

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

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REPORT

OF THE

# ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1914.

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WATERVILLE  
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1915

I do not find any provision exempting mortgages except the act in the laws of 1911, Chapter 179 which applies only to mortgages on real estate situated in this state, which reads as follows:

Chapter 179, Laws of 1911. Section 6 of Chapter 9 of the Revised Statutes is hereby amended by adding at the close of said section the following paragraph:

"All loans of money made by any individual or corporation and secured by mortgage on real estate situated in this state."

A mortgage on real estate in another state owned by a resident of Maine coming under the sections above quoted and not being exempted is taxable under our laws.

Very sincerely,

ROSCOE T. HOLT,

*Asst. Attorney General.*

#### CONDITIONAL PARDONS.

19th December 1914.

*Hon. Edward W. Wheeler, Brunswick, Maine.*

DEAR BROTHER WHEELER: With reference to the last paragraph of your letter of November 12th, relating to conditional pardons, I have made further examination of the authorities and have come to this conclusion: That it is within the authority of the pardoning power to grant a pardon upon a condition that may extend beyond the expiration of the sentence, as for instance, that he refrain from the use of intoxicating liquors during the rest of his life, or that he leave the state and never return, and if the pardon was accepted by the prisoner, he would be bound by that condition. However, if the conditions were left indefinite, that is, without being certain as to whether they were to extend beyond the term of the sentence, they should, I think, be construed in favor of the prisoner and would be held to continue only during the term of sentence. In other words, it depends on the terms of the condition imposed.

The case of *Huff vs. Dyer*, in the Ohio Circuit Report, Vol. 4, page 595, seems to me to be the best statement of the law that I have been able to find bearing upon this question. In this case the Court says:

"We conceive the true ruling to be that the duration of a condition subsequently annexed to a pardon will be limited to the term of the grantee's sentence, unless an intention to extend it beyond that term is manifest from the nature of the condition or the language in which it is imposed."

The reason of this conclusion being previously stated by the Court as follows:

"If there be doubt as to the soundness of the conclusion intimated, it must, according to a familiar and beneficent rule, be resolved in favor of the plaintiff's liberty, for it is well settled that pardons are to be construed most favorably to the grantees, and conditions subsequent are not to be extended by mere inference."

This seems to me to be founded upon sound principles. In most of the other cases which I have examined, the language of the pardons was such that the conditions were by clear intentment extended beyond the time of sentence.

I have not now before me the language of the forms that our state is accustomed to use in granting conditional pardons, but my recollection of it is that there is nothing in it to indicate that it was intended that it should be extended beyond the term of the sentence. It may be that in order to make it clear, it would be better in all past cases where there is a request for the state to remove the conditions, that the pardon should be made absolute, which I think, is the proper course rather than the removal of the conditions; and in future cases to make it clear what the pardoning power intends, whether to have the conditions extend beyond the term of the sentence or not.

Very sincerely,

SCOTT WILSON,

*Attorney General.*