

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA

October 19, 1933

H. W. Weatherbee, Esquire  
Attorney at Law  
Lincoln, Maine

Dear Sir:

In response to your letter of the 17th addressed to George J. Stobie, I am pleased to call your attention to the case State v. Paige Touring Car, 120 Me. 498.

The decision in this case was, in effect, an interpretation of Chapter 294, Public Laws of 1917, which provided that,—

"Any claimant of any such boat, vessel, or vehicle must allege and prove that the use of such boat, vessel, or vehicle for the transportation of intoxicating liquors as aforesaid was "without his knowledge or consent"."

From the reasoning of the court (Pages 499 and 500) it appears that rights of a claimant are to be determined upon its being shown that such use was "without his knowledge or consent", (using the exact words found in the last paragraph of the Act).

From the reasoning in this case, evidently came the general understanding that a mortgagee was protected from loss in case the unlawful use of the automobile or other vehicle was without his knowledge and consent; thereby making the statute practically impotent and making it possible to use a vehicle for such unlawful use without rendering it liable to forfeiture by placing a mortgage thereon to secure some real or phony indebtedness.

In the enactment of Chapter 74 of the Public Laws of 1933, the Legislature evidently intended to make a law which would have a tendency to restrict the unlawful use of an automobile or other vehicle in violation of the provisions of the fish and game laws of the State; it being provided that,—



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H. W. Weatherbee, Esquire, Page 2.

"If any <sup>person</sup> appears to claim such articles or any part thereof as having a right to the possession thereof at the time when same were seized, he shall file such claim in writing ~~\*\*\*\*\*~~ and in it declare that they were not ~~\*\*\*\*\*~~ used or had in possession in violation of the provisions of this chapter."

Under the provisions of this chapter I can see no reason why the State cannot hold both cars mentioned in your two "Concrete examples".

To hold otherwise one would have to put something into the statute that evidently was not intended by the legislature.

Very truly yours,

Deputy Attorney General

SLF H