

MAINE STATE LEGISLATURE

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November 29, 1915

To State Board of Tax Assessors
Re: Tax Exemption of Bonds Secured by First Mortgage

Replying to your inquiry . . . relative to tax exemption of bonds secured only by first mortgage on real estate in the State of Maine.

Assuming that the bonds in question are secured. . . only by a mortgage on real estate in the State of Maine, and not secured in any part either on personal property of any kind or on the franchise of the corporation issuing them, I am of the opinion that such bonds are tax exempt to savings banks under the provisions of Chapter 321 of the Laws of 1915.

Chapter 179 of the Laws of 1911 provides that:

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

are exempt from taxation. Chapter 321 of the Laws of 1915 extended the provisions of this act to savings banks by inserting an amendment to Section 54 of Chapter 8 of the Revised Statutes as amended. . . which amendment was worded as follows:

"After the word 'stockholders' in the twelfth line insert the words 'investments in such notes and bonds secured by mortgages on real estate in this State as are exempt from taxation in the hands of individuals,' and strike out the words 'investments in mortgages on real estate in this State' in the seventeenth line of said section."

It is apparent that the passage of this latter act placed savings banks in the same position in which the law of 1911 places individuals and business corporations other than savings banks. The law of 1911 distinctly exempts from taxation "all loans of money. . . secured by mortgage on real estate situated in this state."

Whether the evidence of such indebtedness is in the form of a promissory note or in the form of a bond does not seem to be of importance. A person buying a bond is most certainly loaning money, just as much so as though he were buying a note. And if the underlying security for the loan is real estate and his loan is secured by a mortgage on that real estate, it cannot matter in what form he received the necessary evidence of indebtedness.

It may be said that the intention of the legislature as evinced by the debates during the session of 1911 was not to give the statute then passed so wide a construction as I place upon it. But it is a necessary rule of law that the intention of a legislature can only be gathered from the words of the act passed. And in this case the

words are plain, clear and comprehensive. They admit in my opinion of but one construction. And under that construction I should not hesitate to advise that the legislation of 1915, taken in connection with the former legislation, renders bonds secured only by mortgage on real estate in the State of Maine tax exempt to savings banks.

The letter submitted to me. . . contains another question, namely, whether or not the parties interested are justified in assuming that water rights are real estate. Provided such water rights do not include franchise rights, I should answer that question in the affirmative.

William R. Pattangall
Attorney General