

MAINE STATE LEGISLATURE

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December 8, 1954

To Barnett I. Shur, Corporation Counsel, City of Portland
Re: Liability of City for Injuries caused by Installations, Civil
Defense

. . . You have raised questions as to the liability of the City for injuries caused by installations of the air raid warning service. The question has been broken into two parts: 1) when such injury results from an installation falling from a municipal building, and 2) when such installation falls from private property.

With respect to an installation of Civil Defense equipment on a municipal building, we feel that Section 10 of Chapter 11-A, R. S. 1944, would protect the City and its agents, employees or representatives. The pertinent provision of this section we herewith quote:

"Neither the state nor any political subdivision thereof, nor other agencies, nor, except in cases of willful misconduct, the agents, employees or representatives of any of them, engaged in any civil defense activities, while complying with or attempting to comply with the provisions of this chapter or any other rule or regulation promulgated pursuant to the provisions of this chapter, shall be liable for death of or any injury to persons, or damage to property, as a result of such activities."

With respect, however, to private organizations, if they wish to be held harmless from liability when they offer to the City their facilities for Civil Defense purposes, it is doubtful, at least very tenuous, if Section 10 would hold them immune. We would suggest that one way of complying with their request that they be held free from liability would be to purchase liability insurance, which should not be too expensive.

I hope that these thoughts may be of some assistance to you in the consideration of your problem.

James Glynn Frost
Deputy Attorney General

jgf/c