

MAINE STATE LEGISLATURE

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No
July 26, 1944

To Governor Sewall

Executive

From Frank I. Cowan, Attorney General

Attorney General

Proposed Executive Order No. 36.

I have examined the language of this proposed Executive Order and have discussed the problem with Col. Farnum. In view, however, of the language of the Civilian Defense Act (P. L. 1941, c. 305) "The governor is hereby empowered and directed to provide for the welfare of the people of the state, and to cooperate with the federal government" it seems to be the intent of the Legislature that the Governor shall regard it as his duty to make provision along the lines proposed. The use of the word "directed" in the act must not, of course, be interpreted as a mandatory provision because such an interpretation is an improper invasion by the Legislature of the prerogatives of the Executive. However, the word "directed" can properly be interpreted as the strongest kind of authorization of which the Legislature is capable for the Governor to perform such acts, not otherwise invalid, as will "provide for the welfare of the people". The proposed Order in my opinion does not violate any provision of the Constitution.

As a matter of suggestion merely I would point out that in the second paragraph the word "presidential" might be inserted between the words "by" and the word "Executive" so that any layman reading the proposed Order hastily would not be misled by thinking that the Governor has issued a total of 9,427 Executive Orders.

A second suggestion is that instead of the words in the last sentence, "entrusted to federal agencies by law", you might say: "entrusted by federal statute or regulation to purely federal agencies".

Frank I. Cowan
Attorney General

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cc to Col. Farnum