

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

the last one passed will, although it contains no repealing clause, govern, . . . so as to supersede and impliedly repeal the earlier act to the extent of the repugnancy.”

Our Supreme Judicial Court has adhered to these views in a long line of cases, the latest being *State v. London*, 156 Me. 123, 162 A.2d 150 (1960) where the Court said:

“Where a later statute does not cover the entire field of the earlier statute but is inconsistent or repugnant to some of its provisions, a repeal by implication takes place to the extent of the conflict.” 156 Me. 123, 128 162 A.2d 150, 153.

The 1967 law does not conflict with the entire Personnel Law, so-called [5 M.R.S.A. § § 551-741 (1964)], but only with the provisions of 5 M.R.S.A. § 634 (Supp. 1967). To the extent of such conflict, the later law governs. The classified status of the positions is not otherwise affected. The Legislature appears to have been aware of possible conflicts with prior law when it enacted ch. 542, for it is expressly provided that ch. 542 shall govern “[n]otwithstanding any other provision of law . . .”.

ROBERT G. FULLER, JR.
Assistant Attorney General

July 25, 1968
Education

Kermit S. Nickerson, Deputy Comm'r

Authority of Education Department to Administer P. L. 90-302

SYLLABUS:

Absent legislative acceptance of the benefits and provisions of a 1968 amendment to the previously accepted National School Lunch Act, the Department of Education is devoid of authority to administer the programs thereby created.

FACTS:

In 1946 the Congress passed the so-called National School Lunch Act. 60 Stat. 230. The following year the Maine Legislature accepted the provisions and benefits of this Act. Me. Public Laws 1947, ch. 127 [now codified as 20 M.R.S.A. § 1051 (1964)]. The accepting statute in its entirety reads:

“The State having accepted the provisions and benefits of the Act of Congress entitled ‘An Act to Provide Assistance to the States in the Establishment, Maintenance, Operation and Expansion of School-Lunch Programs and for Other Purposes’ approved June 4, 1946, will observe and comply with said Act.”

In 1968, the President signed into Law an amendment to the National School Lunch Act which authorized Federal assistance to food services provided during the summer months to children at playgrounds and recreation centers, and to food services provided year-round to day-care centers and settlement houses. 82 Stat. 117.

The Department of Education administers the National School Lunch Act in Maine.

QUESTION:

May the Department of Education, as the state agency for the administration of the National School Lunch Act in Maine, also administer the provisions of the 1968 amendment to that Act?

ANSWER:

No.

OPINION:

The State has accepted only the provisions of the National School Lunch Act, as that Act was originally passed in 1946. The State has not yet accepted the 1968 amendment to that Act, and such amendment cannot be deemed impliedly accepted by virtue of the acceptance of the original Act. The general rule in such case has been stated as follows:

“ . . . [W]hen a statute adopts all or part of another statute, . . . by a specific and descriptive reference thereto, the adoption takes the statute as it exists and does not include subsequent additions or modifications of the adopted statute, where it is not expressly so declared.” (Citations omitted.) 50 Am. Jur. *Statutes* § 39.

See also 168 A.L.R. 621, 631 for a collection of cases supporting this rule. *Cf. Collins v. Blake*, 79 Me. 218, 9 Atl. 358 (1887).

Accordingly, without legislative acceptance of the provisions and benefits of the 1968 amendment, the Department of Education is without authority to administer the programs thereby created.

ROBERT G. FULLER, JR.
Assistant Attorney General

August 1, 1968
Bureau of Taxation

Ernest H. Johnson, State Tax Assessor

SUBJECT: Snow Traveling Vehicles

SYLLABUS:

A SNOW TRAVELING VEHICLE IS A “MOTOR VEHICLE” FOR PURPOSES OF THE SALES AND USE TAX LAW.

FACTS:

Chapter 479 of the Public Laws of 1967, which became effective on July 1, 1968, is an act which regulates snow traveling vehicles.

In an Attorney General’s opinion dated April 11, 1968, it was determined, for Excise Tax purposes, that snow traveling vehicles come within the definition of “motor vehicles” as set out in 36 M.R.S.A. §1481 (3), inasmuch as they are allowed to operate on the public highways, as defined in 23 M.R.S.A.

QUESTION:

Is a snow traveling vehicle to be considered a “motor vehicle” for the purposes of the Sales and Use Tax law?