

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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Absent a special date at which such measures could be voted upon, they would come up for vote at the next general election date in 1960.

We understand that it is not the desire of the legislature to delay a vote until such time, but that the wish is to have a vote this year.

In such a case we offer the following as suggestions for possible solution to the problem:

1. Amend, by resolve, and by two-thirds vote of the members present, Chapter 52, Resolves, 1959, so as to delete the words setting the date of election on the second Monday of September, and insert in their place words indicating that the election will be held at the next biennial meetings in the month of November.
2. (a) Pass a private and special law by two-thirds vote of the members present stating, in general terms, that all bond issue measures being referred to the people for Referendum vote be held at a special election on a date certain (the date to be such as would permit posting of warning and election after the 90 day period following the recess of the legislature has expired); or,
(b) Amend by a two-thirds vote of those present, one of the bond issue measures which has passed the legislature and been signed by the Governor, to include in such measure a definite date for the special election, having consideration again of the 90 day waiting period and the necessity for posting warning of the forthcoming election.

The foregoing amendments are suggested in view of the fact that the constitutional provisions relating to bond issues are not as restrictive in relation to the dates upon which the people may vote on such measures, as is the provision in the constitution relative to amendments to the constitution.

Such referendum measures may be voted upon "at a general or special election."

The legislature is free to establish such special election date for bond issue referendum when such date is not inconsistent with the above-mentioned 90 day limitation in regard to the effective date of such legislation.

Very truly yours,

JAMES GLYNN FROST
Deputy Attorney General

June 5, 1959

To: Stanton S. Weed, Director of Motor Vehicle Registration

Re: Termination of "national emergency."

We have your memo of May 11, 1959, requesting an opinion as to whether the "time of war or national emergency" has been terminated.

Section 60 of Chapter 22, R. S. 1954 as amended provides as follows:

" . . . on application to the Secretary of State, any person who is serving in the armed forces of the United States in time of war

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.