

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1926

PRESS OF MERRILL & WEBBER CO.
AUBURN, MAINE

prescribed by the proper authorities, and said armories, drill rooms, offices, headquarters offices or stables shall be held for the exclusive use of the national guard unless otherwise authorized by the general regulations for the government of armories prescribed by the armory commission, or by special authority of the chairman of said commission after application in special cases by the municipal authorities in writing. Should any municipal officer use such buildings or stables without authority, or abuse the authority or privilege so granted, they and each of them shall, in each case, be guilty of a misdemeanor and shall be punished as prescribed in this section."

From the foregoing it would appear,

1. That the armory commission has general control over the use and management of property thus provided, and that the municipal officers have no authority to use or lease the same except in accordance with the regulation of the commission or by special authority of the chairman of the commission.

2. The property being provided for a special purpose, namely, for "military purposes", it is our opinion that the armory commission would not be justified in leasing same for other purposes except by special authority of the municipal officers.

Yours very truly,

SANFORD L. FOGG,

Deputy Attorney General.

April 8, 1925.

Hon. Fred F. Lawrence, Bank Commissioner, Augusta, Maine.

BROTHER LAWRENCE: "Assuming that a trust company makes a loan to 'A', and 'A' deposits as collateral security therefor the note of 'B', B's note being in turn secured by a real estate mortgage which A assigns to the bank, may the bank deduct A's note in making its tax return, upon the theory that it is secured by mortgage on real estate?"

In answer to the above question submitted by you, the opinion of this department is that the note of "A" should not be deducted. Had the note in question been the note of "B", our answer would be in the affirmative, under the authority of Chapter 10, Section 6, Par. XIII, of the Revised Statutes which expressly exempts from taxation "all loans of money made by any individual or cor-

poration and *secured* by mortgage on real estate situated in this state."

In the example cited by you, A's note is secured by the note of B, and the note of B is in turn secured by mortgage. The mortgage is not the original security for A's note, and the intent of the legislature, as expressed in the statute, was that the exemption should relate only to the original note and security. The law was passed for the purpose of preventing double taxation. See legislative record, 1911.

Under the provisions of Revised Statutes, Chapter 9, Section 71, as amended by Section 137, Chapter 144 of the Laws of 1923, trust companies may only deduct from their assets in their tax returns such notes, secured by mortgage as are exempt in the hands of individuals; and our construction is that this relates only to notes directly secured.

Very truly yours,

RAYMOND FELLOWS,

Attorney General.

April 14, 1926.

Hon. John G. Smith, Bank Commissioner, Augusta, Maine.

DEAR SIR: You have asked this department for an opinion upon the proper construction of paragraph 9, Section 27, Chapter 144 of the Public Laws of 1923, and especially as to the meaning of the words, "net income", as used in said paragraph.

"Net income" of a business or corporation, has been construed to include "the products of the business deducting the expenses only".

"Net income" of a railroad has been construed as meaning "all over and above operating expenses."

In paragraph 6, b, 3, of said Section 27, relating to the obligations of "steam railroads", the legislature inserted the following:

"The 'net income' of a railroad for the purposes of the foregoing paragraph shall be determined after deducting all operating expenses, maintenance charges, depreciation, rentals, taxes and guaranteed interest and dividends paid by or due from it."