

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

October 30, 1981

David G. Huber, Senate Chairman
Michael D. Pearson, House Chairman
Committee on Appropriations and
Financial Affairs
State House
Augusta, Maine 04333

Gentlemen:

As you know, Casco Bank & Trust Co. and the Bureau of Public Improvements have agreed to enter into a 36 month lease, at \$13,465.44 per month, of a Datapoint communications management system. Your recent letter requests an opinion from this Department with respect to the legality of this transaction.


Mr. Peter Schwindt, Deputy Attorney General, has reviewed the lease and has approved it as to form and legality. His approval is noted on page 9 of the lease.

At my request, several attorneys have taken the unusual step of reviewing this previously approved lease. It is their collective judgment that the lease violates neither Article IX, § 14 of the Maine Constitution nor the pertinent provisions of Title 5, Maine Revised Statutes Annotated, because section 3(c) of the lease, page 4, allows the State to terminate the lease if the Maine Legislature refuses to appropriate funds for lease payments. Accordingly, the lease is valid.

Notwithstanding the foregoing, I share your view that, as a matter of policy, this transaction should have been subjected to legislative scrutiny before being finalized. Accordingly, this Department will endeavor to encourage executive departments to submit all important lease or purchase proposals to the Legislature, or an appropriate legislative committee, for review.

I trust this addresses your concerns.

Sincerely,


JAMES E. TIERNEY
Attorney General

JET:jg