

# 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)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

October 20, 1934

Hon. Frank H. Holley  
State Tax Assessor  
Augusta, Maine

Dear Sir:

A letter dated April 14, 1934, addressed to the Bureau of Taxation and signed by the Portland Board of Assessors is before me now for an answer. This communication was referred to me for an answer by you under date of April 17, 1934.

The first five paragraphs of the letter present no serious question and I am quite in accord with the reasoning contained in them.

With the first sentence of the sixth paragraph, however, I do not agree. The sentence is as follows:

"The common variety of chattel mortgage, however, we have not taxed in cases where the security for the mortgage is subjected to local taxation, either within or without the state, believing that it amount virtually to two taxes borne by the same property."

The Board of Assessors in arriving at the above conclusion evidently predicated their reasoning upon the assumption that where a chattel mortgage is taxed, the tax is imposed upon the security, this is not my understanding of the law. The authorities seem to hold that where a chattel mortgage is taxed, the tax is imposed upon the indebtedness and not upon the security. Adopting this view, it is obvious that no double taxation exists. The mortgaged personal property is taxed to the party who has it in possession, under Section 22 of Chapter 13. The mortgage indebtedness is taxed to the party who extends the loan, i.e.: the mortgagee. It has been held that the tax is one on the right of the creditor to receive or collect a certain sum of money and that it is immaterial whether or not the amount of the mortgage debt is greater than the value of the mortgage security.

As to the last sentence in the sixth paragraph, of course after the mortgage is paid up there is no mortgage in existence or any indebtedness.

Very respectfully yours,

Clyde R. Chapman  
Attorney General

CRC:MB