

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

move such vehicle from garage or storage place to the nearest inspection station for the purpose of complying with this law.”

You ask if your department, under Section 35, has the authority to issue to a dealer in second hand vehicles a permit to drive such vehicles purchased in another State to the dealer's garage or place of business in this State without having an inspection sticker attached thereto or without such dealer's having such cars inspected at the nearest inspection station within this State.

It is our opinion that the answer to this question is, No. Our reason for this answer is the presence of the fourth and fifth paragraphs of Section 35. The fourth paragraph provides that said inspection shall not apply to motor vehicles owned and registered in another state nor to new motor vehicles being driven by a dealer or his authorized representative from the point of distribution to his place of business. By referring specifically to new motor vehicles it is clear that the legislature meant to exclude used motor vehicles. Further evidence of this exclusion is present in the paragraph immediately following that above quoted, which refers to both new and used motor vehicles and which shows that if the legislature had intended that used motor vehicles be included in the paragraph above quoted, then it would have so stated.

Paragraph 6 of Section 35 would appear to be a limitation on the authority of the Secretary of State to issue permits to uninspected motor vehicles.

Having answered this question in the negative, it becomes unnecessary for this office to answer the second question, relating to the general movement of such used vehicles from without the State.

With respect to your question relating to Section 8 of Chapter 19 of the Revised Statutes, which section relates to rules and regulations promulgated by the Secretary of State, it is the general rule that such rules and regulations are valid only when they lead to the achievement of the results set out by the legislature. Any rule or regulation that is inconsistent with the statutes is invalid. It is our opinion, based upon the answer to the foregoing questions, that a rule or regulation which would allow your department to issue permits for the moving of used motor vehicles from without the State to the garage or place of business of the dealer in used cars in this State, without such vehicles having been inspected, would be inconsistent with the statutes relating to the inspection of motor vehicles, and for that reason would be invalid.

JAMES G. FROST  
Deputy Attorney General

June 16, 1953

To General Spaulding Bisbee, Director of Civil Defense

Re: Appointments

We have your memo of June 10th and attached letter from James Lassiter, Deputy Director No. 1, Oxford County, in which letter Mr. Lassiter asks if the selectmen of a town can relieve the Civil Defense Director and replace him with another man after a state of emergency has been declared by the Governor.

In answering this question it is assumed that the Director has been appointed by the municipal officers as provided in the Civil Defense Act. The power of appointment is, in the absence of other law to the contrary, accompanied by the power of removal. Therefore the removal of a locally appointed Civil Defense Director should be governed by the manner in which he was appointed. Reference should be made in each instance to the charter of the municipality, which may govern the method of appointment and removal of officers.

JAMES G. FROST  
Deputy Attorney General

June 16, 1953

To Kenneth Burns, Accounting Supervisor, Institutional Service  
Re: Settlement of Pupils at the Maine School for the Deaf.

We have your memo of May 16, 1953, in which you request an opinion relative to the settlement of children admitted to the Maine School for the Deaf. You ask specifically three questions:

"1. Is the Maine School for the Deaf a state institution in the meaning of R. S. 1944; Chapter 82; Section 3?"

"2. If so, does the above apply to a pupil for the entire period of attendance from the date of the original enrollment at the school until the pupil is graduated or officially discharged? Reference: R. S. 1944; Chapter 23, Sections 171 and 172.

"3. Does the above apply only for one school year at a time and is the fall registration, after the summer vacation, to be considered as a new enrollment?"

These questions are asked to determine whether or not the settlement of a child entering the school remains the same throughout his stay at the institution or whether it may change from time to time, thereby coinciding with the changes of settlement of the child's father.

It is the opinion of this office that the Maine School for the Deaf is a State institution within the provisions of Section 3 of Chapter 82 of the Revised Statutes, which provides:

"The settlement status of a person . . . who is an inmate of any asylum, penitentiary, jail, reformatory or other state institution shall not change during such period of service, confinement or imprisonment, but his settlement shall remain as it was at the time of the beginning of such service, confinement or imprisonment."

In view of the strict limitations set out in Section 171 of Chapter 23 of the Revised Statutes with respect to the withdrawal or discharge of a pupil from the Maine School for the Deaf and because of the requirement in Section 172 of Chapter 23 that certain children shall be compelled to attend the Maine School for the Deaf until discharge by the superintendent, it is our opinion that the answer to Question No. 2 is, Yes.