

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1918

MERRILL & WEBBER CO., AUBURN, MAINE

PRINTERS AND BOOKBINDERS

garded as a bill. (Cushings' Law and Practice on Legislative Assemblies.)

"Whenever a joint resolution does undertake to lay down a rule of conduct for any portion of the people of the State it becomes a law and will take effect as such notwithstanding the use of the word "Resolved" in its style instead of the word "Enacted". (34 Cyc. 1167, n. 64. Swann vs. Buck, 40 Miss. 268, 293.)

The Constitution of Maine, Article 4, Part 3, Section 2, expressly recognizes a resolution as a proper and legal rule of legislative action. It provides that a resolution as well as a bill shall be presented to the Governor for his approval and in all ways give equal and as full recognition to a resolution as to a bill.

Congress has recognized the legality and sufficiency of a resolution or resolve and concedes to a resolution all the force of law. (Hinds Precedence, Vol. 4, Sec. 33, 71.)

I am of the opinion that this resolve has the same effect as though it were properly speaking an act and effectually amends Section 2 of Chapter 147 of the Revised Statutes, but containing no emergency clause, however, it cannot have any effect or force until ninety days after the adjournment of the legislature and until the expiration of that period, Section 2, Chapter 147, R. S., remains in full force and effect and you should be governed thereby. The appropriation of \$8000, although effective on April 6th, as an appropriation has no purpose in existence to which it can be applied until Chapter 58 of the Resolves of 1917 becomes effective.

Yours very truly,

FRANKLIN FISHER,

Asst. Attorney General.

TAXATION OF PARLOR AND SLEEPING CAR COMPANIES—TIME OF TAKING EFFECT OF CHAPTER 210 OF PUBLIC LAWS OF 1917.

1st August, 1917.

Board of State Assessors, Augusta, Maine.

GENTLEMEN: We have your letter of July 25th, asking for an interpretation of Chapter 210, Public Laws of 1917. We understand that the only question involved is whether this particular law controls the amount of the tax assessed this year against the owners of parlor and sleeping cars.

The original law on which this statute is based is Chapter 174 of the Public Laws of 1901. That statute was approved March 12, 1901, and went into effect thirty days later, and so much of it as is pertinent to the question reads as follows:—

“Every corporation or person owning or operating palace or other cars for which extra compensation is charged for riding therein over any of the railroads of the state shall on the first day of September next, and annually thereafter, pay to the treasurer of state for the state an annual excise tax for the privilege of exercising its franchises in the state, equal to four per cent. of its gross earnings from business done wholly in the State of Maine for the year ending June thirtieth next preceeding.”

This law continued in force until the Revised Statutes of 1903 were adopted and it was incorporated in that revision as Chapter 8, Section 32. Later it was incorporated as Chapter 9, Section 33, Revised Statutes of 1916.

The tax decreed in the original law, (P. L. 1901, Chapter 174, Section 1) was for the privileges of exercising its franchise in the State from September 1, 1901, to September 1, 1902, although the amount was based on the earnings for the year ending June 30, 1901. From the first passage of this law to the present time the tax decreed has been paid for the privilege of doing business in the year following the payment of the tax. The tax will be paid September 1, of this year will be paid for the privilege of doing business in this State for the year September 1, 1917, to September 1, 1918.

Chapter 210, Public Laws of 1917 went into effect July 7, 1917. The board of state assessors will assess the tax in question on or before August 15, 1917. When the board of state assessors levy this tax, Chapter 210, Public Laws of 1917 will be in effect. There can be no question of retrospective taxation because the tax will be levied for the year September 1, 1917, to September 1, 1918.

Accordingly we advise you that the board of state assessors should be governed in their assessment by Chapter 210, Public Laws of 1917.

This letter is written after a conference with Attorney General, Guy H. Sturgis.

Yours very truly,

FRANKLIN FISHER,

Asst. Attorney General.