OCTOBER 14, 1949.

HON. ARTHUR L. WILCOX,
Clerk of the County of Sussex,
Court House,
Newton, New Jersey.

FORMAL OPINION—1949. No. 95.

DEAR SIR:

The question presented is whether, in the absence of a time limit for filing the question with the County Clerk under R. S. 40:62–3 et seq., the County Clerk is bound by the limit fixed in R. S. 19:37–1 or whether R. S. 40:62–3 et seq. may be construed to authorize such filing within a reasonable time.

Section 19:37–1 applies where there is no other statute by which the sentiment of the legal voters can be ascertained. Section 40:62–5 specifically provides a procedure for submission of the question, as well as the form and content of the question.

It is our opinion, therefore, that Section 19:37–1 et seq. does not apply and that, inasmuch as no time limit is specified in Section 40:62–5, the service upon the county clerk of the certified copy of the ordinance with a request that the question be placed upon the ballot is sufficient if made within a reasonable time. A reasonable time would be any time up to the time fixed by R. S. 19:14–1 for the County Clerk to have ready for the printer a copy of the contents of the official ballot, which time is seventeen days prior to the general election.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: DOMINIC A. CAVICCHIA,
Deputy Attorney General.

OCTOBER 3, 1949.

HON. C. A. GOUGH, *Deputy and Acting Commissioner,*
Department of Banking and Insurance,
State House Annex,
Trenton 7, New Jersey.

FORMAL OPINION—1949. No. 96.

DEAR COMMISSIONER GOUGH:

I am in receipt of your letter of September 20, 1949, wherein you request an opinion relative to the application of the insurance premium tax, contained in Chapter 132, P. L. 1945, to certain premiums and considerations collected under life insurance policies and annuity contracts written within this State on persons who are not residents of New Jersey.

It appears that a Canadian Life Insurance Company, authorized to transact business in New Jersey, has been writing insurance policies and annuity contracts through its New Jersey office on residents of other States, principally the State of New York, and that it is not licensed to transact business in those States. As far as you are able to determine, the Company pays no taxes to any State on the premiums and considerations collected at the time of writing this business, which are the first or initial premiums or considerations. The Company has never included them in its annual tax return to your Department, contending, that they are not collected under insurance policies and annuity contracts on residents of this State, and therefore, they are not taxable under the aforesaid statute.

Since said statute requires you to furnish the Director of the Division of Taxation with all the facts necessary for him to assess and collect the tax, you inquire as to whether said premiums and considerations are subject to taxation under said statute and should be included in the Company's return to your Department.

We are of the opinion that said premiums and considerations are not subject to taxation under said statute and that the Company is not required to include them in its return to your Department.

The question arises under Section 8 of the said statute and the pertinent part thereof reads as follows:

> "The tax specified in section one of this act as to life insurance companies, shall be two per centum (2%) upon the taxable premiums collected by the company during the year ending December thirty-first next preceding under all policies or contracts of insurance on residents of this State and one per centum (1%) upon the taxable considerations collected by the company during the said year under annuity contracts on residents of this State . . ."

The answer to the question lies in the meaning of the phrase "residents of this State."

Our examination of the authorities reveals that the word "resident," as used in a statute, may have several meanings. They all arise from interpretations of our Divorce, Elections, Attachment and Adoption Acts and little help can be obtained from them. The statute under consideration has not been before the Courts and, consequently, there are no decisions concerning it.

We, therefore, must fall back to the general rule pertaining to statutory construction. It has long been the law of this State that the construction of statutes, words and phrases shall be read and construed with their context, and shall, unless inconsistent with the manifest intent of the Legislature, or, unless another or different meaning is expressly indicated, be given their generally accepted meaning, according to the approved usage of the language. Upon revising the statutes in 1937, this rule was incorporated therein at *R. S. 1:1-1.*

The rule as thus expressed in the Revised Statutes has been given effect and followed in many cases since the revision, the most recent being *Madden* vs. *Madden,* 136 N. J. E. 132 (E. & A. 1944).

With the foregoing rule in mind, a reading of the statute under consideration does not reveal any reason why the phrase "resident of this State" should not be given the generally accepted meaning according to the approved usage of the language. We find nothing therein inconsistent with that intent, nor is there another or different meaning expressly indicated.

In *Bouvier's Law Dictionary* (Rawle's Third Revision) at page 2920, we find "resident" to be defined as, "One is a resident of a place from which his departure is indefinite as to time."

There being no indication in the statute to the contrary, either by way of inconsistency or by express language, we are of the opinion that the generally accepted meaning of the phrase "resident of this State," as used therein, according to approved usage of language, is a person residing in this State from which his departure is uncertain.

We, therefore, conclude that the Company need only report to your Department the premiums and considerations collected from persons coming within that category.

Very truly yours,

THEODORE D. PARSONS,
Attorney General of New Jersey.

By: OLIVER T. SOMERVILLE,
Deputy Attorney General.

OTS/meb

OCTOBER 26, 1949.

COL. CHARLES H. SCHOEFFEL, *Superintendent,*
New Jersey State Police,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 97.

DEAR COLONEL SCHOEFFEL:

Your letter of October 17, 1949, is at hand requesting an opinion as to action to be taken when a violation of the motor vehicle act is committed on State property (not a public way) and also whether a State Trooper has authority to issue a summons for such violation.

The facts given to me in this case indicate that two motor vehicles owned by employees of the State Hospital had an accident on State Hospital property at Trenton.

The roadways of the State Hospital and other institutions of similar character are not open to the public as a public way. There is no law on the statute books which gives the right to a State Trooper to issue summons for violation of the motor vehicle law on State property not used by the public as a public way and the law being silent concerning such State property, you cannot prosecute for violation of the motor vehicle act which was committed as aforesaid.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: ROBERT PEACOCK,
Deputy Attorney General.