

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1959 - 1960**

MAINE STATE  
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or national emergency and who is otherwise qualified to operate a motor vehicle in this state, shall receive a license without the requirement of the payment of any fee.”

Answer: There still exists a national emergency which has not been terminated.

Emergencies exist when the President of the United States so declares by proclamation, and such emergencies must be terminated by proclamation.

On December 16, 1950, 15 F.R. 9029 by proclamation #2914, a national emergency was declared by the President in view of the Korean events.

By proclamation #2974, April 28, 1952, the President terminated certain national emergencies, that of September 8, 1939 in connection with the enforcement of neutrality; and that of May 27, 1941, which proclaimed an unlimited national emergency, but expressly stated that the existence of the national emergency caused by the Korean events continued.

The emergency declared in proclamation #2914 has not been terminated.

JAMES GLYNN FROST  
Deputy Attorney General

June 8, 1959

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Eligibility of City of Saco for National Defense Education Act Funds under Title III

Thornton Academy is actually not a public school within the strict meaning of the term, but it serves as a public school for the City of Saco on a contractual basis. It appears from your memorandum that a joint committee pursuant to Section 105, Chapter 41, Revised Statutes of 1954, operates the school, and the State gives financial aid under the foundation program.

It would, therefore, be my opinion that Thornton Academy should be considered a “public school” for these purposes by the Board of Education as long as the contract and control, as it now exists, remains in effect.

GEORGE A. WATHEN  
Assistant Attorney General

June 8, 1959

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Summer School Tuition Charges

In reply to your request of May 27, 1959, for an opinion regarding summer school tuition I note that the fact situation is such that a private school is being operated during the summer. The propriety of use or rental of public school buildings by a private organization is a matter for municipal counsel. Fees may be charged to anyone attending a private school.

Chapter 83 referred to in your memorandum merely authorizes the State Board of Education to inspect and approve standards for summer schools within the State.

Another question which was asked in your memorandum of May 27, 1959, was whether or not a summer school operated by a superintending school committee could charge a fee. Please refer to my memorandum of May 5, 1959, concerning legality of tuition to resident students attending a public school during the summer.

It is my opinion that in one instance we are dealing with a public school and no tuition can be charged to resident students and in the other situation, a private school which may charge tuition.

I have not attempted to answer your question relating to the amount of the fees charged by a private school since that is their own concern. Neither have I attempted to explain how a town may legally lease or rent its school property to a private organization since that is a matter within their province.

GEORGE A. WATHEN  
Assistant Attorney General

June 9, 1959

To: Harold I. Goss, Secretary of State

Re: Trailways of New England, Inc. Erroneously Registered as Foreign Corp.

You have referred to us the letter of Trailways of New England, Inc., a corporation which states that it is a public service corporation and further states that it had erroneously registered with the office of the Secretary of State under the provisions of Chapter 53, R. S. 1954, as a foreign corporation doing business in this state. The said corporation would like to correct the erroneous registration. Trailways makes the following statement:

"Trailways of New England, Inc. is a common carrier of passengers for hire by motor bus duly certified by the Maine Public Service Commission as to its intrastate operations within the State of Maine all pursuant to Chapter 48, Section 1 et seq., of the Revised Statutes. As such, Trailways of New England, Inc. is a public service corporation within the purview of Section 127, Chapter 53, and, therefore, is expressly made exempt from the operation of Chapter 53."

Chapter 53, section 127, Revised Statutes of 1954, reads as follows:

"Every corporation established under laws other than those of this state, for any lawful purpose, other than as a bank, savings bank, trust company, surety company, safe deposit company, insurance company or *public service* company. . ." (emphasis supplied)

A public service company is a company holding itself out to render service to the public for compensation. The primary purpose for the exclusion of such companies from the requirement of registration under the