

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

November 17, 1950

To Norman U. Greenlaw, Commissioner of Institutional Service
Re: Maine State Prison Dairy Farm—Fire

I acknowledge receipt of your memo of November 14th, stating that a member of the board of selectmen of the Town of Warren contacted you with regard to a problem connected with the fire at the Prison Dairy Farm. The Town of Warren has presented bills for damage to fire fighting equipment and hose, services of the fire departments of Thomaston and Rockland, and Merrill Payson for the use of his auxiliary fire pump.

As I understand it, the prison farm buildings are located in the Town of Warren and the fire department of Warren is supposed to protect State property as well as private property. An agency of the State has no legal obligation to pay any bills for extinguishing fires within the town limits. I would suggest that they present a bill to this legislature, putting in their claim for damages.

If they did not call the City of Rockland or the Town of Thomaston or Mr. Payson, I do not see how Rockland, Thomaston, or Mr. Payson can collect from Warren.

As I recall it, the hose now belonging to the Town of Warren was furnished by the State at the time of the bog fires between Warren and Rockland. Perhaps they expect the State to replace it.

Section 2 of Chapter 85 provides that when a fire breaks out in any town, the fire wards shall immediately attend at the place, etc., and that during the continuance of said fire they may require assistance in extinguishing the fire, removing merchandise and furniture, appoint guards to secure the same and to aid in pulling down or demolishing buildings and suppressing disorder and tumult, and generally may direct all operations to prevent further destruction or damage. There is no provision for your department to pay damages to towns and cities. This being an emergency, it might be handled through Council Order through the contingent fund; but before doing that, this bill should be screened, to see if the Town of Warren is liable for bills submitted by Rockland, Thomaston, and Mr. Merrill Payson.

Your question is how towns can be reimbursed under the statutes, and my answer is that it can be done only through the legislature or through Council Order.

RALPH W. FARRIS
Attorney General

November 22, 1950

To Spaulding Bisbee, Director, Civil Defense and Public Safety

With reference to the letter dated November 20, 1950, addressed to you by Mr. Harold L. Dow, chairman of the board of selectmen of the Town of Eliot, the present State law with respect to Civil Defense, I find, has no provision relative to compensation for the death or injury of an individual performing Civil Defense duties in a local organization. Any protection for

such individuals should be accomplished under Section 8 of the law by the local political subdivision, through its authority to appropriate funds for Civil Defense purposes.

I assume that the protection which is afforded to mobile battalions by the State is predicated upon the assumption that mobile battalions will operate under the direct control of the State and therefore become the responsibility of the State, whereas the units of political subdivisions are the direct responsibility of the particular subdivisions. . . .

JOHN S. S. FESSENDEN
Deputy Attorney General

December 4, 1950

To R. W. Carter, Supervising Accountant Auditor
Re: Council Order No. 356

I received your memo of November 30th with attached Council Order No. 356, dated September 21, 1950, asking my opinion as to the intent of same with respect to the actual location of the expenditures.

In reply I will advise that the language in the Council Order controls. The statement of facts is only for information of the Governor and Council before passing the Order and is no part of the Council Order.

The Order transfers \$15,000 from the General Highway Fund Unappropriated Surplus to Administration to provide urgently needed office and drafting room space. In the administration of the expenditure of this fund for needed office and drafting room space, the State Highway Commission under Chapter 20 has wide administrative discretion so long as the Council Order has transferred the money. Vouchers for the expenses of providing office and drafting room space for the State Highway Department are proper in drawing upon this fund.

RALPH W. FARRIS
Attorney General

December 5, 1950

To Scott K. Higgins, Director, Aeronautics Commission
Re: Section 13, Uniform State Aeronautics Commission Act;
Chapter 389, Public Laws of 1949, paragraph I of Subsection I of Chapter 15

In your memorandum of December 4, 1950, you raise the basic question as to whether or not it is valid in Maine for the legislature to enact a statute establishing federal regulations as a standard by reference.

You are advised that it has been held invalid in Maine to enact legislation adopting standards which may change from time to time by the action of some agency not within the control and direction of our own legislature. To the extent that any such legislation contemplates that the law may change from time to time without further action of the Maine legislature, such a statute in Maine is definitely unconstitutional. You will note, however,