

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1957 - 1958**

certain fees. This would cover the problem at hand and, as I see it, fairly treat both the Commission and the broker or salesman.

ROGER A. PUTNAM  
Assistant Attorney General

February 7, 1957

To Doris M. St. Pierre, Secretary of Real Estate Commission

Re: Status of a Co-partnership

We have your memo of February 6, 1957, with regard to the license issued to a partnership known as the "Maine Camp Service" which consisted of two people at the time of issuance. One of the partners is now deceased. The surviving partner wishes to keep "Maine Camp Service" licensed as a partnership with "only a vague possibility that the wife of the deceased member would be a silent partner".

The law is clear that upon the death of one partner, the partnership is dissolved. *Putnam v. Parker*, 55 Me. 235 at 236. Another partnership made up of the survivors of the old partnership or their heirs or assigns would be a new and distinct partnership. Under such a situation a new license would be required and for an analogous situation with regard to motor vehicle registration and dissolution of partnership, see *Gass v. Robie*, 138 Me. 348, holding that a surviving partner had to re-register the automobiles formerly registered in the name of the partnership even though he had purchased the interest of his former partner and continued the partnership under the same firm name.

ROGER A. PUTNAM  
Assistant Attorney General

February 12, 1957

To Edmund S. Muskie, Governor of Maine

Re: Governor's Powers when Local Officials Fail to Act

. . . You state that you have an inquiry from a citizen relative to the failure of the County Commissioners to establish a local organization for Civil Defense and Public Safety and their failure to appoint a director of such organization.

Section 9 of Chapter 12 of the Revised Statutes of 1954 requires:

"Each political subdivision of this state is authorized to establish and shall establish a local organization for Civil Defense and Public Safety in accordance with the state Civil Defense and Public Safety plan and program. Each local organization for Civil Defense and Public Safety shall have a director who shall be appointed by the executive officer or governing body of the political subdivision."

You ask what provisions are made in the act for enforcement of the foregoing and what authority and responsibility the Governor may have in connection with the same. Section 19-A appears to be the only section relating to the penalty in the event an officer of a political subdivision neglects any duty lawfully required of him under the provisions of Chapter 12. This section provides for a fine of \$20 for every such neglect.

Bills were presented to the 1955 Legislature which would have materially strengthened the position of the Governor in the event of neglect on the part of officers in political subdivisions. One law actually contemplated the removal from office of such officer who wilfully failed to fulfil his duties under the statute or under a proper order or regulation. The Legislature, however, refused to enact such legislation and in its place provided for the \$20 fine above mentioned.

Under the present state of law relating to Civil Defense and Public Safety, it appears that the Legislature expects all persons to participate voluntarily, and, lacking such voluntary participation, there is little that can be done to strengthen the organization. It is difficult to define the responsibilities of the Governor when so little can be done to remedy the situation where local offenders fail to do their part. The failure of the Legislature to provide teeth by which the provisions of the act could be enforced would seem to indicate that your personal responsibility in the matter is quite limited by legislative intent. Perhaps this legislative session will see some methods enacted whereby the law can be enforced.

JAMES GLYNN FROST  
Deputy Attorney General

March 12, 1957

To Scott K. Higgins, Director of Aeronautics

Re: State Registration of Civil Air Patrol Aircraft

We acknowledge receipt of your memo inquiring if the Civil Air Patrol is exempt from paying State registration fees for aircraft located in Maine and operated by the Civil Air Patrol.

We have examined the charter of the Civil Air Patrol passed by Congress on July 1, 1946, Public Law 476, and find it to be substantially the type of corporation that would be organized under our own non-stock corporation chapter of laws. It is a non-profit organization.

While the corporation is probably exempt from excise taxes, we do not find that it is exempt from payment of registration fees.

Provisions relating to registration of aircraft are found in Chapter 24, Section 13, R. S. 1954. Subsection I reads in part:

“No civil aircraft shall be flown in the state unless such aircraft and its pilot are properly certificated under federal law, nor unless they have a valid certificate of registration as hereinafter provided. . .”

Subsection IV contains the exemptions:

“A. an aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory or possession of the United States, any state, territory or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

“B. an aircraft registered under the laws of a foreign country, and not engaged in air commerce within the state;