

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date August 15, 1974

To Peter M. Damborg, Deputy Secretary of State
From Jon A. Lund, Attorney General Dept. Attorney General
Subject 1974 Primary Election Campaign Expenses

The Campaign Reports Committee, through your office, asks two questions of this office which you set forth in your memorandum of August 5 as follows:

1. What constitutes advertising as it relates to the reporting of campaign expenditures under the Election Laws? *
2. As of what point in time must a candidate be responsible for declaring the advertising costs of his campaign? *

21 M.R.S.A. § 1395, sub-§ 3,** provides that:

"Notwithstanding any other provisions of law, no candidate for political office in a general election shall dispense on behalf of such candidacy for advertising, as described in section 1575, an amount of money greater than the annual salary authorized for such office in any one year or 10⁴ multiplied by the number of votes cast for all legally qualified candidates for such office at the last preceding general election for such office, whichever amount is the greater, except that no candidate for the Legislature shall expend an amount exceeding the annual salary for that office and except that a candidate for Governor and United States Senator shall be allowed to dispense twice the amount provided in this subsection."

Subsection 4** limits such spending by a candidate for office in a primary election to an amount not greater than 50% of that which may be spent under subsection 3.

Section 1575 reads as follows:

"§ 1575. Identification of political advertisements.

"The source of a written or oral advertisement which is designed to promote or defeat a candidate, party or principle must be identified by disclosing

* Both questions relate to the 1974 primary election.

** 21 M.R.S.A. § 1395, sub-§§ 3 and 4, were repealed and replaced in P.L. 1973, c. 756, operative July 1, 1974.

as part of the advertisement the name of the person or chairman of the organization which sponsored it.

"No person shall publish, or cause to be published, in a newspaper or other periodical, any paid matter which is designed or tends to promote or defeat any candidate for public office, party, principle, initiative or referendum question, unless the name of the person or chairman of the organization inserting the same, or the name of some voter who is responsible therefor, with his residence and the street and number thereof, if any, appear in the nature of a signature. No person or corporation within this State, operating a radio station, television station, or network of either, shall broadcast or telecast any such paid political matter without announcing the person or organization paying therefor.

"Any person or chairman of any organization who sponsors or causes to be published, broadcast or telecast political advertising as set forth in this section through the submission or use of a false name; or who in any manner knowingly aids or abets the violation of any provision of this section, shall be fined not more than \$500 or imprisoned for not more than 90 days."

1 M.R.S.A. § 72, sub-§ 3, provides that as a general rule of statutory construction "words and phrases shall be construed according to the common meaning of the language."

According to § 1575, political advertising is described as a written or oral advertisement which is designed to promote or defeat a candidate, party or principle and as "paid matter" which is designed or tends to promote or defeat any candidate for public office, party, principle, initiative or referendum question. We interpret that to mean not only material published in newspapers or other periodicals, but material broadcasted or televised, as well as material appearing in or upon billboard, flyers, handbills, etc. Any other conclusion would allow the expenditure of unlimited amounts for such items as billboard, handbills, bumper stickers, etc. contrary to the expressed intention of the Legislature to limit expenditures for political advertising. That appears to be the intention of the Legislature, from a perusal of the Legislative Record, Senate, March 19, 1971, pages 861-864.

It was remarked there, during Senate debate of political advertising legislation, that if the Legislature is serious about cutting down campaign expenses, of overcoming objections of the public about the size of expenditures for political advertising of all kinds, and of giving more than lip service to back up editorial comments about excessive advertising, the members of the Legislature should not throw up their hands and say the situation is too complicated but should entertain the passage of the bill before it.

The interpretation placed on a statute by officers or governmental departments charged with carrying out the provisions of the law has been accorded due consideration by the courts when construing the statutes. Mottram v. State (Me., 1967), 232 A.2d 809; State v. Boston & Maine R. Co. (1923), 123 Me. 48, 121 A. 541. The Secretary of State's office is charged with construing the statute relating to political advertisements, and establishment of necessary reporting forms.

"The Secretary of State may establish the layout and content of all forms, lists, documents and records required by or necessary to the efficient operation of this Title." (Emphasis supplied.)
21 M.R.S.A. § 1576.

The Secretary of State has established a "Primary Election Campaign Report" form (attached to this opinion and made a part hereof) which has been in existence for many years; going back to the early 1960's when the Legislature enacted the statutory provision that describes political advertising as: ". . . a written or oral advertisement which is designed to promote or defeat a candidate, party or principle. . . ." (21 M.R.S.A. § 1575, as enacted in 1961, c. 360, § 1). The report form requires the showing of expenditures for advertising that go beyond that which appeared in newspapers, radio and television. Advertising costs of billboards, posters, brochures, bumper stickers, etc. are also expressly required to be included in the Secretary of State's form.

As to the first question, we conclude that political advertising includes written or oral matter designed to promote or defeat a candidate, party or principle, presented by means of newspapers, radio, television or in the form of billboards, bumper stickers, handbills, flyers, or other nonperiodical publications, campaign buttons, etc.

In response to your second question concerning the commencement date for the compilation of advertising expenses for inclusion in the campaign report, it is our opinion that it is measured from January 1 to the day of the primary election. This construction appears from the plain language of § 1395, sub-§ 3, which provides, in pertinent part, as follows:

"Notwithstanding any other provisions of law, no candidate for political office in a general election shall dispense on behalf of such candidacy for advertising, as described in section 1575, an amount of money greater than the annual salary authorized for such office in any one year or 10% multiplied by the number. . . ." (Emphasis supplied.)

It would be redundant if the phrase "in any one year" referred to the term "salary" since the term "salary" is already modified by the word "annual." In order to give effect to the language "in any one year," that language must necessarily refer to the time period during which the spending limitation applies.

This conclusion finds further support in 1 M.R.S.A. § 72, sub-§ 30, which provides:

"'Year' means a calendar year, unless otherwise expressed. 'Year,' used for a date, means year of our Lord."

Finally, we note that the Secretary of State has taken the position that the reporting period is from January 1 to the date of the primary.

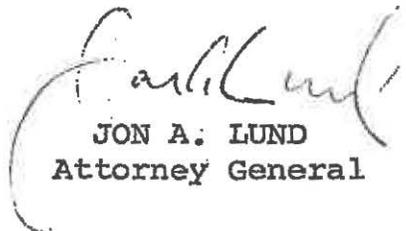
Additionally, you have asked the following question orally:

Is the salary limitation on advertising expenditures in 21 M.R.S.A. § 1395, sub-§ 3, that of the present salary for the office, or that which the successful candidate will receive when he assumes office on the first Wednesday of January, 1975?

Section 1395, sub-§ 3, provides:

". . . no candidate for political office in a general election shall dispense on behalf of such candidacy for advertising, as described in section 1575, an amount of money greater than the annual salary authorized for such office in any one year. . . ."

It seems clear that a candidate for political office is limited to the annual salary authorized to be paid during the term the candidate would serve. This conclusion construes the statute according to the common meaning of its language. 1 M.R.S.A. § 72, sub-§3.



JON A. LUND
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