

geese. The term is sometimes applied to pigeons if reared for table consumption."

This definition is also contained in *Words and Phrases*, Permanent Edition, Vol. 33, page 135, and except for the last sentence, it is the same definition as that contained in *Webster's New International Dictionary of the English Language*, 1931 Edition.

While it is an elementary rule of construction that effect must be given, if possible, to every word, clause and sentence of a statute, the literal interpretation of the words of an act should not prevail if it creates a result contrary to the apparent intention of the Legislature. The intention prevails over the letter and the letter must, if possible, be read so as to conform to the spirit of the act. The intention of the Legislature must be ascertained from the words used to express it, the manifest reason and obvious purpose of the law should not be sacrificed to a literal interpretation of such words. Thus, words or clauses may be enlarged or restricted to harmonize with other provisions of an act.

In *Alexander v. N.J. Power & Light Co.*, 21 N.J. 373 (1956) Justice Heher, speaking for a unanimous court, at page 378 said:

"The statute is to receive a reasonable construction, to serve the apparent legislative purpose. The inquiry in the final analysis is the true intention of the law; and, in the quest for the intention, the letter gives way to the rationale of the expression. The words used may be expanded or limited according to the manifest reason and obvious purpose of the law. The spirit of the legislative direction prevails over the literal sense of the terms. The particular words are to be made responsive to the essential principle of the law. When the reason of the regulation is general, though the provision is special, it has a general acceptation. The language is not to be given a rigid interpretation when it is apparent that such meaning was not intended. The rule of strict construction cannot be allowed to defeat the evident legislative design. The will of the law-giver is to be found, not by a mechanical use of particular words and phrases, according to their actual denotation, but by the exercise of reason and judgment in assessing the expression as a composite whole. The indubitable reason of the legislative terms in the aggregate is not to be sacrificed to scholastic strictness of definition or concept. *Wright v. Vogt*, 7 N.J. 1 (1951).

"It is not the meaning of isolated words, but the internal sense of the law, the spirit of the correlated symbols of expression, that we seek in the exposition of a statute. The intention emerges from the principle and policy of the act rather than the literal sense of particular terms, standing alone. *Caputo v. Best Foods, Inc.*, 17 N.J. 259 (1955)."

You are therefore advised that when the word "poultry" is used in a general manner in a statute, it is to be given its common ordinary meaning as set forth above, unless the literal interpretation will result in thwarting the apparent legislative purpose or intention as gathered from the entire act, in which event the ordinary meaning of the word "poultry" is to be expanded or limited so that it is made responsive to the essential legislative spirit, intent and purpose.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: GEORGE H. BARBOUR
Deputy Attorney General

DECEMBER 16, 1958

WILLIAM MACPHAIL, *Superintendent of
Elections of Hudson County*
591 Summit Avenue
Jersey City 6, New Jersey

MEMORANDUM OPINION—P-36

DEAR MR. MACPHAIL:

You have requested an opinion as to the eligibility of a person who has been convicted of a crime which would disenfranchise him but has since had the record of conviction expunged by a county judge, to have his voting rights restored. You would like to know whether said person can be permitted to vote once the record has been expunged.

N.J.S. 2A:164-28 provides in part that:

“. . . an order may be granted directing the clerk of such court to expunge from the records all evidence of said conviction and that the person against whom such conviction was entered shall be forthwith thereafter relieved from such disabilities as may have heretofore existed by reason thereof, excepting convictions involving the following crimes: treason, misprision of treason, anarchy, all capital cases, kidnapping, perjury, carrying concealed weapons or weapons of any deadly nature or type, rape, seduction, aiding, assisting or concealing persons accused of high misdemeanors, or aiding the escape of inmates of prisons, embracery, arson, robbery or burglary.”

R.S. 19:4-1, as amended, deprives certain persons of the right to vote for specific reasons and reads in pertinent part as follows:

“No person shall have the right of suffrage— . . .

“(2) Who was convicted, prior to October 6, 1948, of any of the following designated crimes, that is to say—blasphemy, treason, murder, piracy, arson, rape, sodomy, or the infamous crime against nature, committed with mankind or with beast, polygamy, robbery, conspiracy, forgery, larceny of above the value of \$6.00, perjury or subornation of perjury, unless pardoned or restored by law to the right of suffrage; or

“(3) Who was convicted after October 5, 1948, or shall be convicted, of any of said crimes, except polygamy or larceny above the value of \$6.00, or of bigamy or larceny of above the value of \$20.00, or who shall be convicted of the crime of burglary or of any offense described in chapter 94 of Title 2A, or section 2A:102-1 or section 2A:102-4, of the New Jersey Statutes or described in sections 24:18-4 and 24:18-47 of the Revised Statutes, unless pardoned or restored by law to the right of suffrage; or

* * *

“(5) Who shall be convicted of a violation of any of the provisions of this Title, for which criminal penalties are imposed, if such person shall be deprived of such right as part of the punishment therefor according to law, *unless pardoned or restored by law to the right of suffrage.*” (Emphasis supplied)

Article II, par. 7 of the *New Jersey Constitution* states :

“The Legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of such crimes as it may designate. Any person so deprived, when pardoned or otherwise restored by law to the right of suffrage, shall again enjoy that right.”

