

# MAINE STATE LEGISLATURE

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March 31, 1967

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Interpretation of Words "Principally" and "Primarily" within the  
Context of 9 M.R.S.A. § 600.

**FACTS:**

The Securities Division of the Department of Banks and Banking determines whether or not issues of bonds or other fixed interest-bearing obligations meet the requirements of 9 M.R.S.A. § 600 as being issues in which savings banks may invest. The Securities Division has requested an interpretation of the words "principally" and "primarily" within the context of the reference section.

**QUESTION:**

What percentage figures satisfy the following requirements of 9 M.R.S.A. § 600?

Requirement #1: The property of the corporation is located principally within the United States.

Requirement #2: The corporation is primarily engaged in the production, manufacture and distribution of products in the United States or is engaged in any combination of such of these activities as are usually incident to the operation of an industrial company.

**ANSWERS:**

Requirement #1: A percentage figure in excess of 50 per cent.

Requirement #2: A percentage figure in excess of 50 per cent.

OPINION:

The first paragraph of 9 N.R.S.A. § 600 reads as follows:

"Savings banks may hereafter invest: In the bonds or other fixed interest-bearing obligations of any corporation the property of which is located principally within the United States and which is primarily engaged in the production, manufacture and distribution of products in the United States or is engaged in any combination of such of these activities as are usually incident to the operation of an industrial company provided."

The remaining language of 9 N.R.S.A. § 600 sets forth other requirements not pertinent to this opinion.

Websters New International Dictionary, 3d edition, defines "primarily" as follows:

"Primarily, adv., in the first place, originally, pre-eminently fundamentally; as an action primarily based on policy." Ibid @ 1961.

The dictionary defines "principally" as follows:

"Principally, adv., in a principal manner, in the first place or degree, primarily, chiefly, mainly." Ibid @ 1967.

It is thus clear that Websters considers the words "primarily" and "principally" as synonymous.

Within a statute entitling a corporation primarily engaged in manufacturing, processing or assembling materials into finished products for purposes of sale to offset a personal property tax against corporate excise tax, the word "primarily" means, chiefly, principally, or the largest category of several categories but not necessarily over 50 per cent and not substantially. Industrial Refrigeration and Equipment Company v. State Tax Comm., Oregon, 408 P. 2d 937 (1965). Thus, the Oregon Court has held that the word "primarily" can be less than 50 per cent, and since "principally" is synonymous, it follows that principally can be less than 50 per cent. It should be noted in the Oregon case, however, that there were more than two categories.

In my opinion, in the reference statute there is, as to requirement #1, just two categories, i.e., property located within the United States and property located outside the United States. As to requirement #2 there is again, in my opinion, just two categories, the engagement in certain activities within the United States and the engagement in those activities outside the United States. Therefore, the requirements of "principally" and "primarily" in the context of a statute having but two categories, the United States and the rest of the world outside the United States, leads us to the conclusion that the percentage requirement must be a percentage in excess of 50 per cent.

In reaching this opinion that the reference statutes refers to just two categories, I look to other sections dealing with savings bank investments and find that 9 M.R.S.A. § 598, 2 (B) deals with investments in bonds and other fixed interest obligations of public utilities corporations not subject to the jurisdiction of the Public Utilities Commission and provides:

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"At least 51 per cent of the corporation's property shall be located in, and 51 per cent of its business transacted within, the United States."

9 M.R.S.A. § 608, 2 deals with investments in cumulative preferred stocks of public utilities and provides:

"At least 51 per cent of the corporation's property shall be located in, and 51 per cent of its business transacted within, the United States."

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