

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

While by statute law now found in Chapter 153, Section 39 of the Revised Statutes, a married woman has considerably more latitude in regard to her property than she had at common law, that right in this State has never been extended so far as to permit a business partnership between husband and wife.

Apparently the leading case on this subject is found to be *Haggett v. Hurley*, 91 Maine 542. It is there pointed out that a married woman is by statute made liable for her debts contracted before her marriage, her debts contracted after her marriage in her own name, and her torts committed after April 26, 1883, in which her husband took no part. It is there said:

“The statute thus makes a distinction between her debts contracted before and her debts contracted after marriage. As to the former she is made liable without restriction. As to the latter her liability is confined to those contracted ‘in her own name’. This phraseology alone at the outset should make the Court hesitate to declare that she is liable for a debt contracted after marriage not by her in her own name but in the partnership name.”

I therefore conclude that a husband and wife may not enter into a *business* partnership.

NEAL A. DONAHUE
Assistant Attorney General

March 28, 1951

To H. H. Harris, State Controller
Re: Maine State Office Building Authority

In your memo of March 16, 1951 you inquire whether or not the State Controller should refuse to make payments of any future charges that may be presented for payment with respect to the Maine State Office Building Authority. Your inquiry is predicated upon the recent Opinion of the Supreme Judicial Court of Maine, dated March 14, 1951, which holds in effect that the legislation creating the Maine State Office Building Authority is unconstitutional.

In answer to the question with respect to future payments you are advised that no future payments should be made.

You have asked a second question as to whether or not the committee which passes upon the writing off of uncollectible accounts receivable has authority to authorize the State Controller to charge off as uncollectible the sums of money heretofore paid on account of the Maine State Office Building Authority and owed to the general fund of the State by the Authority.

The answer to this question will have to be held in abeyance pending further study of the statutes and the application thereto of the Opinion of the Supreme Judicial Court.

JOHN S. S. FESSENDEN
Deputy Attorney General