

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

May 26, 1943

R. A. Graves, M. D.
County Medical Examiner
Presque Isle, Maine

Dear Sir:

I have your letter of May 24th, asking whether or not county authorities have jurisdiction in the case of deaths at the Air Base. The Army doctors who acted in the case to which you have referred probably conducted themselves in good faith but in ignorance of the law. There is no State law, and I know of no Federal law that would authorize Army doctors to take charge in case of a civilian death no matter where it occurs. The only exception to this would be the case of a crime committed on Federal property where the State has waived jurisdiction thus giving the Federal Government authority to punish.

The very rapid growth of our military and naval effort has made it impossible to provide that all Federal officers and officials shall be properly instructed regarding the law in the jurisdiction in which they find themselves. Sometimes they do things which are actually violations of the State law and which, being acts not properly in connection with their duties for the Federal Government, make them liable to prosecution. However, we recognize that they are innocent of any wrong intent in their violation of the State law and we go as far as we can in refraining from taking steps which might very well prove seriously embarrassing to them. We call their attention to the fact that they have done something which is not within their legal rights and, by friendly suggestion, point out the proper procedure. We find in general that they are very willing to cooperate. In the case to which you refer, I suggest that you call the attention of the Army doctors to the fact that the State has not waived jurisdiction in connection with the Presque Isle Air Base. As a matter of fact, the Air Port will not become the property of the Federal Government until July 9, 1943 when an act of the Legislature ratifying the conveyance of the property by the City of Presque Isle to the United States Government will take effect.

Very truly yours,

FRANK I. COWAN
Attorney General of Maine

May 28, 1943

From:
Frank A. Farrington, Deputy Attorney General

To:
Lucius D. Barrows, Chief Engineer, Highway Dept.

In re Washington Street Bridge over Kenduskeag Stream in Bangor

This will acknowledge receipt of your letter of May 26th, relative to damages resulting from construction of the above named bridge.

Section 7 of Chapter 114, P. & S. L. 1927 "An Act to Incorporate the Bangor Bridge District, provides in the last paragraph thereof as follows:

"Before the contract for the construction of the bridge is executed, the several parties who are to pay the costs thereof shall each make arrangements for raising the necessary funds and the proportion of the cost shall be thirty per cent for Bangor Bridge District, thirty per cent for the county of Penobscot and forty per cent for the state of Maine."

It is to be noted that this refers only to the construction contract and not to damages.

Section 5 of the Act provides for payment by the Bridge District of damages resulting from the granting of an easement to it by the city of Bangor.

Section 2 of the Act makes the District subject to all obligations under Chapter 319, P. L. 1915 and acts amendatory thereof which are not inconsistent with the terms of said Chapter 114. Section 9, Chapter 319, P. L. 1915, as amended by Section 6, Chapter 193, P. L. 1923 reads in part as follows:

"The state shall not be liable to any person or corporation for damages arising from the construction or rebuilding or improvement of any bridge built or rebuilt under the terms of this act." There is nothing in Chapter 114, P. & S. L. 1927 which is inconsistent with this provision.

In view of the foregoing it is the opinion of this department that the state is not responsible for payment of any part of the damage which may have been suffered by the owner of the property affected by the change of grade of the Washington Street extension.

Deputy Attorney General

June 2, 1943

Commander F. C. Hingsburg, U. S. C. G.
Office of the Captain of the Port,
477 Congress Street,
Portland, Maine.

Dear Sir:—

I have your letter of May 27th inquiring whether the taking of a Federal oath for service in the Coast Guard Auxiliary Temporary Service by a judge, member of the Maine State Legislature, or an employee of the State of Maine, where the reservist must devote twelve hours a week of his free time to military duties and during such time will be subject to military discipline and the jurisdiction of the military, jeopardizes the position of such persons or their employment under the State government.