

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1918

MERRILL & WEBBER CO., AUBURN, MAINE

PRINTERS AND BOOKBINDERS

LIABILITY OF PIPE LINE OF WATER DISTRICT TO TAXATION.

2nd January, 1918.

Board of State Assessors, Augusta, Maine.

GENTLEMEN: We have your letter of the 2nd, asking the following question: "Is the pipe line of the Kennebec Water District which runs through the town of Vassalboro taxable, and if so, where?"

The question of whether or not a Water District was a municipal corporation was discussed by the Supreme Court of Maine in the case of *City of Augusta vs. Augusta Water District*, 101 Maine 153 and the Court in that decision said:—

"Construing the charter as a whole, it clearly follows from what we have already said that the defendant district is to be regarded as a public, municipal corporation, and we hold that it is such within the meaning of R. S. ch. 9, sect. 6, cl. 1, exempting the property of such corporations, when appropriated to public uses, from municipal taxation."

The question of whether the Kennebec Water District, the particular corporation in question, was a municipal corporation, was before the Court in case of *Kennebec Water District v. Waterville*, 96 Maine 234, and the Court said:—

"It is created not only a body corporate, but also a body politic. Its purposes are purely public. It is invested with the power and charged with the duty of furnishing the territory and the people within its limits, a supply of water. Its purposes and duties in this respect are as extensive as could be conferred by the legislature upon a municipality. It is an agency, so far as supplying water is concerned, in municipal government."

It seems clear that it is *res adjudicata* in this state that a Water District is a municipal corporation.

Chapter 10, Section 6 of the Revised Statutes, gives a list of property in this state exempt from taxation. Paragraph 1 contains the following statement:—

"The property of any public municipal corporation of this state, appropriated to public uses, if located within the corporate limits and confines of such public municipal corporation, and also the pipes, fixtures, hydrants, conduits, gate houses, pumping stations, reservoirs, and dams used only for reservoir purposes, of public municipal corporations engaged in supplying water, power or light, if located outside of the limits of such public municipal corporation.*****"

Inasmuch as the Kennebec Water District is a municipal cor-

poration and as Chapter 10, Section 6, of the Revised Statutes exempts from taxation the water pipes owned by a municipal corporation, no matter through what town they pass, it is our opinion that the pipe line of the Kennebec Water District which runs through the town of Vassalboro is not taxable.

Very truly yours,

FRANKLIN FISHER,

Asst. Attorney General.

TENURE OF OFFICE—HOLDING OVER AFTER EXPIRATION OF TERM UNTIL NEW APPOINTMENT MADE—MAINE BOARD OF ACCOUNTANCY.

22d October, 1918.

Hon. Roy L. Wardwell, Auditor of the State of Maine, Augusta, Maine.

DEAR SIR: As I suggested verbally to you the other day, I have advised F. Ernest Holman, Chairman of the Maine Board of Accountancy, that the Hon. John T. Fagan, whose term expired some little time before he was reappointed, held over at the expiration of his initial term until his successor was appointed and qualified. Such is my opinion and I advise you that any proper charges incurred by Mr. Fagan in the pursuance of his duties while holding over should be paid to the same full extent as charges incurred during his initial term of the present term to which he was appointed and is serving.

In this connection, I am not unmindful of the opinion rendered by the Hon. Scott Wilson, former Attorney General, under date of November 5th, 1913, to the Hon. T. F. Callahan, who was then State Auditor, in relation to the appointment of the Commissioners for the Promotion of Uniformity of Legislation. Mr. Wilson, in that opinion, specifically called the attention of the auditor to the provisions of Section 37 of Chapter 2 of the Revised Statutes which are as follows:—

“All civil officers, appointed by the governor and council, whose tenure of office is not fixed by law or limited by the constitution, otherwise than during the pleasure of the governor and council, except ministers of the gospel appointed to solemnize marriages, and persons appointed to qualify civil officers, shall hold their respective offices for four years and no longer, unless reappointed; subject to removal at any time within said term by the governor and council.”