

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

November 8, 1949

To Ernest H. Johnson, State Tax Assessor
Re: Retaliatory Provisions of Insurance Tax Laws

I have your memo of October 19th and refer also to the conversation in my office with you and Mr. Huot since that date, when we discussed the provisions of Section 139 of Chapter 14, R. S., which provides a retaliatory tax to be applied against insurance companies incorporated by states "whose laws impose upon insurance companies chartered by this state any greater tax than is herein provided."

It appears that this office gave an opinion to your office on this provision on June 1st and 8th last.

In your memo of October 19th you call attention to Section 45 of Chapter 56, as amended by Section 5 of Chapter 15, P. L. 1947, which relates to reciprocal provisions as to fines, penalties, etc. After quoting its provisions you state that certain California companies contend that they should be permitted to include fees such as annual licenses, agents' license, and filing fees, together with taxes in computing the aggregate burden imposed by the State of Maine to compare with the aggregate burden imposed by the State of California. Your office contends that the retaliatory provisions with which you are concerned are contained in Section 139 of Chapter 14, R. S., which applies only to taxes, and that the retaliatory provisions found in Section 45 of Chapter 56 do not concern your department but relate only to fines, penalties, fees or deposits, which are under the supervision of the Insurance Commissioner. Upon the foregoing statement of law and facts, you propound the following question:

"In computing the tax liability of a California insurance company doing business in Maine, should the aggregate burden of *taxes and fees* imposed by the State of Maine be compared with the aggregate burden of *taxes and fees* imposed by the State of California; or in computing the insurance tax in this state, should we be concerned *only* with the *taxes* imposed by the State of California against a Maine insurance company doing business there as compared with the *taxes* imposed by the State of Maine?"

In answer to your question I will state that it is my opinion that your office is concerned only with the aggregate burden of taxes under the retaliatory provisions of Section 139 of Chapter 14. Your office should be concerned only with the taxes imposed by the State of California against a Maine insurance company doing business in California as compared with the taxes imposed by the State of Maine.

RALPH W. FARRIS
Attorney General