Article V, sec. 2, par. 1 of the *New Jersey Constitution* vests the power to grant pardons and reprieves and to suspend and remit fines and forfeitures solely in the Governor. Although both Article II, par. 7 of the *New Jersey Constitution* and R.S. 19:4-1, as amended, provide that one who has been disenfranchised as a result of having been convicted of a crime cannot have his right to vote restored unless he is pardoned or restored by law to the right of suffrage, it has been held that the phrase “restored by law” does not mean by act of the Legislature. *In re N.J. Court of Pardons*, 97 N.J. Eq. 555 (Ct. Pardons 1925), Chancellor Walker stated at page 563 that :

“ . . . Now, as the power to pardon includes the power to remit a forfeiture, which in turn, clearly must include the remission of a forfeiture, of the right of suffrage (the loss of which is a part of the penalty of the conviction), then, when the Constitution provided in article 2, paragraph 1, that a person convicted of a certain crime shall not enjoy the right of an elector unless pardoned or restored by law to the right of suffrage, the restoration by law undoubtedly meant the granting by the pardoning power of the gracious act of remitting the forfeiture of the right of suffrage to the end that that right might be thereby restored without the pardoning of the offense or remitting any of the other penalties incident to the conviction. In other words, a remitting of the forfeiture of the right of being an elector because of conviction of a certain crime would work a restoration to the right of suffrage, and this ‘by-law.’

“It has been suggested that the words ‘restored by law’ mean by act of the Legislature, but, obviously, this is not so. The legal meaning or definition of the word *law* is not restricted to that of a statute. Blackstone’s familiar definition is, that law signifies a rule of action. 1 Bl. Com. 38. One definition is: A rule or method of action or order of sequence. Another: A general rule of external human action enforced by a sovereign political authority. 2 Bouv. L. Dict. (Rawle’s Rev.) 144. When, therefore, the Constitution says, ‘Unless pardoned or restored by law to the right of suffrage,’ it could not have meant by ‘restored by law,’ that such restoration should be by ‘act of the Legislature,’ as that is not expressed, and there is nothing in the phrase, or the context where it is found, to indicate any such idea; and to attribute such meaning to it would necessarily be to conclude that the Constitution makers who bestowed the pardoning power on the executive department (the Governor and certain officials acting with him), and provided that no person belonging to any of the departments of the government should exercise any of the power properly belonging to either of the others, deliberately intended, notwithstanding such inhibition, that the Legislature might, nevertheless, encroach upon the prerogative of the executive in the exercise of the pardoning power by remitting a forfeiture, a thing expressly reserved to the executive department. The meaning undoubtedly was, ‘unless pardoned or restored by the court of pardons by remission of the penalty

of loss of suffrage,' which would be a lawful restoration, and, therefore, a restoration by law, for the deprivation of the right of suffrage following the commission of certain crimes, was certainly the forfeiture of that right, and the power to 'remit fines and forfeitures and grant pardons' is in the same organic law as the provision for the deprivation and restoration of the right of suffrage, and, therefore, the two provisions must be construed together, and being so read would amount to a provision, such as above stated, namely, unless pardoned or unless restored by the court of pardons to the right of suffrage through the medium of a remission of the forfeiture. . . ."

You are advised, therefore, that an expunging of the record in accordance with N.J.S. 2A:164-28 does not restore the right to vote; restoration of franchise can only be obtained by executive action.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: FRANK A. VERGA
Deputy Attorney General

JANUARY 15, 1959

HON. NED J. PARSEKIAN
Acting Director of Motor Vehicles
State House
Trenton, New Jersey

FORMAL OPINION 1959—No. 1

DEAR SIR:

We have been asked whether a citizen of New York who has a claim for bodily injuries (or death) suffered in an accident in New Jersey on or after January 1, 1959 should be considered a "qualified person" under the provisions of the Unsatisfied Claim and Judgment Fund Law. N.J.S.A. 39:6-61 *et seq.* Our opinion is yes, and that relief may be granted, accordingly, under said law.

New Jersey's Unsatisfied Claim and Judgment Fund Law defines a "qualified person" as a resident of this State "or a resident of another State, territory, or Federal district of the United States or Province of the Dominion of Canada, or foreign country, in which recourse is afforded, to residents of this State, of substantially similar character to that provided for by this act." N.J.S.A. 39:6-62.

In *Betz v. Director, Division of Motor Vehicles*, 27 N.J. 324 (1958) it was held that a resident of New York was not a "qualified person" within the meaning of our act under the New York law existing at the time of the accident there involved, namely, July 16, 1956. The Court acknowledged, at 328, 329, the provisions of the New York Motor Vehicle Financial Security Act, L. 1956, C. 655, Vehicle and Traffic Law, *McKinney's Consol. Laws*, Sec. 93 *et seq.*, requiring all persons registering motor vehicles in New York to give proof of their financial responsibility in the form of liability insurance coverage, the posting of a financial security bond or