

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

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,

that in the Uniform Act as well as in the State law, the standards are not definitely imposed, but on the contrary it is merely stated that "the court * * * shall consider the standards * * *." Whether or not the fact that the court is directed to give consideration to standards set up by a foreign agency would render the legislation invalid is a question that I am unable to answer, as it is a matter that would have to be determined by the Supreme Judicial Court of Maine in a case properly before that court.

JOHN S. S. FESSENDEN
Deputy Attorney General

December 7, 1950

To Fred M. Berry, State Auditor

Re: Chapter 290, P. L. 1947, Witness Fees; Police Officers' Fees

I have your memo of December 5th, relating to Chapter 290, P. L. 1947, which you quote in full. You will note the language of the statute is: "to be paid after recovery by the county treasurer upon approval of the county commissioners to the municipality employing such police officer or constable."

Therefore it is my opinion that the county does not have to pay the municipality unless the costs taxed for the complainant are recovered.

This does not apply to State Police in highway matters. It refers only to cities, towns, and plantations.

In view of the fact that this statute refers to police officers and constables who are paid a salary or are on a per diem basis by the city, town or plantation, it is not the intent of the legislature for counties to pay to municipalities costs which they never recovered. That is the reason why this language was inserted: "to be paid after recovery."

RALPH W. FARRIS
Attorney General

December 7, 1950

To James T. Ross, Chairman, Board of Registration, Old Town

I have your letter of December 6th in reply to mine of December 1st, relating to the questions of residents of Indian Island voting in Old Town city elections. You enclosed a copy of a letter to the former board of registration dated March 29, 1921, written by R. W. Shaw, then Attorney General, in which he referred to Section 74 of Chapter 7. You state that, to your knowledge, there has been no change in the status of Indian Island since that time.

In reply I wish to state that the section of law mentioned by former Attorney General Shaw in the Revised Statutes of 1916 was included in the Revision of 1930 as Section 76 of Chapter 8, and that the legislature in 1937 repealed part of this act under the provisions of Chapter 209 of the Public Laws of 1937, which was entitled, "An Act to Extend Suffrage to Qualified Voters in Unorganized Territory." You will find this Act now, as amended, in Section 64 of Chapter 5 of the Revised Statutes of 1944, which cites the