

MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA

February 1, 1936

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

Dear Sir:

Under date of January 13, you request the opinion of this office concerning the interpretation of that portion of Paragraph 9, Section 6, Chapter 13 of the Revised Statutes relating to the estates of veterans exempted to the value of \$5,000.

Chapter 53 of the Public Laws of 1935, amended Paragraph 9, Section 6, Chapter 13 of the Revised Statutes so as to provide that homes and personal property up to the value of \$5,000 of all soldiers, sailors and marines who served in the war of 1861-5, the Indian wars, the war with Spain or the World War and were honorably discharged who shall have reached the age of 62 years, are exempt from taxation.

The answer to your inquiry seems to depend on the definition of the construction of the word "home" as it appears in the section. The word "home" has been given a different meaning by the courts in many decisions based on the subject matter under consideration. After a careful investigation of the law, I am of the opinion that "home" as it appears in said chapter means "home and adjoining land where the owner with his family dwells and does not extend to other tenements, lots and farms".

The word "home" as ordinarily defined, applies to the municipality in which a person lives as most definitions have it, and it is only recently that the law has concerned itself with the particular house in which a person may reside. Most questions have arisen with relation to the town in which one has a pauper residence; or in which one is entitled to vote; or in which one is subject to a resident tax. But in view of the wording of our statute the particular house in question now requires definition.

Hon. Frank H. Holley
State Tax Assessor, Feb. 1, 1936

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The word "home" has been defined by the New Hampshire Courts in *Hoitt v. Webb*, 76 N. H., 158, as follows:

"Home, the house, and the adjoining land, where the head of the family dwells. It does not extend to other tenements, lots and farms that are not occupied personally by the owner and his family. Houses in which they do not dwell, and the term does not necessarily apply to all those parcels of land which may be adjoined and occupied together for the homestead is the place of the house."

The word has been defined in Black's Law Dictionary as follows:

"The home place, the place where the home is. It is the home. The house and adjoining land where the head of the family dwells. The home farm. The fixed residence of the head of a family with the land and buildings surrounding the main house."

Obviously, it was not the intention of the legislature for a man to possess more than one home under the above section. If it so happens that a man considers that he has several houses wherein he resides part of the time, it is his privilege to elect which house is to be considered as his home, provided, of course, that the house is actually a place of abode for him at least occasionally. This election is to be made by him when he returns his list of property.

Briefly, I am of the opinion that a man may have but one home for the purposes of exemption from taxation, and that his election is to be respected provided the elements of a home are present.

Most cordially yours,

Attorney General

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