

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1957 - 1958**

and the rule is especially correct where the duress is imposed by the authority having the duty of accepting or rejecting the resignation.

The rule has been applied where the resignation was submitted in the face of a demand to either resign or be fired and lose all rights to a pension. *Moreno v. Cairnes*, 127 P. 2d 194; 20 Cal. 2d 531 (1942).

The rule has also been applied where the choice has been to resign or be charged with a criminal offense, or threatened with personal injury. *State ex. rel. Young v. Ladeen* (1908), 104 Minn. 252, 116 N.W. 486; 16 LRA (NS) 1058. See also *Board of Education v. Rose*, 147 S.W. 2d 83; 285 Ky. 217; 132 ALR 969.

The rule enunciated in the above cases appears to be based on the premise that resignation is a voluntary act, and that, if a resignation is submitted under circumstances where the alternative is to be fired, then such resignation is

“. . . akin to layoffs, suspensions, or discharges by reason of the element of coercion and bears only a formal resemblance to voluntary resignations. Whenever a person is severed from his employment by coercion the severance is effected not by his own will but by the will of a superior. A person who is forced to resign is thus in the position of one who is discharged, not of one who exercises his own will to surrender his employment voluntarily.”

*Morena v. Cairnes, supra.*

For the above reasons we conclude that in the instant case the resignation is not a bona fide resignation. . . .

JAMES GLYNN FROST

Deputy Attorney General

August 20, 1958

To Norman P. Ledew, Chief Examiner, Sales Tax Division

Re: Tax on Post Office Employee Uniforms

You inquire as to the taxability under the sales and use tax law of the sale of uniforms for mailmen who are employees of the Federal Government.

This is a sale to an individual employed by the Federal Government, but it is not a sale to the Federal Government or an instrumentality of the Federal Government.

The reimbursement by the Federal Government to the Federal employee for the expense of purchasing those uniforms is in the nature of a reimbursement for the expense incurred in carrying out his contract of employment with the Federal Government. The sale of the uniforms to the individual mailmen is therefore a taxable sale under the Maine Sales and Use Tax Act.

RICHARD A. FOLEY

Assistant Attorney General