

MAINE STATE LEGISLATURE

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August 10, 1921

To Honorable Percival P. Baxter, Governor of Maine
Re: Muscongus

In reply to your request relative to the status of the inhabitants of Muscongus Island as to voting rights and liability for payment of taxes, I beg to advise that from such examination of the matter as I have been able to make in the short time at my disposal, I am satisfied that while the article referred to* undoubtedly contains some historical facts and there is some foundation for the story, it is far from a true statement and is very misleading.

The Island of Muscongus is an unincorporated township in the County of Lincoln and its inhabitants have the same rights and liabilities, no more and no less, than those of all other unorganized townships in the State. Their rights as voters and their liability to pay taxes are prescribed by Article IV, Part 4, Section 3, of the Constitution of Maine, which provides, among other things,

"Every qualified elector living in places unincorporated, who shall be assessed to the support of the government by the assessors of an adjoining town, shall have the privilege of voting for senators, representatives and governor in such town; and shall be notified by the selectmen thereof for that purpose accordingly,"

and by Section 74 of Chapter 7 of the Revised Statutes, which reads as follows:

"Electors living on islands adjacent to the mainland along the coast of the state and within the jurisdiction thereof, but not incorporated with any town, and all such electors living in other unorganized places may furnish lists of their polls and estates to the assessors of any adjacent town, on or before the first day of each April, and said assessors shall assess state and county taxes upon all such persons, and they shall be collected in the same manner and by the same officers as if such electors were inhabitants of such town. And such electors so presenting their polls and estates may vote in such town in all elections for governor, senators, representatives and county officers."

The above statute was considered by the court in the case of Sargent vs. Inhabitants of Milo, 90 Me. 374, in which it was held that while the assessors of an adjoining town to which the list of taxable property above referred to had been submitted by the electors of an unincorporated township had a legal right to assess for the state and county taxes, they had no right to include the elector's proportionate part of the town taxes.

* By one Mrs. Braren. The Governor enclosed this article in his request, but it was returned to him with this opinion.

The practice and effect of these laws relating to electors in unincorporated townships is to enlarge and not to restrain those rights. An elector of an incorporated town or plantation must exercise his right of voting and paying his taxes in the town or plantation in which he resides, while an elector in an unincorporated township may exercise his choice as to which adjoining town, if there is more than one, he will pay his tax and vote in. He cannot, however, as stated in the article referred to, escape payment of taxes by refusing to make the return to some adjoining town or foregoing his right to vote, for by Chapter 253 of the Public Laws of 1917, his personal property is liable to taxation by the State Assessors and as a matter of fact the inhabitants of Muscongus are assessed by the State Assessors and pay taxes to the State. If forgotten by Uncke Sam, as stated in the article, they are not forgotten by the State of Maine.

William H. Fisher
Deputy Attorney General