

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

Chief of the State Police can call the Reserve Corps to duty *as State Police*, *only* after the Governor has issued his proclamation provided for in Section 6 of Chapter 11-A, as amended. When the Corps is thus called to duty the act further provides that its members shall have the same status as regular members of the State Police. Thus at that time they would be considered State employees and so entitled to benefits under our Workmen's Compensation Act.

The question still remains whether the members of the Corps would be covered while in training for their duties in civil defense emergencies. It is the opinion of this writer that it was the intent of the legislature to cover *all* civil defense and public safety workers and that this Corps, as a necessary and important adjunct to the whole civil defense program, which would not exist except for such a program, would be covered while in training as members of that organization.

This opinion relates only to the question of general coverage. Each claim will undoubtedly turn upon its facts, and the claimant must show (1) that he is a civil defense or public safety worker; (2) that he was in training for or on civil defense or public safety duty; and (3) that his injury was directly attributable to that training or duty. Questions such as these are within the exclusive province of the Workmen's Compensation Board and are beyond the scope of any opinion that we might render.

ROGER A. PUTNAM
Assistant Attorney General

May 15, 1953

To Ermo H. Scott, Deputy Commissioner, Education
Re: Teachers' Contracts

We have your memorandum of May 6, 1953, in which you ask, briefly, two questions:

1. In your suggested contract form, to be used by the towns contracting with probationary teachers, should a provision be inserted in such contract that the contract may be terminated by a definite period of written notice given by either party?

Answer. After considerable discussion with your department and with members of our staff, it would appear that such a provision would be of such uncertain meaning with respect to the statutory provision for dismissal that it would unquestionably give rise to misunderstanding. It therefore should not be included in the contract. Along with the statutory provision for removal, as seen in section 50 of Chapter 37, it would seem sufficient if there were provision for termination by mutual consent upon a given days' notice.

2. Would it be legally sound and within the statutory provisions relating to teachers' contracts for a local school committee to extend the provisions of the contract in both suggested forms (probationary and permanent) to include a provision to the effect that after hearing granted under the provisions of section 50 of Chapter 37 the case might then be referred to an arbitration board, the decision of the board being final?

Answer. It is our opinion that such a provision should not be included in the contract. The right of dismissal on the part of the school committee is absolute and is provided for in the above mentioned section 50. Such right to dismiss cannot be barred in any way or limited by contract. The arbitration board would be a further condition which would be repugnant to the principle first mentioned.

JAMES G. FROST
Deputy Attorney General

May 25, 1953

To Raymond C. Mudge, Finance Commissioner
Re: New Law on Bedding and Upholstery

This office has been asked to consider the problem presented by the enactment of Chapter 333, Public Laws of 1953, without an accompanying appropriation to administer and enforce the law.

The Act in question is designed to place appropriate safeguards around the manufacture and sale of bedding and upholstered furniture to insure a healthful product.

Section 129 is that section relating to funds for the administration of the provisions of the Act and reads as follows:

“Proceeds payable into the general fund. All fees and other moneys collected in the administration of sections 123 to 130, inclusive, shall be credited to the general fund of the state. Provided, however, that there shall always be available for the administration of the provisions of sections 123 to 130, inclusive, state moneys in an amount not less than the revenue derived from the fees collected under the provisions of sections 123 to 130, inclusive, except that any unexpended balance shall remain in the general fund.”

As stated, the legislature did not appropriate any money to enforce or administer the Act and the question is now asked:

“How shall the act be enforced and administered in the absence of an appropriation?”

It is our opinion that section 129 is to be interpreted to mean that fees and other moneys collected shall be credited to the general fund of the State if there is available from other sources a fund to administer the provisions of the Act. If such other fund has not been made available for the purpose of administration, then the fees and other moneys collected should not be credited to the general fund, but are to be handled as dedicated moneys and directed to such administration as if contemplated by the Act.

JAMES G. FROST
Deputy Attorney General

May 25, 1953

To Fred J. Nutter, Commissioner of Agriculture
Re: Maine Building Committee, Eastern States Exposition

We are in receipt of your memo of May 18th relative to the membership of the Maine Building Committee, Eastern States Exposition.