

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1941--1942

Department is to be charged at a fair rate against the Turnpike Authority and the Turnpike Authority must pay the State for such services, "as all other costs of said Turnpike".

Attention can be called to Section 13 of the Turnpike Authority Act which provides a method by which the Authority can raise temporary funds.

Very truly yours,

FRANK I. COWAN  
Attorney General

October 29, 1941

From:  
The Attorney General

To:  
The State Highway Commission

I have your query of instant date in regard to bills rendered by the Department of Audit.

Inasmuch as Chapter 27, P. L. 1941 expressly provides that the Highway Department shall pay 30% of the cost of audit of the various Courts, and inasmuch as in case of a payment to be made by one department of the State to another department, the department paying is chargeable with knowledge of the reason for making the payment, and with the accuracy of the payment approved, it is your duty to require an itemized statement from the Department of Audit in each case where you are billed for services of that department.

FRANK I. COWAN  
Attorney General

October 30, 1941

Harry V. Gilson, Esquire  
Commissioner of Education  
Augusta, Maine

Dear Mr. Gilson:

In response to your inquiry of October 22nd, relative to the responsibility for tuition charges based on permanent residence, I am pleased to inform you that it appears, in the instant case, that the whole case depends on the domicile of the parents of the pupil, Leola Meses, whose parents, within the year, moved from Friendship to Newcastle; who claim to own property in Friendship and claim that town as their legal residence.

It has been ruled by this Department that "for a person to acquire a new domicile depends wholly on residence and intention of remaining, and that a domicile cannot be lost by a temporary absence."

From the statement made by the parents, it seems evident that their residence in Newcastle is only temporary. If such is the case, facts not being shown to the contrary, there is in my opinion no doubt but that they still hold their domicile in Friendship with only a temporary residence in Newcastle. It has been held by our courts that a temporary residence is not sufficient to establish a domicile. It has been further held by our courts that a person's intention can only be shown by his acts and words, and when in doubt the domicile of origin prevails.

Trusting that this fully answers your inquiry, I remain

Yours very truly,

SANFORD L. FOGG  
Deputy Attorney General

October 31, 1941

Lucius D. Barrows, Chief Engineer  
State Highway Department  
Augusta, Maine

Dear Sir:

I have your inquiry of October 27th in regard to the "wrought" part of any improved section of the state highways, etc.

In my opinion, the word "wrought" applies to that portion of the highways developed for actual travel and to the necessary shoulders and drainage ditches and no farther. The application of the word to the slopes of cuts and to the occasional extensive slopes of fills does not, it seems to me, come within the meaning of the Legislature when it used the word in Section 4 of Chapter 229 of the Public Laws of 1937.

Within a limited time after the fills are made and the slopes are cut, in many cases growth will have started on the slopes so that there would be nothing to distinguish them from a natural slope.

Under the circumstances, I cannot see that the Legislature could have had in mind any area beyond the ditches.

Very truly yours,

FRANK I. COWAN  
Attorney General