

MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

October 18, 1956

To W. H. Bradford, Right of Way Engineer, State Highway Commission

Re: Taxes on State-owned Property Rented for Temporary Use Only

You have requested my opinion as to the State's liability for taxes imposed by a town on property acquired by the State for highway purposes, but which property has been leased by the State pending sale or the advantageous use of such property for highway purposes.

The fact that the State is leasing this property has no effect on the question of taxability, since Section 24 (of Chapter 23, R. S. 1954) authorizes the leasing pending a sale or use. In other words, the State is carrying out its duties or executing its rights under the law.

It has long been established law that municipal governments have no power to tax the sovereign unless that right is specifically given.

L. SMITH DUNNACK
Assistant Attorney General

November 1, 1956

To Henry McCabe, Civil Defense and Public Safety

Re: Power of Arrest

We have your request for an opinion as to whether or not auxiliary police are able to enforce arrests for violations during alerts, under the provisions of the State Civil Defense and Public Safety Laws. We gather that such auxiliary police are members of the Civil Defense program of local, state or sheriffs' organizations.

It is our opinion that auxiliary police, if our interpretation of the words "auxiliary police," as used by you, is correct, are included within safety law enforcement officers of local, state and sheriffs' organizations and have the power of arrest only in times of emergency. We draw your attention to Section 9 of Chapter 12, R. S. 1954. L. D. 353 purported to amend said Section 9 and to incorporate as an amendment that paragraph that is now the last paragraph in Section 9:

"Duly appointed civil defense and public safety law enforcement officers of local, state and sheriffs' organizations shall have power to make arrests of persons found in violation of any provisions of this chapter or any rules and regulations promulgated thereunder in times of emergency necessary to carry out the provisions of section 6 of this chapter."

House Amendment "C" was duly adopted and can be seen as paragraph 2 of Section 9. Paragraph 2 of Section 9 relates to the authority of arrest in times of emergency or during authorized alerts, and grants such power to duly appointed law enforcement officers of local, state and sheriffs' organizations.

The last paragraph of Section 9 relates to the power of arrest in times of emergency, and, in addition to those officers mentioned in the second paragraph of Section 9, such power of arrest in times of emergency has been granted to

duly appointed Civil Defense and Public Safety law enforcement officers of local, state and sheriffs' organizations.

Clearly, the power of arrest varies as to whether or not the period is one of an emergency or one of an authorized alert. Following this clear distinction in the laws recently enacted by the 1955 legislature, we are of the opinion that officers appointed for the purposes of Civil Defense and Public Safety do not have the power of arrest except in times of emergency.

JAMES GLYNN FROST
Deputy Attorney General

November 6, 1956

To Harold E. Trahey, Rating Analyst, Insurance Department

Re: Multiple Line Policies

We have your memo of September 27, 1956, in which you ask for an opinion on multiple line policies and the incorporation of the Maine standard fire insurance policy into such multiple line policies by separate slip or rider.

Due to the unusual nature of the problem, we feel that substantial portions of your memo should be here quoted, in order that the background for your question can be seen:

"Until 1949 it had been the conventional practice of insurance companies licensed to do business in Maine to offer the insuring public policies of insurance providing coverage on the basis of insurance by line, i. e., fire, inland marine or casualty. Of these three lines, inland marine insurance most commonly and frequently had and continues to encroach upon the fire and casualty lines, thereby affecting insurance contracts considered to be of a modified multiple line nature.

"In 1949 the Maine Legislature enacted the present section No. 31 of Chapter 60, Maine Insurance Laws, dealing with the subject of multiple line insurance. Said section permits under certain conditions any foreign company licensed to do business in Maine to write the several lines of insurance previously mentioned. Since the enactment of this statute, there has been an increasing tendency within the industry to submit to this Department for its consideration so-called multiple line or package policies covering not only dwelling risks but, more recently, proposing to cover both mercantile contents and buildings. These policies, in our opinion, are a combination into one unit of the several lines of insurance which have always been classed as fire, inland marine and casualty. These same proposed forms of policies purport to provide all physical loss coverages with exclusions as to certain property and perils.

"Of the three lines of insurance herein mentioned, we have in our Maine insurance statutes only one statutory contract applicable thereto; namely, fire insurance. Section 104 of Chapter 60 consisting of seven subsections, sets forth the manner in which a company may impose upon the policy format. With particular reference to subsection VII thereunder, a company is permitted to rearrange the first page of the statutory fire insurance contract to provide space for the listing of amount of insurance, rates and premiums for the basic coverages or perils insured under endorsements attached, and such other data as may be conveniently included for duplication of daily reports for office records. Keeping in mind the