

MAINE STATE LEGISLATURE

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July 9, 1940

The Honorable Lewis O. Barrows
Governor of Maine
Augusta, Maine

My dear Governor Barrows:

In your letter to me of July 3, 1940, you ask for an opinion outlining the scope of the authority given to the newly created State Military Defense Commission by Chapter 308 of the Public Laws of 1939 (Special Session 1940). The amendments to Section 54 of Chapter 18 of the Revised Statutes which were adopted by Section 1 of Chapter 308, above mentioned, place upon the Commission, which is set up to take the place of the previously existing Armory Commission, the duty of exercising "general supervision and control over all armories, drill rooms, headquarters' offices, stables and State owned, or controlled, realty used for military purposes". While the word "airports" is not included in this list of facilities placed under the general supervision of the commission, the words "State owned, or controlled, realty used for military purposes" are broad enough and were intended to cover State owned, or controlled, airports used for military purposes.

The only airport owned, or controlled, by the State is the Augusta Airport now under lease by the State from the city of Augusta. Under the terms of the lease as provided by Chapter 132 of the Resolves of 1935, final payments of this airport will be completed by the State during the current fiscal year. The State will then acquire title to this property. The above mentioned resolve further provides that this property shall be used as a State airport for the use of commercial and military aeronautics; "the military department of the State of Maine to have full and complete control and regulation of said airport." Under this resolve the Adjutant General's office now located at the airport has undertaken the management of the property, the principal use of which has been for commercial purposes.

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At the present time it seems that the military department, that is, the Adjutant General's office, has the responsibility of controlling and regulating the airport subject to the general powers of supervision and control given to the Military Defense Commission in matters relating to military purposes. This interpretation, if correct, would permit the Adjutant General's department to negotiate for rentals of this property, and grant concessions for the sale of gasoline and other articles subject to the approval of the Military Defense Commission after its consideration of these matters from the standpoint of attaining the maximum use of the plant for military purposes.

If you feel that the duties and obligations of the two agencies in respect to the control of this airport need further statutory clarification or definition and will so advise me, I will prepare the necessary amendments for the consideration of the Legislature when it reassembles on the 22nd of this month.

By Section 7 of Chapter 120 of the Private and Special Laws of 1939 (Special Session 1940) providing for the appropriation of \$2,000,000 for military purposes and the raising of the money for these purposes by a bond issue, the Military Defense Commission created at the same time by Chapter 308 of the Public Laws of 1939, above referred to, is charged with the duty of directing the expenditure of this appropriation and has authority to direct the payment out of this fund raised by the sale of bonds of such amounts of money for salaries and wages of personnel as may in its opinion be necessarily employed in connection with the duties placed upon it by these two legislative enactments.

Your last question relates to the liability of the State in the event of accidents. The State is not liable for the negligence or other wrong doing of its officers or agents in the discharge of their official duties. The Augusta Airport is now being supervised by one department of the State, and liability for accidents would not be changed by the substitution of another State agency if this is decided upon.

Respectfully yours,

Franz U. Burkett
Attorney General

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