

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

“Can a real estate broker licensed with a place of business in Solon advertise in Skowhegan and use a Post Office box number rather than a business address?”

We find no prohibition in the law against the practice above stated. On the contrary it appears to be a common business practice in all fields, including the real estate field, to advertise in places other than where you have a place of business and use post office box numbers in many cities and towns as the occasion arises.

ROGER A. PUTNAM
Assistant Attorney General

May 24, 1957

To William D. Hayes, Chairman
Maine Board of Accountancy

We acknowledge receipt of your letter of May 9, 1957, in which you recall to mind our conversation of some time ago relative to L. D. 644, now Chapter 203 of the Public Laws of 1957.

We affirm the opinion then expressed.

The legislature can, and sometimes does, legislate a person out of an office previously created by statute.

Section 1, Chapter 80, R. S. 1954, provides that the Board of Accountancy shall consist of 3 members, one of whom shall be a practising attorney. Chapter 203 amended Section 1 of Chapter 80, R. S., repealing that portion which relates to the attorney member, and would require that all members of the Board be skilled in the art of accountancy, shall have been actively engaged in the profession of public accountant, and be holders of certificates to practise as public accountants.

The amendment contains no provision showing legislative intent that the attorney, who upon the effective date of the amendment will be lacking the statutory qualifications required of one to be eligible to serve on the Board, should hold office until his term expires.

Under such circumstances we are of the opinion that on the date when Chapter 203 becomes effective as a law, then the term of office of the incumbent attorney members expires by operation of law.

JAMES GLYNN FROST
Deputy Attorney General

June 7, 1957

To Honorable Robert B. Williamson, The Chief Justice

Re: “General Elections”

This is in response to your recent request for advice as to whether or not this office has in the past issued any opinions or given rulings with respect to the meaning of the words, “general election.” I understand that your specific inquiry is whether or not primary elections are considered general elections.

We would advise that we have no record of having ever given an opinion on this subject.

While administrative interpretation of the law is not conclusive upon the Court, still if such interpretation has been consistent on a certain point for a period of time, then that interpretation is something that may be considered by the Court in arriving at its decision. In the hope that it will be helpful to you we offer the following examples of the usage of the term, "general election," which tend to the conclusion that "general election" means the biennial election held on the second Monday of September, as mentioned in Article II, Section 4 of the Maine Constitution, as distinguished from the primary election:

1. In referring to the Resolves proposing Amendments to the Constitution and the form of question and date when the Amendment shall be voted upon, we find that the first paragraph of the form of question reads as follows:

"Resolved: That the aldermen of cities, the selectmen of towns and the assessors of the several plantations of this state are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations *to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of senators and representatives at the next general or special state-wide election*, to give in their votes upon the amendment proposed in the foregoing resolution, and the question shall be:"

2. Section 27 of Chapter 61 of the Revised Statutes of 1954, as amended, reads in part as follows:

"No liquor shall be sold in this state on Sundays or on the day of holding a general election or state-wide primary"

With respect to the use of the words "general election" in the above quoted portion of our law, without exception such general election has been held to be that election mentioned in the Constitution, to be held on the second Monday of September, biennially.

3. Finally, we would draw your attention to the initiative and referendum provisions of the Constitution, Article IV, Part Third, Sections 18, 19 and 20. It will be noted that the words, "general election," are used in Section 18 and defined in Section 20. The definition contained in Section 20, relating to the use of the term in the three preceding sections, means "the November election for choice of presidential electors or the September election for choice of governor and other state and county officers"

The definition contained in Section 20 seems to justify the usage applied administratively to the words, "general election."

JAMES GLYNN FROST
Deputy Attorney General

June 13, 1957

To: Warren G. Hill, Commissioner of Education
Attn: Maurice C. Varney

Re: Funds for Vocational Education

In response to your request for an opinion as to whether or not the State Board of Education has the statutory authority to receive and expend federal funds for vocational education.

It is our opinion that the State Board of Education has the necessary authority to accept and expend federal funds for vocational education.