

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

time.

“Copies of the bids are available for examination. Funds are available in Account Number 4006.5, The Aeronautical Fund, to encumber the contract.”

*QUESTION:*

Who has authority to purchase an executive aircraft, such to be used by state departments and the Governor?

*ANSWER:*

See Opinion.

*OPINION:*

First, we note that the order does not state from what fund or appropriation payment for the aircraft is to be made. A factual statement in the Statement of Facts indicates that funds are available in the Aeronautical Fund to encumber the contract. It must be noted that a Statement of Facts is no more than that and is not a part of the Council Order.

A Council Order, which purports to authorize a contract and expenditure of funds, must indicate what fund, appropriation or department is to be responsible for payment under the terms of the contract.

The instant Order being silent on this matter is of no effect as it authorizes no one to make payment under the contract.

GEORGE C. WEST  
Deputy Attorney General

October 3, 1969  
Executive

Governor Kenneth M. Curtis

*SYLLABUS:*

The Council Chambers must be open to any members of the public who may wish to attend pardon hearings.

*FACTS:*

The Governor, realizing the emotional reaction of some petitioners for pardon before the Governor and Council, would like to know who must be allowed admittance to pardon hearings.

*QUESTION:*

May the Governor and Council hold pardon hearings and close the doors of the hearing room to all but the press, petitioner and his representatives, without violating the public right to know laws of the State of Maine pursuant to 1 M.R.S.A. § 401, et seq?

*ANSWER:*

No.

*REASON:*

1 M.R.S.A. § 403 states that “ALL public proceedings shall be open to the public, and *all persons* shall be permitted to attend any meetings of these bodies or agencies . . . .” (Emphasis supplied.) Section 402 defines “public proceedings” as “The transactions of any functions affecting *any* or all citizens of the State by any administrative or legislative body of the State . . . .” (Emphasis supplied.)

The Governor and Council, sitting as a pardon board, are an administrative body, as opposed to a legislative or judicial body. As pardon hearings affect the citizens of this State, and as these proceedings are administrative, they fall within the purview of 1 M.R.S.A. § 401 et seq.

1 M.R.S.A. § 403 states that all public proceedings “shall be open to the public, and *all persons* shall be permitted to attend . . . .” (Emphasis supplied.) Admission of the press only would not satisfy the stated provision. Members of the press do not constitute the general public as clearly intended by this section.

JAMES S. ERWIN  
Attorney General

October 6, 1969

Honorable Sam A. R. Albair  
Executive Council  
State House  
Augusta, Maine

Re: Purchase of Executive Aircraft

Dear Councillor Albair:

*SYLLABUS:*

The Aeronautical Fund may not be used to pay for an aircraft for the general use of the Governor and state agencies having no aircraft.

*FACTS:*

The State seeks to purchase an aircraft for the general use of the Governor and state agencies having no aircraft. A Council Order was presented to and passed by the Council and approved by the Governor on September 30, 1969. The intent of the order was to pay for such an aircraft from the Aeronautical Fund. The order was defective. See Opinion of the Attorney General, October 1, 1969.

*QUESTION:*

May the Aeronautical Fund be used to purchase an aircraft for the use of the Governor and state agencies having no aircraft?