

We are of the opinion that the act creating the office of commissioner of the New Jersey Racing Commission attached the term to the office and not to the incumbent of that office. This conclusion is substantiated by the clear legislative intent to have at least one term of the original four expire every two years. It is further supported by the provision that a vacancy shall be filled by the Governor for the unexpired term only. *Marvel v. Camden County*, supra; *Monte v. Milat*, 17 N.J. Super. 260 (Law Div. 1952).

The fact that the act here in question provides that a commissioner shall serve until his successor shall have been appointed and qualified does not weaken this conclusion. As the court points out in *Monte v. Milat*, supra at 268:

“* * * Since the term of an office is distinct from the tenure of an officer, ‘the term of office’ is not affected by the holding over of an incumbent beyond the expiration of the term for which he was appointed; and a holding over does not change the length of the term, but merely shortens the term of his successor. 67 C.J.S. 206, §48 (c.) * * *.”

To ascertain the dates on which the terms of the present members of this commission expire, the terms of the four original appointees and their successors have been traced from 1940 to the present.

The first four members were appointed to the commission on March 18, 1940. Louis A. Reilly received one of the two 6-year terms which expired on March 18, 1946. The second 6-year term was received by John R. Rodgers. Joseph A. Brophy received the 4-year term which expired on March 18, 1944. The 2-year term was received by William H. Cane and this term expired on March 18, 1942. Since the statute did not fix any time for the commencement of these terms, they began to run from the date of the first appointment, March 18th, and, in accordance with the legislative mandate, contained in the 1940 act, at least one 6-year term has commenced every two years thereafter. Cf. *Haight v. Love*, 39 N.J.L. 476 (E. & A. 1877).

For example, the terms succeeding the ones to which Mr. Reilly and Mr. Rodgers were appointed began on March 18, 1946 and ran to March 18, 1952. The term following the one Mr. Brophy received started on March 18, 1944 and continued until March 18, 1950. Similarly, Mr. Cane's original term was followed by one that began on March 18, 1942 and continued until March 18, 1948.

The present incumbent of the office originally filled by Louis A. Reilly is Richard V. Mulligan. Your records indicate that Mr. Mulligan's term will expire on June 12, 1964. Our calculations indicate that the term to which Mr. Mulligan was appointed on July 31, 1958 is the term that commenced on March 18, 1958, which is to expire on March 18, 1964.

Hugh J. Strong is now the holder of the office to which John R. Rodgers was the original appointee. Your records indicate that his term is to expire on June 12, 1964. Our calculations indicate that the term to which he was appointed on July 31, 1958 commenced on March 31, 1958 and, like Mr. Mulligan's term, will expire on March 18, 1964.

The office to which Joseph A. Brophy was originally appointed is now held by Thomas J. Brogan. Your records indicate that Mr. Brogan's term is to expire March 21, 1963. According to our calculations, Mr. Brogan, who was appointed to his present term on June 16, 1958, received a term that commenced on March 18, 1956 and will expire on March 18, 1962.

Hugh L. Mehorter is the present incumbent of the office to which William H. Cane was appointed. Your records indicate that his term is to expire on January 14, 1964. According to our calculations, Mr. Mehorter, who was appointed on January 14, 1958, received a term which commenced on March 18, 1954 and which, therefore, will expire on March 18, 1960.

In summary, the expiration dates of the terms now held by the present members of the New Jersey Racing Commission is as follows:

Richard V. Mulligan	March 18, 1964
Hugh J. Strong	March 18, 1964
Thomas J. Brogan	March 18, 1962
Hugh L. Mehorter	March 18, 1960.

For opinions dealing with similar situations, see Memorandum Opinion to you, dated October 30, 1958, concerning the terms of office of the members of the State Board of Public Accountants and other opinions cited therein.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: DAVID J. GOLDBERG
Deputy Attorney General

NOVEMBER 19, 1958

HONORABLE EDWARD J. PATTEN
Secretary of State
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-34

DEAR MR. PATTEN:

You have requested an opinion fixing the terms of the members of the State Board of Shorthand Reporting.

The State Board of Shorthand Reporting was created by P.L. 1940, c. 175, which provided for a 3-member board to be appointed by the Governor. Section 1 of this act provides as follows:

"1. There is hereby established a State Board of Shorthand Reporting (herein referred to as the board) to be composed of three members to be appointed by the Governor, by and with the consent of the Senate. The members of the board, with the exception of the members first to be appointed, shall be holders of certificates issued under the provisions of this act. The members first appointed shall be skilled in the art and practice of shorthand reporting and shall have been actively and continuously engaged as professional shorthand reporters within the State of New Jersey for at least five years preceding their appointments. The members shall hold office for a term of three years, except that, (1) any member appointed to fill a

vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office after the date of enactment of this act shall expire, as designated by the Governor at the time of nomination, one at the end of one year, one at the end of two years, and one at the end of three years after such date. The board shall elect one of its members as chairman and one as secretary-treasurer, who shall hold their respective offices for one year. The secretary-treasurer shall give bond to the State in such sum as may be determined by the board. The board shall make all necessary rules and regulations to carry out the provisions of this act. Any two members shall constitute a quorum for the transaction of business. The board shall keep a complete record of all its proceedings and shall file an annual report with the office of the Secretary of State."

