

# MAINE STATE LEGISLATURE

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August 29, 1942

John S. S. Fessenden, Deputy Attorney General

Mr. Hutchinson, Department of Education

In reply to your request, I am unable to give you a categorical definition of school residence which will satisfactorily establish a "rule of thumb" to guide you in all cases.

As a general proposition it is my opinion that when parents of a child maintain a residence in this State and send the child, during the school year, to live with a relative in another town for the purpose of attending school in such other town, the residence of the child with such relative for such purpose is not a legal school residence.

If the parents of a child have established a bona fide residence in a town whether or not such parents have a residence in some other town, the child is entitled to free schooling in the town in which its parents actually live and maintain a home for the child.

When parents are separated and cannot afford to care for a child, the child may live with a relative and secure free schooling in the town in which the relative lives when such relative stands in "loco parentis". In connection with the problem generally, you are referred to the case of Shaw v. Small, 124 Maine, page 56.

Be sure to keep in mind that in stating the foregoing I have merely attempted to set forth general principles from which you should start when considering problems which come under these categories. However, the facts in any particular case may be such as will necessitate a radical departure from any of the principles set forth. I am sorry we cannot give you an absolute rule to follow in all cases, but this is one of the problems of law in which factual circumstances can so color any given situation that categorical definitions will not apply.

JSSF:gh

Deputy Attorney General