STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

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.

The State accepted the Smith-Hughes Act as seen in Section 196 of Chapter 41 of the Revised Statutes of 1954. Drawing your attention to Section 197 of Chapter 41 we note that in addition to designating the Treasurer of State as custodian for moneys received under the provisions of the Smith-Hughes Act, there is also authority for the Treasurer to accept and expend upon the order of the State Board of Education "All moneys received by the State from the federal government for vocational training . . ."

It is our opinion that the above-quoted section of law is adequate authority for the State Board of Education to accept and expend federal funds for vocational education.

It is our understanding that there is no distinction between the meanings of the terms vocational training and vocational education—such terms being used synonymously in the field of education nationwide.

JAMES G. FROST
Deputy Attorney General

June 26, 1957

To Frank A. Farrington, Chairman, Industrial Accident Commission

Re: Logging

Concerning the effect of Chapter 343 of the Public Laws of 1957, which becomes effective August 28th and eliminates the operations of cutting, hauling, rafting or driving logs from an exclusion in Workmen's Compensation Act after that date, it is my opinion that an assent filed prior to August 28, 1957, excluding operations of cutting, hauling, rafting or driving logs from same will have no effect whatsoever, and a new assent should be filed by the employer, and the employer and the insurance carrier should be notified to file.

The view has been taken that the Workmen's Compensation Act does not in any way impair the obligation of contracts, within the meaning of the provision of the Federal Constitution, which inhibits the States from exacting laws that may have this effect. 58 Am. Jur. 586, Sec. 16. In the case of *White v. Insurance Co.*, 120 Me. 69, the court laid down the rule in regard to the construction of the Compensation Act. The court said:

> "We do not lose sight of the well settled rule that the Compensation Act should receive a liberal construction, so that its beneficent purpose may be reasonably accomplished. Its provisions, however, cannot be justly or legally extended to the degree of making the employer an insurer of his workmen against all misfortunes, however received, while they happen to be upon his premises. Such was not the intent of the statute.
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> "The employer has rights as well as the employed. Their rights stand upon an equality in the eye of the law. Perversion of the law, either to benefit the employee or to protect the employer, has a tendency only to bring the law into contempt. This Compensation Act, therefore, should be administered with great care and caution, judicial discretion and impartial progress, striving only to discover the spirit in the letter of the law, and to apply that without fear or favor."