and "overruns", so called, on the basic contract where the contract called for payment on a unit basis and the amount actually excavated or added is more than the estimates upon which the contract was based.

It is our opinion that, in view of the entire circumstances which attended the carrying forward of this sum of money, appropriate action should be taken to encumber \$10,226.64 out of the \$19,265.82 and that the balance, being \$9,039.18, should be lapsed to the General Fund Unappropriated Surplus. We trust that you will take appropriate steps to see that this is done. By this action all those people who have contracts which are legally binding upon the State and who have furnished goods and materials as of this date will be paid and no dispute will arise between the State and these parties.

Roger A. Putnam
Assistant Attorney General

rap/c
cc: Finance Commissioner
Park Commission