To determine the terms of office of the present members of the State Board of Shorthand Reporting, it is necessary to decide whether the 3-year term is affixed or attached to the office of board member or to the incumbent thereof. *Marvel v. Camden County*, 137 N.J.L. 47 (E. & A. 1948).

We are of the opinion that the act creating the office of member of the State Board of Shorthand Reporting attached the term to the office itself and not to the incumbent of that office. This conclusion is substantiated by the clear legislative intent to have one term of the original four expire each year. It is further supported by the provision that a vacancy shall be filled by the Governor for the unexpired term only. *Marvel v. Camden County*, supra; *Monte v. Milat*, 17 N.J. Super. 260 (Law Div. 1952).

To ascertain the dates on which the terms of the present members of this board expire, the terms of the three original appointees and their successors have been traced from 1940 to the present.

The first member named to the board was John F. Trainer who was appointed for the 3-year term on January 5, 1941. Vincent Donegan was appointed on May 26, 1941 for the 2-year term. The 1-year term was received by Charles J. Drescher, also on May 26, 1941. Since the statute did not fix any time for the commencement of these terms, they began to run from the date of the first appointment, January 6, 1940, and, in accordance with the legislative mandate contained in the 1940 act, one 3-year term has commenced every year thereafter. Cf. *Haight v. Love*, 39 N.J.L. 476 (E. & A. 1877). For example, the term succeeding the one to which Mr. Trainer was appointed began on January 6, 1944 and ran to January 6, 1947. The term following the one Mr. Donegan received started on January 6, 1943 and continued until January 6, 1946. Similarly, Mr. Drescher's original term was followed by one that began on January 6, 1942 and continued until January 6, 1945.

The present incumbent of the office originally filled by John F. Trainer is Sidney Lichter. Your records indicate that Mr. Lichter's term will expire on January 6, 1961. Our calculations indicate that the term to which Mr. Lichter was appointed on June 2, 1958 is the term that commenced on January 6, 1956 and which, therefore, will expire on January 6, 1959.

George Sakson is now the holder of the office to which Vincent Donegan was the original appointee. Your records indicate that his term is to expire on January 6, 1961. We are in accord with this listing.

The office to which Charles J. Drescher was originally appointed is now held by John P. Walsh. Your records indicate that Mr. Walsh's term is to expire on January 6, 1960. We are also in agreement with this listing.

In summary, the corrected expiration dates of the terms held by the present members of the State Board of Shorthand Reporting is as follows:

Sidney Lichter	January 6, 1959
George Sakson	January 6, 1961
John P. Walsh	January 6, 1960

For opinions dealing with similar situations, see Memorandum Opinion to you, dated October 30, 1958, concerning the terms of office of the members of the State Board of Public Accountants and other opinions cited therein.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: DAVID J. GOLDBERG
Deputy Attorney General

DECEMBER 16, 1958

HONORABLE PHILLIP ALAMPI, *Secretary*
Department of Agriculture
1 West State Street
Trenton, New Jersey

MEMORANDUM OPINION—P-35

Re: Meaning of word "poultry."

DEAR SECRETARY ALAMPI:

You have requested an opinion as to the meaning of the word "poultry" when used in a general way in agricultural acts. Where the statute in question defines the meaning of the word, statutory construction requires that the words be given the meaning as defined in the statute unless such construction will defeat the legislative purpose, 2 *Sutherland Statutory Construction* (3rd ed. 1943), sec. 3002, p. 222. An example of this type of statutory definition is contained in the Poultry Products Promotion Council and Tax Act, R.S. 54:47A-1 et seq., where the word "poultry" is defined to mean "chickens, turkeys, ducks, geese, guinea fowl and pheasants." Here the language is plain and unambiguous. The Legislature has supplied the meaning and this meaning is binding when the statute is being construed.

Where the statute does not supply a definition, the words normally are to be given their natural and ordinary meaning, *Lloyd v. Vermeulen*, 40 N.J. Super. 151, 165 (Law Div., 1956); *In re Act Concerning Alcoholic Beverages*, 130 N.J.L. 123, 128 (Sup. Ct., 1943). There is no safer or better settled manner of interpretation than that when language is clear and unambiguous it must be held to mean what it plainly expresses. In the instant case the word "poultry" has a well defined meaning.

Corpus Juris Secundum, Vol. 72, pages 395, 396, defines poultry as follows:

"A generic word, meaning domestic fowls reared for the table, or for their eggs or feathers, such as cocks and hens, capons, turkeys, ducks, and