

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

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.”

The Commission for the Promotion of Uniformity of Legislation in the United States was created by Chapter 138, P. L. 1895, which authorized the appointment by the Governor of three commissioners. No tenure of office of such commissioners was fixed by the act and apparently no subsequent legislature has seen fit to establish such tenure. The tenure of office of these commissioners, therefore, not being fixed by law or limited by the Constitution nor being during the pleasure of the Governor and Council, in accordance with Section 37 of Chapter 2, now Section 41 of Chapter 2, R. S. 1916, is for four years and "*no longer*." "*No longer*", of course, precludes holding over and it was by reason of the "*no longer*" provision that Attorney General Wilson made his ruling referred to.

The tenure of office of the Maine Board of Accountacy is "*fixed by law*" at three years, and it is, therefore, not limited by the term "*no longer*" in Section 41, Chapter 2, R. S., and the opinion rendered by Mr. Wilson to Mr. Callahan in no way conflicts with my opinion rendered to you as above in the matter of Mr. Fagan.

I will say to you that in my opinion all civil officers appointed by the Governor and Council for a definite term or tenure of office fixed by law, hold over until their successors be lawfully chosen and duly qualified unless the particular statute creating the office otherwise specifically provides.

Very truly yours,

GUY H. STURGIS,

Attorney General.

JOINT RESOLUTION AS LEGISLATION.

25th April, 1917.

Hon. R. L. Wardwell, State Auditor, Augusta, Maine.

DEAR SIR: In reply to your inquiry of April 25th, relative to effect of Chapter 58 of the Resolve of 1917 and time of taking effect thereof, I beg to advise as follows:—

"A form of legislation which is in frequent use in this country is variously known in our legislative assemblies as a joint resolution, a resolution or a resolve. This form of legislation is recognized in our Constitution and in the rules and orders of our legislature is made subject to the same regulations that bills properly so-called have. In Congress a joint resolution, which is the name given in that body to this kind of legislation, is there re-