

# MAINE STATE LEGISLATURE

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September 24, 1946

To David H. Stevens, State Assessor

Re: North Kennebunkport Assessment

I received your memo of September 20th enclosing :1) copy of report from Edward Birkenwald, tax engineer, to yourself covering a meeting with the assessors of North Kennebunkport at Saco, September 3, 1946; 2) a copy of the report from Edward Birkenwald, tax engineer, to yourself covering a conference with four citizens of North Kennebunkport held at the office of the State Tax Assessor, September 18, 1946.

You state in your memo that this same group of citizens. . . filed with my office a copy of a report of the 1946 tax assessment, North Kennebunkport. This report represents the findings of these citizens who call themselves the North Kennebunkport Citizens' Tax Committee, the report being addressed to the State Tax Assessor. You ask me, after reviewing these memos and this report. . . to advise you as to your course of procedure under the laws of the State of Maine.

First, I want to say that this tax assessment in North Kennebunkport was made as of April 1, 1946. It is now September 24th. This tax committee's report is dated September 18, 1946.

Upon reading the report of the citizens' committee, I find that some of the citizens' assessments for 1946 were reduced, as compared with the assessments in 1945. I note that the total valuation of all real estate, lands and buildings, has been reduced from \$297,058.00 in 1945 to \$245,241.00 in 1946. On the other hand, they have increased the tax rate from 59 mills to 100 mills. Therefore, the income from taxes will be the same or more for the year 1946, because of the increased rate, which is true in some cases where the valuation is reduced in a town and the mill tax is raised.

I wish to advise you that there can be but one legal assessment and that has already been made. It would be difficult for any group at this time, if it were legally possible, to reassess the property in North Kennebunkport as of April 1, 1946. Where some have paid their taxes, there would be a lot of confusion in reimbursements before this matter was finally disposed of, as it would probably be taken to the higher court and drag out for a number of months.

Under the provisions of Section 70 of Chapter 14 you have authority to investigate all cases of concealment and all undervaluation, and you can order reassessments; and an appeal is provided in the statute if the parties are aggrieved because of such reassessment. They shall have the same right of petition and appeal as from the original assessment. Section 65 provides the machinery for appeal from the original assessment and upon reading the provision for appeal and return of money to taxpayers, you can see what a muddle North

Kennebunkport would be in, if you attempted at this late date to order a reassessment as of April 1, 1946

You advised me that you had a meeting with the assessors from North Kennebunkport on September 3rd and went over this matter with them, and they stated that there was an apparent difference of honest opinion among the assessors and they all three used their best judgment as members of the board of assessors in making their assessment as of April 1, 1946.

It is my opinion that the courts will not go back of the honest judgment of the board of assessors in any town where an assessment has been made and the assessment is without fraud. If you have sufficient evidence of fraud or concealment among the board of assessors in making up this assessment, I should advise you to start an investigation. Under the facts presented, I advise you against making an investigation this year, but let the matter go until April 1, 1947, when you can send a man from your department to work with the local assessors and check on the properties which are being assessed. . . and try to work out something that will be satisfactory to all the citizens of North Kennebunkport.

The fact that there was an increase in the assessment on livestock, even though the former board of assessors had been undervaluing same, is not such evidence. If this present board thought that the present valuation of the horses and cows was fair and reasonable, it was their duty to so state and not follow along the old assessment. The value of cows and other livestock cannot be fixed by rule so that every cow and every horse in that town would be valued the same. All assessors have a wide discretion, to be used when they get together to make up their commitments. In the absence of fraud, their assessment would undoubtedly be upheld by the courts in this State.

In case the citizens of North Kennebunkport or the local tax assessors refuse to allow you to come in with a representative from your office, I should advise you to exercise your powers under Section 62 of Chapter 14 and summons all these parties and the town assessors before you and examine them under oath, and do this before the commitment of April 1, 1947 is made. You will note that under Section 62, you can require the witnesses to bring with them for examination any books, records, papers, or documents belonging to them or in their custody or control, relating to any matter which you have authority to investigate.

If you feel that there is fraud or concealment by the present board of assessors, I should advise you to exercise your powers under Sections 62 and 70 of Chapter 14.

While I did not confer with the citizens' committee. . . my Deputy did, and he stated that the citizens were more concerned about the future than about this year's dispute. I feel that if you are sure that the citizens' committee of North Kennebunkport are right, you will step in there next year and see that a fair valuation is made and they will be satisfied.

RWF:c

Ralph W. Farris  
Attorney General