

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

Accordingly, since Chapter 170 of the Private and Special Laws of 1949 shows upon its face no irregularities or violation of constitutional methods, since it was found deposited in the Secretary of State's office as required by law, since it was duly certified by the presiding officer of each House to have been properly passed, and since it was approved by the Governor, this law cannot be impeached by any irregularity touching its passage shown by the journal of either House.

JOHN S. S. FESSENDEN
Deputy Attorney General

October 13, 1949

To Col. Francis J. McCabe, Chief, Maine State Police
Re: General Investigative Activities of the State Police

In reply to your inquiry of October 13, 1949, wherein you request an opinion from this office as to the authority or availability of the State Police to investigate the administrative organization of personnel membership of a municipal police force, you are advised that a careful review of Chapter 13 of the Revised Statutes of 1944, being the chapter entitled "State Police" and the source of authority for the State Police, reflects that the State Police has neither the duty nor the right to undertake an investigation of this character.

This opinion should not be construed to mean that in the case of any specific criminal violation of law by a police officer employed by a municipality, the State Police should not perform their duty as in all other criminal cases. The opinion applies only to an investigation of a general nature of a municipal police organization.

I should also point out that I know of no appropriation available to the State Police as a source of funds for this purpose and would be extremely doubtful as to whether the Chief would be authorized to defray the salary or expenses of any man assigned to such work, in the absence of an appropriation.

JOHN S. S. FESSENDEN
Deputy Attorney General

October 31, 1949

To E. L. Newdick, Director Plant Industry, Agriculture
Re: Soil Conservation

In reply to your letter of October 12, 1949, relative to Section 10 of Chapter 29, R. S. 1944, you are advised that we have studied said Chapter 29 and have the following opinion:

Chapter 29, entitled, "Soil Conservation Districts," established a Soil Conservation Committee which handles the over-all administration at the State level of the soil conservation program enacted by the legislature. With-in this over-all program provision is made for the creation of Soil Conservation Districts. The method of organization, the powers of the districts, and of the supervisors thereof, clearly indicate that the districts themselves are not functionally a part of the State government as such, but are to carry out

locally the stated purposes much in the same fashion as do school districts, water districts, sewer districts, etc.

It is to be noted that these districts may sue and *be sued*. While it is true that the statute states that a district organized under the provisions of the chapter shall constitute an agency of the State, it is to be noted also that such district is a public body corporate and politic, so that it is easily distinguished from State agencies created and acting as part of the executive branch of the State government. In other words, the districts are agencies for the carrying out of soil conservation projects, but are not agencies of government as those words are used when applied to the operation of the executive departments as such. Accordingly, while the State Soil Conservation Committee itself is bound by the Administrative Code as applicable to the various executive departments, the local Soil Conservation Districts are not so included.

JOHN S. S. FESSENDEN
Deputy Attorney General

November 3, 1949

H. H. Harris, State Controller
Re: Snow Removal—Airports

The Maine Aeronautics Commission has called my attention to the provisions of Section 167 of Chapter 14 of the Revised Statutes, as amended by Chapter 337 of the Public Laws of 1947 and Chapter 245 of the Public Laws of 1949. I advised them orally that it was my opinion that they could pay the Northeast Airlines for snow removal last winter from the federally owned airport in Presque Isle, from any unexpended balance, as they shall deem equitable. Chairman Gardiner of the Commission asked me to write you a memo to that effect and to send them a copy.

I wish to advise that it is my opinion that the Northeast Airlines having removed snow from the federal airport in Presque Isle last winter under the provisions of Section 167 and the amendment by Chapter 245, which provides that such assistance may be given for snow removal at federal, state or municipally owned airports used by commercial carriers of passengers and freight operating on a regular schedule, etc., may be reimbursed by the Commission as they deem equitable. While the amendment in Chapter 245 of the Public Laws of 1949 did not become effective until August 6, 1949, the Aeronautics Commission did not know what unexpended balance there would be or whether they could spend such funds to assist in the maintenance of the federally owned airport in Presque Isle or the removal of snow therefrom. Without considering this amendment I am advised by the Commission that the Northeast Airlines removed the snow from the federal airport, with the understanding that they would be reimbursed by the Maine Aeronautics Commission. I feel that the Commission has authority under the statutes cited to reimburse the Northeast Airlines from the unexpended balance in such amounts as the Commission shall deem equitable.

RALPH W. FARRIS
Attorney General