

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

May 29, 1942

From:
Frank I. Cowan, Attorney General

To:
Col. F. H. Farnham, Director
Civilian Defense Council

I am returning to you herewith, letter of Bertha (Mrs. Wilfred J.) Haggan, Eustis, Maine, who asks the following question:

“Is a person giving first aid, to his best knowledge and ability; liable to suit for damages, in the State of Maine, if he makes a mistake or unknowingly causes further injury,”

It is impossible to answer this question completely because every case must stand on its own merits. Any person who goes to the assistance of another, does so at his peril to a certain extent. That is true in all Anglo-Saxon countries. If the person being assisted is caused further injury through the acts of the person trying to help him, there is always the possibility of liability on the part of the person who has so volunteered.

However, the danger is rather remote. Judges and juries are human beings and look with approval on the acts of the charitable man who tries to be of assistance to his injured fellow. The layman helping another person who has been hurt is not held to the same degree of skill as is the trained nurse, physician or surgeon. He is expected to use a certain amount of care commensurate with his training, but if he uses reasonable care and precautions and tries to do a good job, under the circumstances danger of a judgment against him is very slight.

In connection with that very possibility, Section 10 of the Civilian Defense Act reads as follows:

“*Civil liability.* The state shall provide defense and indemnity for any claims and suits for alleged negligence or lack of permission instituted against any person by reason of his action in pursuance of authority granted hereunder, provided such person, within 14 days after written notice to him of such claim, gives written notice thereof to the attorney-general.”

This statute, in the opinion of several high grade attorneys who helped to draft the Civilian Defense Act, is adequate protection for the person who without request or permission undertakes to assist somebody who has been hurt.

Attorney General