

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

This is so even though both the State of Maine and Puerto Rico come under the sovereignty of the United States. In a Pennsylvania case, decided when that State was still subject to Great Britain, it was held that the British West Indies was a foreign market as to exports from Pennsylvania. In that case the court said:

“Construing the word ‘foreign’ with greater latitude, it might extend to all countries beyond sea, without considering whether subject to the same sovereign or not.”

It is, therefore, the opinion of this office that Puerto Rico is a foreign market within the meaning of the statute.

LEON V. WALKER, Jr.

Assistant Attorney General

December 10, 1963

To: Doris M. St. Pierre, Secretary, Real Estate Commission

Re: Brokers' Clearinghouse

Facts:

A New York organization is desirous of establishing a nation-wide clearinghouse where member real estate brokers may exchange information concerning families who are relocating. The organization would not participate in any commissions, but would receive an annual fee from member brokers. The service rendered would be that of giving member brokers a central location for pooling of names of persons relocating. The organization would not deal with the actual listings of real property, but would merely disseminate names and addresses of prospective buyers and renters. Question:

Whether this organization would be considered acting as a broker under the provisions of c. 84, § 2, R. S. 1954, as amended, thereby being required to qualify as a non-resident broker pursuant to the provisions of c. 84, § 10, R. S. 1954, as amended.

Answer:

No.

Opinion:

Pursuant to § 2, supra, a broker is defined as:

“I. A ‘real estate broker’ is any person, firm, partnership, association or corporation who for a compensation or valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers to rent, or lists or offers to list for sale, lease or rent, any real estate or the improvements thereon for others, as a whole or partial vocation. (1957, c. 32.) (1959, c. 363, § 40.)”

It is evident from the facts of this opinion that the prospective organization would neither sell nor offer to sell, nor buy nor offer to buy any real estate. The crux of the question evolves around the phrase “negotiates the purchase or sale or exchange of real estate.” The organization in question could not be considered as negotiating the purchase or sale of anything. They

purport to act strictly as a "go-between," and as such would have no dealings, either directly or indirectly, with the actual sale or exchange of real property. Their function, construed strictly, would merely be to assist brokers from various parts of the country in coming in contact with each other relative to a relocating party or parties. They would not share in any commission. Their function is completed at the time that the contact is made between the two brokers, and the subsequent dealings of the parties would be of no concern to the organization.

In conclusion, we find nothing that would be construed to classify the above mentioned organization as a non-resident broker.

WAYNE B. HOLLINGSWORTH
Assistant Attorney General

December 18, 1963

To: Col. Robert Marx, Chief of State Police

Re: Application of Longevity Pay to Retired State Police Officers

Facts:

Private and Special Laws 1951, chapter 214, as amended by P. & S. 1953, c. 166, provides that retired members of the State Police shall after retirement, as provided in chapter 15, section 22, be entitled to certain increments in pay "to a member of their respective grades at the time of retirement."

Private and Special Laws 1963, chapter 202, provides for longevity pay for state employees.

Question:

Are State Police officers retired under chapter 15, section 22, entitled to an increase in retirement pay because of the longevity pay authorized by the legislature?

Answer:

No.

Reasons:

Members of the state police who were appointed on or before July 9, 1943, may retire after 20 or more years with a good record and receive "½ of the pay per year that is paid to a member of his grade at the time of his retirement." R. S. ch. 15, § 22.

Private and Special Laws 1951, chapter 214, as amended by P. & S. 1953, c. 166, says:

"The retired members of the state police shall receive, in addition to their present retirement pay, such additional amounts as will equal ½ of the pay per year that is now paid to a member of their respective grades at the time of retirement (Emphasis supplied).

"The provisions of this act shall become effective July 1, 1953."

(The last paragraph was originally enacted in 1951 for a 2 year period. The 1953 amendment extended it indefinitely.)

This office in an opinion addressed to you under date of February 2, 1960, said of the 1951 law: