

# MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date December 14, 1965

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KJD

To K.R. Burns, Director Dept. Bureau of Business Management  
Mental Health and Corrections  
From Courtland D. Perry, Assistant Attorney Gen'l Dept. Same  
Subject Transfer of Funds, Section A, Chapter 161, P & S L 1965

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FACTS:

The 102nd Legislature by P & S L 1965, Chapter 161, Section A, among other items, appropriated to the Reformatory for Men the following:

The sum of \$8,298 was appropriated for an automatic shirt press and \$4,872 was appropriated for an automatic pant press. Requisitions have been placed for this equipment and on opening of the bids by the Bureau of Purchases the low bid was found to be \$5,196 for the automatic pant press or \$324.00 greater than the amount appropriated for this piece of equipment. The low bid on the shirt press has been submitted as \$6,035.74, leaving a balance in this account of some \$2,200.

The Department of Mental Health and Corrections proposes to seek authorization to transfer \$324.00 from moneys appropriated for the shirt press to the automatic pant press appropriation, but is advised there may be some question as to the legality of such a transfer.

QUESTION:

Is there authority to effect such transfer?

ANSWER:

No

OPINION:

T. 5, M.R.S.A., 1964, §1585 provides:

"Any balance of any appropriation or subdivision of an appropriation made by the Legislature for any state department or agency, which at any time may not be required for the purposes named in such appropriation or subdivision, may, upon the recommendation of the department or agency head concerned and the State Budget Officer, be transferred by the Governor and Council, at any time prior to the closing of the books, to any other appropriation or subdivision of an appropriation made by the Legislature for the use of the same department or agency for the same fiscal year."

The following language appears at the end of Section A of P & S L 1965, Chapter 161:

"It is the intent of the Legislature that the moneys provided above are to be expended only for the individual items as shown."

K.B. Burns, Director  
Bureau of Business Management

December 14, 1965

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Under the General Law as found in §1585 above, transfers may be effected between appropriations; however, the language appearing in chapter 161 as quoted above, in our opinion runs contrary to the General Law, is specific, clear and unambiguous in its terms; the proviso contained in chapter 161 is a later pronouncement of the Legislature on the subject of appropriation expenditures, and as to the act in which it appears, and to this act alone, is controlling.

It is our opinion that the words, "individual items as shown" preclude transfers under T. 5, M.R.S.A., 1964, §1585, between appropriations made for individual items in chapter 161. Although, we recognize that the result, particularly with respect to the question before us is unreasonable, due to the clear and unambiguous language of the proviso we conclude that the proviso is subject to only one construction, the individual item to be purchased has a money figure attached, and the money so appropriated is to be expended only on that item.

Were the language subject to more than one construction under principles of statutory construction we would be permitted to look to the construction producing the most reasonable result.

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Courtland D. Perry  
Assistant Attorney General

CDP/f

See: 50 Am. Jur. Statutes--§§ 368-378