

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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provided that "the net income of the Port Authority may be used for improvements and extensions of the property of the Port Authority in the discretion of its directors." This clause is the same as in the law prior to the amendment of it by Chapter 5, P&SL of 1941. Prior to this amendment, however, extensions and improvements were limited to the use of the net income, and that only with the consent of the Governor and Council where the sum exceeded \$5000. By this amendment, however, which was passed as an emergency measure, you will notice that in subsection (d) there were additional powers vested in the Directors, which they could exercise with the consent of the Governor and Council and which would permit the proposed improvement of the pier. You will notice that in paragraph 1 of this subsection it is provided that it may "make any contract not otherwise authorized relating to the purposes, duties, rights, powers and privileges enumerated in chapter 114 of the private and special laws of 1929 as amended." (This is the act that created the Port of Portland Authority.) The proposed extension would be a contract "not otherwise authorized," because the contract for the enlargement of the pier would involve an expenditure of money above the net income.

Next, under paragraph 5, the Directors were authorized to borrow money on its debentures, notes or bonds, either secured or unsecured, and, if secured, by mortgage of its property or by pledge of any part of its revenue not required for the maintenance and operation of the pier. Here is an express provision, not only to borrow money, but to secure it by mortgage on the property.

I also believe that the trend of the legislation, not only this amendment, but amendments in 1943 and 1945, would tend to show a desire on the part of the legislature to enlarge the powers of the Directors, so as to supplement that part of Section 4 (d) of the Private and Special Laws of 1929, Chapter 114, which provided in substance that it shall be the duty of the Directors to make, and so far as may be practicable, to put into execution, comprehensive plans providing on the lands now owned or hereafter acquired by the Port Authority at the Port of Portland adequate piers, capable of accommodating the largest vessels, and in connection with such piers, suitable highways, waterways, railroad connections and storage yards, and sites for warehouses and industrial establishments.

Respectfully submitted,

ABRAHAM BREITBARD
Deputy Attorney General

October 23, 1945

To David H. Stevens, State Assessor

I have your memo of October 22nd in which you state that the 1945 legislature amended Section 145 of Chapter 14, dealing with the taxation of Loan and Building Associations, so as to permit prepaid shares to be included in the taxable base reported to your office by such associations for taxable purposes. You state that the question has arisen as to whether or not prepaid shares sold by the associations previous to July 21, 1945, the

effective date of the amendment, should be included in the returns filed by the associations in October, covering the six-month period previous to September 29, 1945.

In answer to your question I will say that where a statute imposing a tax is enacted during the fiscal year, it has been held invalid by the weight of authority of the courts of this country, as retroactive so far as it applies to that part of the year already expired. So I would say that the prepaid shares sold by the associations previous to July 21, 1945, the date this law became effective, should not be included in the returns filed by the associations covering the six-month period prior to September 20, 1945.

RALPH W. FARRIS
Attorney General

October 24, 1945

To David H. Stevens, State Tax Assessor

I have your memo of October 12th, asking for a ruling on the following:

“A qualified veteran's real and personal property is exempt from taxation to an amount not exceeding \$3,500.”

You ask if in the event such amount of property is held jointly in the names of the veteran and his wife, does it follow that the veteran can claim only one-half of such property so held as an exemption?

In my opinion, under paragraph 10 of Section 6 of Chapter 81, R. S. 1944, the veteran can claim exemption only on that part which he owns. If one-half is owned by his wife, it should be taxed to her, as she is not entitled to exemption under this provision of the statute.

RALPH W. FARRIS
Attorney General

October 31, 1945

To Caleb W. Scribner, Warden Supervisor

I have your letter of October 13, 1945, inquiring about the provisions of Section 64 of the Fish and Game Laws, particularly with regard to the last paragraph, which provides that trial justices, or judges or recorders of municipal courts, and the clerks of the Superior Courts, upon conviction of any person for violation of any of the provisions of the chapter, are required to forward to the Commissioner immediately a transcript of the record, as well as the record of an appeal entered, “together with the license or licenses of the offender.” Your inquiry is whether or not the judge is, under this provision, authorized to take up the license after conviction. Your other inquiry is whether, pending an appeal, the license is suspended until the appeal is determined.

I have given due consideration to this provision, and I feel that this section is not clear enough to justify the judge hearing the case in taking