

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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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

any action concerning the license, and I can see where a judge would entertain some doubt about ordering the accused to surrender to him the license. Under our motor vehicle law, provision is made whereby the judge is authorized after conviction to suspend a license and take it up, and the accused is directed to surrender it, and, having the same in his possession by virtue of this authority, the judge is directed to forward it to the Secretary of State.

There is also this difference. In the motor vehicle law, the judge is authorized to suspend, while under this law the Commissioner is the only person authorized to suspend or revoke. Assuming, therefore, that the judge did take up the license, this in and of itself would not suspend it, since the Commissioner is the only one who could suspend it.

I don't think I can say to you that this paragraph of Section 64 would authorize the judge to order the accused to surrender the license.

As a practical matter, however, since the Commissioner alone is empowered to suspend the license after a conviction and pending an appeal, according to the fourth paragraph of this section, I think that the warden making the arrest and attending court should inform the Commissioner immediately of the result of the hearing, and if the accused is convicted and enters an appeal, the Commissioner may then act under the fourth paragraph. This would accomplish the result to be attained by this section.

ABRAHAM BREITBARD
Deputy Attorney General

November 16, 1945

To Arthur R. Greenleaf, Commissioner Sea and Shore Fisheries

Your message relating to the licensing of freight planes was received by me. As I read Section 116 of Chapter 34, it authorizes you to issue licenses "only to smackmen, or truckmen, who buy, sell and transport lobsters by smack, boat, automobile or truck." These categories would not include planes.

"Common carriers engaged in carrying any general freight on fixed schedules may without license transport within or without the state lobsters legally caught. . . provided that said lobsters are received by said common carriers at one of their regular established places of business upon land for receiving freight. . ." (Section 116, Chapter 34.) Common carriers such as are here described would be railroads and motor trucks engaged in that business, operating on fixed schedules and licensed by the Interstate Commerce Commission or some other similar agency. I presume that when planes carrying freight are eventually included by the Interstate Commerce Commission or other agency in the category of common carriers, they would fit into the provisions of Section 116 of Chapter 34 and would be authorized to carry and transport, without a license, lobsters legally caught.