

MAINE STATE LEGISLATURE

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October 13, 1953

yes

To Hon. Burton M. Cross, Governor of Maine
Re: Maine Maritime Academy - Contract, S. S. COMFORT

Reference is made to the attached letter of Ralph A. Leavitt, President, Board of Trustees, Maine Maritime Academy, and the appended contract.

Mr. Leavitt requests that you write to Mr. Rothschild, adopting in your letter the following paragraph:

"We would further advise that the Maine Maritime Academy is a separate and distinct agency of the State, being created a body corporate and politic by act of the legislature, and that any contracts relative to their administration should be executed by the Trustees of the Academy and not by the Governor of the State of Maine. However, it would not be in their province to sign any contract such as the one submitted to us by the Department of Commerce acting through the Maritime Administration, whereas the Constitution of the State of Maine does not allow suit against it without specific authority from the legislature, and any suit against the Maine Maritime Academy would in fact be a suit against the State of Maine."

This amendment substantially modifies the memo from this office to you, dated September 30, 1953, and the amendment is requested because Mr. Leavitt believes that, as originally written, the memo leaves the impression that, if the Academy chose, it could sign such a contract.

If amended as Mr. Leavitt suggests, your letter would certainly indicate that the Academy could not negotiate such a contract without legislative Act. This we do not believe is so.

The Maritime Administrator requests in substance one thing:

That the Federal Government be held free from liability which might arise during Maine's use of the vessel S.S. [State of Maine, and a contract signed to that effect.

The Administrator suggests two ways in which this freedom from liability might be guaranteed:

1. Assurance by the Attorney General that the Federal Government would be so held free from liability, and
2. Purchase of insurance insuring against such liability, the policies running to the United States of America.

In our opinion of September 30th we advised you that 1. above could not be accomplished in the absence of legislation.

Mr. Leavitt's amendment to our memo would be proper in answer to the request that the Attorney General, or other State officer, give the assurances suggested by the Maritime Administrator, if that were the only method of guaranty acceptable to the Administration.

With respect to 2. above, however, (an alternative method of guaranty acceptable to the Administrator), it is our opinion that legislative action is not necessary for the purchase of any insurance found necessary to conduct the business of the Academy properly.

It would seem to us that the primary obstacle to be overcome before such a contract could be negotiated is that of money - available funds to purchase the required insurance. It may be that the premiums on such insurance would be in an amount that would make the purchase prohibitive.

Thus, as the Academy may purchase insurance, except in so far as it may be limited by its financial condition, we cannot recommend that you issue a letter having the effect that would naturally follow if Mr. Leavitt's suggestion were incorporated into that letter.

In any event, we would say that the contract should not be executed unless the required insurance is purchased.

Alexander A. LaFleur
Attorney General

jgf/c