

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

February 7, 1961

To: The Honorable Dwight A. Brown
Chairman, Committee on Business Legislation
State House
Augusta, Maine

Dear Senator Brown:

We have considered your oral request for us to determine if H.P. 461, L.D. 661, may contain any legal questions, and submit the following:

It is our belief that legal problems may be present in the consideration of H.P. 461, L.D. 661.

H.P. 461, L.D. 661, is an act to regulate issuance of trading stamps. The first paragraph of the act would prohibit the use of trading stamps or any such similar device. The second paragraph of the act would exempt from the effect of the act,

- 1) Redemption of stamps or similar devices by a manufacturer or packer, within certain limitations; and,
- 2) Stamps or similar devices redeemable by merchant at face value, in cash or merchandise from stock of the merchant at regular retail prices, at the option of the holder.

We base our belief that H.P. 461, L.D. 661, contains legal problems on the fact that the decisions of courts in other states considering such legislation follow two lines with the great majority of such decisions being to the effect that anti-trading stamp legislation is unconstitutional as not being a proper exercise of police power.

A few cases, including *Steffy v. City of Casper* (*Gray v. Gold Bond Stamps, Inc.*) 357 Pacific 2d 456 (decided November 29, 1960) have held such legislation to be a constitutional use of the police power. (A Wyoming case.)

In *Steffy v. City of Casper* the court considered and upheld a statute almost identical to that proposed in H.P. 461, L.D. 661. Even so, that court struck down as being an unconstitutional classification that portion of the bill that permitted merchants to issue and redeem stamps for cash or from stock in the store.

The fact above stated, that the great majority of cases are to the effect that such legislation is bad, compels us to the conclusion that the bill poses legal problems.

Very truly yours,

JAMES GLYNN FROST

Deputy Attorney General

February 8, 1961

To: The Honorable Dwight A. Brown
Chairman, Committee on Business Legislation
State House
Augusta, Maine

Dear Senator Brown:

This memo supplements our letter to you dated February 7, 1961.

The Wyoming Court in *Steffy v. City of Casper* (Wyo), 357 Pacific 2d 456, (mentioned in our principle letter) granted a petition for rehearing, the petition