

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)

STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

July 26, 1950

To Ernest H. Johnson, State Tax Assessor

Re: Taxation of Property Deeded to the United States Government with
Reservation for a Life Estate to the Grantor

I acknowledge receipt of your memo, dated July 11th, stating that the Town of Bar Harbor had inquired relating to the taxation of certain real estate there which had been deeded to the Federal Government by a conveyance reserving a life estate in the grantor, Eleanor Morgan Satterlee, and enclosing a copy of this conveyance and also a copy of a letter from you to the chairman of the board of assessors, Bar Harbor, in which you suggested that an assessment could be made against the life tenant. In the last paragraph of your letter you stated, "However, in our opinion, the property is assessable to the life tenant even though on her death outright title goes to the United States Government."

Before giving my opinion, I want to comment on this part of your letter, for upon examination of the deed from Eleanor Morgan Satterlee to the United States of America, I find that title and fee passed from Mrs. Satterlee to the United States of America with reservation in the deed that she would have a right to live on the premises during the remainder of her natural life, but that reservation was followed by eight restrictions which, in my opinion, nullify the effect of a life estate.

There are two classes of life estates which, generally speaking, are still in existence. The first type of life estate was, and is, known as a "conventional life estate." It was and is created by acts of the parties by deed, will, or contract. The second type of life estate is known generally as "legal life estate," and includes the various kinds of interest for life which come into existence by operation of law. Life estates are freehold estates, not of inheritance, and are the right to enjoy property for life, or for the life of some named person.

The reservation and exception in this deed from Mrs. Satterlee to the United States of America makes her only a life tenant, and she has no freehold in the estate which would be taxable in my opinion by the Town of Bar Harbor. In other words, the title is not in Mrs. Satterlee, but in the United States Government, and is exempt from taxation. After reserving the life estate for the natural life of Mrs. Satterlee, the Government then proceeds to lay down restrictions and exceptions, so that the Government has full control over the premises and leaves Mrs. Satterlee only the right to reside on the premises as a life tenant, having no supervision over the property, as she has delegated that right to the United States Government for the purpose of establishing this land as a part of the Acadia National Park. A life tenant in such a case as outlined in this deed, with the restrictions added thereto, cannot be taxed, because there is no way of arriving at an appraisal of the value of a life estate on real estate over which the so-called life tenant has no control.

The United States Government has the right to enter upon and construct, maintain, and operate roads, trails, paths, bridges, automobile parking spaces, toilet houses, and electric, telephone, telegraph, water and sewer lines over the land, the use of which is reserved in the deed in Exception #6, and shall

have the further right to remove fire-killed or damaged timber and to take such other measures as may be necessary and desirable to conserve the scenery, etc. Then in Exception #7 of the deed, Mrs. Satterlee agrees that the westerly half of the sand beach may be used by the public for swimming and picnicking under the supervision of the Superintendent of the Park or other duly authorized representative of the United States.

Section 8 of the Exceptions, in my opinion, nullifies the effect of a life estate and deprives Mrs. Satterlee of a freehold estate which would be taxable. This section reads as follows:

"Subject to the foregoing terms and conditions, the party of the first part reserves to herself generally and without manner of limitation, the full use and occupancy of the premises hereby conveyed for her life, without impeachment of waste and without liability for any loss or damage whatsoever thereupon occurring during her life."

For the reasons above stated, the United States Government has title in fee, has full control over the premises, subject to a life tenancy by Mrs. Satterlee, which is not, in my opinion, a conventional life estate such as would be taxable.

I herewith return the copy of the deed from Mrs. Satterlee to the Government.

RALPH W. FARRIS
Attorney General

July 27, 1950

To David H. Stevens, Member, Sanitary Water Board
Re: Permit under Section 6, Chapter 72, R. S., as amended

I acknowledge receipt of your memo of July 25th in which you state that a number of persons having applied for permits to empty sawdust, shavings or other fibrous materials created in the manufacture of lumber or other wood products under the provisions of Section 6 of Chapter 72, R. S. 1944, as amended by Chapter 266, P. L. 1947 and Section 3 of Chapter 332, P. L. 1949, it becomes necessary for the Board to ascertain if the permit authorized under this section is synonymous with or a substitute for the license prescribed in Section 4 of said Chapter 72, R. S., as enacted by Chapter 345, P. L. 1945; and you request me to advise the Board if the permits now requested by various corporations shall be issued only after the payment of the sum of \$50 as prescribed by said Section 4 of Chapter 72, R. S. 1944, for the license required by said section.

Chapter 72, R. S., was amended by Chapter 345, P. L. 1945, which provided that no person . . . should discharge into any stream, river, pond or lake or into tidal waters any waste, refuse, or effluent from any manufacturing, processing or industrial plant, etc., and that if such person, corporation or plant should pollute such waters, they should first apply for a license under Section 4 of said chapter, and after hearing, the Board in its discretion can issue a license to the applicant on the payment of \$50; and that if any person is aggrieved by any order or decision of the Board, he can apply to the Superior Court.