MAINE STATE LEGISLATURE

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April 26, 1924

To Messrs. Bradley, Linnell & Jones, Portland
Re: Federal Land Bank Bonds - Taxability to Savings Banks

Replying to your letter of the 8th relating to the question submitted by your client, Mr. Frederick H. Gabbi, I wish to say that I have studied the question and feel that I am obliged to agree substantially with the bank commissioner in his views of the law. A consideration of the history of the legislation relating to the subject would seem to settle quite conclusively the following questions:

First: That the law requiring savings banks to pay taxes on deposits does not authorize a tax on property for reasons very clearly states in the case of Commonwealth vs. The Peoples Savings Bank, to which the commissioner has referred in his letter you, of which I have a copy. (5 Allen 428)

Chapter 9 of the Revised Statutes beginning at Section 59, was intended to place a part of the burden of taxation upon savings banks and in the first instance requires that the corporation shall make a return to the bank commissioner, which official shall certify the values of the investments of the corporation to the State Assessors. Section 60 expressly states that the Board of State Assessors shall determine the value of the franchise of the bank and authorize the assessment of a tax on the average deposits of the preceding six months.

There is no doubt whatever that the Statute was intended to provide revenue for the State and in the absence of any exceptions the full amount of the tax thus imposed upon the franchise under the statute should be collected.

The deductions from the whole amount assessed on the franchise are authorized by the statute and in my opinion should be strictly construed and nothing should be deducted which cannot be clearly authorized by the exceptions named in the statute. The deductions now authorized are as follows:

1. United States obligations;

2. State County, Municipal Water District and Light & Power District bonds;

3. Shares in banks and trust companies and shares in corporations, which are by law free from taxation;

4. Investments in notes and bonds secured by mortgages on real estate in this State;

5. The assessed value of real estate owned by the bank;

6. Amount equal to 3/5ths of the determined value of such other assets, loans and investments as appear to be loans to persons resident or corporations located and doing business in this State;

7. Securities of this State, public and private bonds, issued by corporations located and doing business in this State;

8. 3/5ths of the cash on hand deposited with the State; as provided by Sec. 61 of Chapter 9, as finally amended by Chapter 168 of the Laws of 1923.

If we consider the reasons why the Legislature authorized the deduction of property and securities held by savings banks, they could properly be divided as follows:

1. United States obligations, which would encourage the banks to invest their funds in securities which may be readily converted into cash when required;

2. To encourage the banks to invest their funds in the stocks, bonds and mortgages of enterprises within the State of Maine for the purpose of encouraging banks to cause their funds to flow into those channels of business which would tend to build up the State of Maine;

3. The real estate owned by the banks which is subject to taxation in the municipality where it is located;

4. 3/5ths of the cash on hand and deposited which may well be classed as idle money.

There may be other reasons, but it seems to me that these are the four principal reasons for providing for deductions by the State Assessors before the amount of the tax against the banks is determined.

I am, therefore, obliged to answer your first question in the negative. This conclusion is based on the theory that the Federal Land Bank securities are not properly classed in either of the eight classes authorized by Section 61 to be deducted. The only class that such security could come under would be United States obligations, and in my opinion the Federal Land Bank securities are not United States obligations within the meaning of the statute. All statutes relating to taxation are construed strictly and are not to be enlarged beyond their plain meaning. I find no reason for interpreting the obligations of the United States any differently than the obligations of individuals and corporations. In my opinion, the word means legal obligations and, by the provisions of the Federal statutes, the Land Bank securities are authorized but are in no sense the legal obligation of the United States.

I think the above answer makes it unnecessary to give any reply to your second question, as the Legislature has not based the exemption from taxation of Savings Banks funds on the fact

that they are exempt from taxation by the Federal Government; but in order to carry out a domestic policy for the encouragement of investments in enterprises fostered by the people of the State of Maine.

I, therefore, for the above reasons rule that the so-called Federal Land Bank securities, although they are legal investments for savings banks, are not legally deductible from the total amount on which the franchise tax of savings banks is computed.

Ransford W. Shaw
Attorney General

Confirmed January 20, 1927, by Attorney General Fellows.
January 27, 1926, by Deputy Attorney General Fogg.