

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

October 28, 1947

To Hon. Horace Hildreth, Governor of Maine  
From Department of the Attorney General

Subject: Authority to act under provisions of P. L. 233, 80th Congress, entitled "AN ACT to make surplus property available for the alleviation of damage caused by flood or other catastrophe."

In connection with the apportionment of Federal surplus equipment, supplies and materials to this State for the alleviation of damage, hardship and suffering caused by the forest fires, you are advised that the Federal legislation involved is found in the provisions of Public Law No. 233, 80th Congress, and <sup>a provision</sup> ~~articles~~ of the Revised Statutes of the State of Maine. For the purpose of ready reference, the Federal legislation is hereby quoted as follows:

"That, notwithstanding any other provisions of law, the War Assets Administration shall, whenever the President shall determine it to be necessary or appropriate because of flood or other catastrophe, transfer, without reimbursement, to the Federal Works Agency such articles of personal property, which have been declared surplus under the provisions of the Surplus Property Act of 1944 (58 Stat. 765), as amended, as in the judgment of the Federal Works Administrator and the War Assets Administrator can be presently utilized in alleviating damage, hardship, and suffering caused by such flood or other catastrophe.

"SEC. 2. The Federal Works Administrator is authorized to loan or transfer, with or without monetary consideration and upon such terms and conditions as he may prescribe, to State and local governments situated in any area struck by any flood or catastrophe, any property transferred to the Federal Works Agency for such purposes pursuant to the provisions of this ACT. All receipts from such transfer shall be covered into the Treasury of the United States to the credit of miscellaneous receipts.

"SEC. 3. In carrying out the provisions of this ACT the Federal Works Administrator is authorized to utilize, and act through, any other Federal agency or any State or local government and he may utilize, without reimbursement therefor, such officers and employees of any such agency or State or local government as may be found necessary in carrying out the purposes of this ACT. In order to facilitate carrying out the purposes of this ACT, other Federal agencies shall cooperate with the Federal Works Agency and War Assets Administration to the fullest extent consistent with the objective of this ACT.

"SEC. 4. To carry out the provisions of this ACT, including administrative expenses in connection therewith, any funds available to the Federal Works Administrator or Agency for use in connection with the transfer of surplus of other property, under Public Law 697, 79th Congress, are hereby made available; and for such purpose there is authorized to be appropriated such additional sums as may be necessary therefor.  
Approved July 25, 1947."

The ~~more~~ pertinent provisions of the Revised Statutes of the State of Maine in connection with the foregoing Federal enactment is Section 14 of Chapter 11, R. S. 1944, which reads in part as follows:

"The governor, with the advice and consent of the council, is authorized and empowered to accept for the state any federal funds or any equipment, supplies, or materials apportioned under the provisions of federal law and to do such acts as are necessary for the purpose of carrying out the provisions of such federal law. . ."

Under the provisions of these two laws, it is obvious that the representatives of the Federal Government have complete authority to apportion such equipment, supplies or materials as are available and necessary for the alleviation of damage, hardship and suffering caused by the forest fires and that in exercising such authority at the Federal level they are empowered to deal with the Governor of the State of Maine, acting with the advice and consent of his Council, who, by the laws of the State of Maine, has all the necessary authority to accept such equipment, supplies or materials, and the further authority that is necessary thereafter to perform such acts as are necessary for carrying out the provisions of the Federal law.

In this case the provisions of the Federal law are very clear, and for the purpose of emphasis, I repeat it once more, namely, the alleviation of damage, hardship and suffering caused by the forest fires.

It would appear to be implicit in the provisions of the Federal law that the relief of hardship and suffering involves the rehabilitation of individuals, and that consequently the apportionment of equipment, supplies and materials is for the purpose of accomplishing this end.

In performing "such acts as are necessary for the purpose of carrying out the provisions of such federal law" (P. L. No. 233, 80th Congress), the only statutory injunction to be observed is that the supplies, equipment and materials be used for the alleviation of damage, hardship and suffering caused by the catastrophe. To this end it would be appropriate for the State Executive Power to apportion the supplies, equipment and materials to any appropriate persons or agencies having any responsibility or ability to utilize the materials for the purposes apportioned. Specifically, the materials could be apportioned to the stricken towns or to relief agencies or to both, to the final end that such materials be given to or used by the stricken individuals in need or alleviating aid from damage, hardship or suffering caused by the catastrophe.

The method or means to be used by the Executive Power to attain the final goal, namely, the alleviation of damage, hardship and suffering caused by the catastrophe, should be determined by the Executive Power. It would, for example, be appropriate to apportion the supplies, equipment and materials received under the terms of the enabling Federal legislation to the respective stricken towns, in accordance with the needs of these towns as a result of the catastrophe.

The towns, of necessity, act by and through their own municipal

officers. Such municipal officers have both ~~and~~<sup>the</sup> right and the ability to determine the needs of the stri<sup>c</sup>ken families or individuals to alleviation from damage, hardship and suffering caused by the catastrophe, and have of their own knowledge the ability to see to it that the materials, supplies and equipment be given to and used by those individuals who are intended to be the beneficiaries of the enabling Federal legislation.

It should be pointed out that such supplies, equipment and materials as are forthcoming pursuant to the Federal law should not be confused with pauper supplies in their ordinary sense; but should on the contrary be used for the immediate alleviation of damage and suffering caused by the catastrophe and without regard to any individual's ability or resources available to him in the future.