

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

reference in the "record" to some other book or to some card unless it be sufficient in itself to give a description of the property which "will afford the owner opportunity of identification" is all that the Court will consider and the plan suggested, of course, contemplates only the reference in the "record" and not a sufficiently complete description.

It is, therefore, my opinion that the use of a card system or separate valuation book for carrying the description of real estate and making up the assessment by assessors of towns is not a safe and proper method. And a complete description of all parcels of real estate upon which the tax for any year is assessed should be actually written into and made a part of the valuation book which they annually fill in and sign. Such valuation book may consist of more than one volume, however, if it appear that the several volumes, each are a component part of the whole. It is safer, however, to have each and every volume of the valuation list and record signed and identified as one of a number of volumes making up the complete valuation list and record.

Very truly yours,

GUY H. STURGIS,

Attorney General.

TAXATION—LIABILITY TO TAXATION OF DEPOSITS
BY MAINE CITIZENS IN NEW HAMPSHIRE SAV-
INGS BANKS.

21st March, 1918.

Board of State Assessors, Augusta, Maine.

GENTLEMEN:

In Re: Taxation of Savings Banks

We have carefully considered the question submitted by you in your letter of the 5th, asking whether Maine exempts from taxation the deposit of a citizen of Maine in a savings bank in New Hampshire.

Chapter 10, Section 5, R. S. 1916, is a list of personal estate subject to taxation in this State and it includes within its terms "money at interest." Undoubtedly the deposit of one of our citizens in a New Hampshire savings bank is money at interest.

Chapter 10, Section 14, paragraph 10 is a statement of cer-

tain personal property that is exempt from taxation and specifically exempts "personal property in another state or country on the first day of each April, and *legally taxed* there."

The savings deposit of one of our citizens in a New Hampshire bank is "personal property in another state or country" and the only question to be determined is whether or not that deposit is "*legally taxed*" in New Hampshire. If so, it would be exempt from taxation under R. S. 1916, Chapter 10, Section 14, paragraph 10.

New Hampshire has a law taxing savings banks, Chapter 65, Section 12, R. S. of New Hampshire, 1901. This law was construed in 59 N. H. 105, in case of Bartlett v. Carter and has consistently and repeatedly been reaffirmed in that jurisdiction. The Court said:

"Formerly the deposits were assessed directly to the depositors, as money at interest. Rev. St. c. 39, s. 3. And when the corporate agent was substituted for the depositors in the assessment, the tax was declared to be in full for all taxes imposed upon the deposits, or on the depositors on account of the deposits. Laws of 1864, c. 4028, s. 1.. *If an additional and full tax were assessed to them, upon their deposits as money at interest, the case would be instantly recognized as one of double taxation. On that point there would be in this state, no difference of opinion.*"

So far as the New Hampshire Courts are concerned it is clear that the deposit of a citizen of Maine in a savings bank in New Hampshire is construed as being "*legally taxed*" there.

Maine has a law taxing savings banks found in Chapter 9, Sections 59-62, R. S. It will be noticed that our statutes first levy a tax on savings banks and then exempt deposits in savings banks from local taxation. These three sections were construed by the Supreme Judicial Court of Maine in case of East Livermore v. Banking Co. 103 Maine 418, and the Court said on page 428.

"When the legislature **** imposed a tax on savings banks measured by the amount of the deposits in them, it exempted the depositors themselves from taxation on their deposits, Sec. 55. In imposing a State tax upon trust companies, etc. measured by the amount of certain of their deposits the legislature exempted those deposits from municipal taxation, Sec. 67

The foregoing illustrations should be enough to show the legislative policy to be against double taxation. There seems to be not only no intention to impose it, but an anxiety to avoid it."

In the same case the Court quoting in support of its position decisions from Wisconsin, Minnesota and United States Supreme Court said:

"Double taxation is never to be presumed. Justice requires that the burden of the government shall as far as practicable be paid upon all; and if property is taxed once in one way it would ordinarily be wrong to tax it again in another way."

Maine has ruled above that the legislature after taxing savings banks exempted the deposits from taxation because to do otherwise would create double taxation. The Court could not render this decision unless they considered the Maine tax on savings banks one that so far as double taxation was concerned taxed deposits. This being true and in view of the great weight that our Courts would give a New Hampshire decision construing a New Hampshire law, it is our opinion that our Courts would consider the New Hampshire law taxing savings banks as one that "*legally taxed*" deposits, and that the deposit of a Maine citizen in a New Hampshire savings bank is exempt from taxation in this State because it is "personal property in another state or country on the first day of each April and *legally taxed there*", as provided in Chapter 10, Section 14, paragraph 10.

Yours very truly,

GUY H. STURGIS,

Attorney General.

WORKMEN'S COMPENSATION—COMPUTATION OF AVERAGE WEEKLY WAGE

2nd April, 1917.

Industrial Accident Commission, Augusta, Maine.

GENTLEMEN:

Re: Ralph Bragdon, Inj. 6/15/16, *Claimant*
vs.

Old Town Woolen Company
and
Employers' Liability Assur. Corp.,

Respondents.

In answer to your inquiry as to how the average weekly wage should be figured and the amount so obtained in the matter of