

MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT
OF THE
ATTORNEY GENERAL

for the calendar years
1955 - 1956

statute or under the rules of construction, we have more or less resolved it down to this: that a resident would be a person living within the county and intending to reside there for an indefinite period of time. This is more or less the definition of domicile. Sometimes the words are used synonymously, at other times not. Without a court opinion it is hard to say. I think we should avoid at all costs the construction that a person is a resident who is merely living there at the time of the commitment. Such a construction might lead to an abuse by out-of-Staters who might come here especially for the purpose of disposing of their children into our care and then leave the State. I think the Probate Judge must determine as a question of jurisdiction whether the person is a resident in the county.

In answer to your second inquiry, regarding transfers from your institution, where the parents have removed from the State and gained settlement in another State, we would call your attention to the last sentence of Section 3 of Chapter 94 of the Revised Statutes of 1954. This statute takes care of the question of settlement of any inmate of your institution up until the time he or she is discharged. Settlement will not move while the person is in your institution. I would not overlook the fact, however, that the statutes of a sister State might provide for transfer in such cases. If that were true, and the sister State would accept any patients you might have, I would suggest that it would be legally proper for you to suggest transfer to the out-of-state institution. This would be a matter of law in the other jurisdiction. . .

ROGER A. PUTNAM
Assistant Attorney General

August 4, 1955

To the Maine Employment Security Commission

Re: "Next Ensuing," as used in Section 15

I have discussed the intent of the above noted section with our Attorney General and our Deputy Attorney General, especially with regard to the application of "for the period of unemployment next ensuing after he has left his employment voluntarily without good cause attributable to such employment."

Our conclusions are as follows:

For the purpose of administering this subsection, "the period of unemployment next ensuing after he has left his employment voluntarily without good cause attributable to such employment" refers to that period immediately following his *last* employment.

"A" leaves his job voluntarily without good cause attributable to such employment and files a claim for benefits. "A" will be disqualified for a period of not less than 7 nor more than 14 weeks in addition to his waiting period.

"B" leaves his job voluntarily without good cause attributable to such employment, immediately going to work in subsequent employment, being later *laid off* for lack of work, and files a claim for benefits. If otherwise eligible, this claimant is entitled to benefits, he *not* having left his most recent or last employment voluntarily.

"C" leaves his job voluntarily without good cause attributable to such employment, is unemployed for a period of time, then secures a job, being later

laid off for lack of work, and files a claim for benefits. If otherwise eligible, this claimant is entitled to benefits, he *not* having left his most recent or last employment voluntarily.

This agency has no jurisdiction over the granting or denying of benefits to an individual until such time as he files a claim for benefits. Consequently, the reason or reasons the claimant was separated from his last employment before filing a claim should be used as the test.

MILTON L. BRADFORD
Assistant Attorney General

These conclusions concurred in by Attorney General and Deputy.
Aug. 11, 1955.

J. G. F.

August 4, 1955

To Honorable Harold I. Goss, Secretary of State

Re: Vacancy in Office of Sheriff

I have your memorandum of July 28th requesting an opinion in regard to the length of the term to be served by the person appointed to fill the vacancy in the office of sheriff of Somerset County.

You quote Section 10 of Article IX of the Constitution of the State as follows:

“All vacancies in the office of sheriff. . . shall be filled in the same manner as is provided in the case of judges and registers of probate.”

You also quote Section 7 of Article VI of the Constitution as follows:

“Vacancies occurring in said offices . . . shall be filled by election in manner aforesaid at the September election, next after their occurrence; and in the meantime, the governor, with the advice and consent of the council, may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January next after the election aforesaid.”

You ask the specific question: “Shall the vacancies be filled by election at the next regular election for the choice of county officers or at the next election to be held in September, 1955 as provided by legislative acts relating to constitutional amendments?”

The vacancy is to be filled by election at the next regular election for the choice of county officers. Section 7 of Article VI provides that “Judges and registers of probate shall be elected by the people of their respective counties, by a plurality of the votes given in, at the biennial election on the second Monday of September.” This portion of Section 7 is the first part of the section which you have quoted in part, and the specific part to which I wish to call attention reads as follows:

“Vacancies occurring in said offices. . . shall be filled by election *in manner aforesaid at the September election. . .*”

It is our opinion that the words “in manner aforesaid” refer back to “the biennial election on the second Monday of September,” and that the words “at