

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

REASONS:

1. The first question does not present a State issue for consideration. In the event that the voters of an administrative unit authorized their school committee to accept tuition students only from a specified sending administrative unit, and the school committee refused to accept those tuition students, the controversy would be one which required attention of counsel representing the board and the administrative unit. If this office were to give advice on such a question, it would not be in a position to support that advice by representing either the administrative unit or the school committee.

2. In answer to the second question, a school committee of an administrative unit receiving tuition students must continue to receive such students until the expiration of a 2-year period following notice given to the sending administrative units that tuition students will not be received thereafter. The Article to be voted upon should be aimed at notification of discontinuance of tuition pupils rather than to immediate discontinuance. Note that the reference notification to the sending administrative units must be given if the receiving administrative unit qualifies for school construction aid under the provisions of 20 M.R.S.A. § 3457; and the answer we give to the second question only goes to the extent of the facts assumed, i.e., that the receiving administrative unit qualifies for school construction aid.

3. What is written in the previous paragraph supports the answer to question No. 3.

4. Question 4 is really one of administration of the school committee (and may well depend upon the time when the voters of the administrative unit direct their school committee not to accept tuition students). The notice of discontinuance of acceptance of tuition pupils should be given to the sending administrative units as soon as possible so as to inform the sending administrative units of the remaining 2-year period during which they may continue to send students to the receiving unit.

JOHN W. BENOIT, JR.
Deputy Attorney General

December 22, 1971
Executive

Governor Kenneth M. Curtis

Retirement of Judges; Meaning of "Consecutive Years" in 4 M.R.S.A. § 103.

We acknowledge receipt of the inter-departmental memorandum submitted to this office by your Department under date of December 22, 1971 requesting an opinion as to the meaning of the phrase "consecutive years" appearing in Title 4, Section 103. The reference phrase appears in the first sentence of Section 103 of Title 4 as follows:

"Any Justice of the Superior Court who resigns his office or ceases to serve at the expiration of any term thereof, after attaining the age of 70 years and after having served as such Justice for at least 7 consecutive years, or after attaining the age of 65 years and after having served as such Justice for at least 12 consecutive years, shall receive annually during the remainder of his life an amount equal to $\frac{3}{4}$ of the currently effective annual salary of a Justice of the Superior Court, to be paid in the same manner as the salaries of the Justice of said Court are paid. * * ."

The memorandum from your Department seeks the meaning of "consecutive years" and asks whether eligibility for retirement compensation requires uninterrupted service or whether eligibility may be maintained even though a lapse of time occurred between reappointments, provided the lapse occurred only within the next calendar year or a 12-month period following the end of the prior term of office.

Generally speaking, the word "consecutive" means successive, following in regular train, succeeding one another in regular order. *Bledsoe v. Johnston* (D.C. Cal.), 58 F. Supp. 129, 131. "Consecutive" ordinarily conveys the thought of unbroken sequence or uninterrupted succession. *Commonwealth v. City of Boston*, 316 Mass. 410, 55 N.E.2d 686, 687. The term "consecutive" is thought to be synonymous with "successive"; and these words are often used interchangeably. *Dever v. Cornwell*, 10 N.D. 123, 86 N.W. 227, 230; *Copher v. Barbee* (Mo. App.), 361 S.W.2d 137, 145.

Rules have been promulgated by the lawmakers respecting the construction of statutory words and phrases, and those rules are to be observed unless the resulting construction is inconsistent with the plain meaning of the law. The general rule is that words and phrases shall be construed according to the common meaning of the language. *1 M.R.S.A. § 71, sub-§ 3*.

A lapse of a few days between terms, occasioned by posting and confirmation times, would not constitute an interruption of "consecutive years". This is particularly so where the judge is appointed to succeed himself and the lapse is the result of the mechanics of reappointment. We cannot say at this time what lapse of time would constitute a break in "consecutive years". We prefer to make that judgement when a factual situation is presented.

JOHN W. BENOIT, JR.
Deputy Attorney General

January 6, 1972
Education

Keith L. Crockett, Sec.-Treas.
Maine School Building Authority

Utilization of Alternate Method of Paying School Construction Aid (3460) on Maine School Building Authority Projects.

SYLLABUS:

The "alternate method" of paying State school construction aid to administrative units (20 M.R.S.A. § 3460) is permissible for Maine School Building Authority projects, if authorized by the State Board of Education and if funds are available.

FACTS:

The Maine School Building Authority (hereinafter referred to as Authority) has received several applications from administrative units seeking assistance in the financing of needed school construction. The application received from Lisbon is illustrative of these plural applications and it exemplifies the situation giving rise to your request for an opinion.

The Lisbon application seeks financing assistance on two projects: (1) a high school addition, and (2) construction of a middle school. A data sheet showing preliminary estimations respecting the two projects is attached hereto. Reference will be made only to the high school addition project. The middle school project figures are only cumulative of the factual situation calling for our opinion.

Lisbon's application for construction aid submitted to the Authority indicates that such aid would be due Lisbon on qualifying items totaling \$822,500. (Administration costs of \$2500 and capitalized interest in the amount of \$55,000 are not items which