

MAINE STATE LEGISLATURE

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March 12, 1953

To Hon. Edward E. Chase, Chairman
Taxation Committee

Re: Classification of Property for Taxation Purposes

In your letter of March 11, 1953, you inquire concerning the legal effect of L. D. 40, Resolve Proposing an Amendment to the Constitution to Authorize the Legislature to Establish Classifications of Property for Uniform Assessment for Taxation, as the same may be amended. My reply will not discuss the bill in its presently printed form. I shall confine myself to the bill in the amended form set forth in your letter.

Predicated upon the passage of the resolve and its adoption by the people, you ask four questions which I will restate for convenience with my answers:

1. Q. Could the legislature tax the property in the unorganized territory without being obliged also to tax the organized municipalities by the same law and at the same rate?

A. Yes, as long as the methods for determining the just basis of property for taxation are uniform throughout the State, either generally or within such classifications of property as the legislature may establish. There is no requirement that the rate of taxation be the same in the unorganized and organized territories, from which it follows that there may be a State property tax in the unorganized territory without a like one or indeed without any in the municipalities.

The amendment contains the words "basis" and "rate". As these terms are generally construed by the courts, basis is that figure which is multiplied by the rate to ascertain the tax. Thus, basis may be fair market value, a percentage of fair market value, or any other standard which the legislature may reasonably adopt.

Having defined terms, I give my reasons for the affirmative answer to your question: (1) The proposed amendment repeals Section 8 of Article IX, requiring that "all taxes upon real and personal estate, assessed by authority of this state, shall be apportioned and assessed equally. . ." This is the only requirement of its kind in the Constitution. The requirement for equal assessment being repealed, it follows that there is no longer necessity, should the proposed bill be passed, that property in the organized and unorganized territories be assessed equally. (2) The proposed amendment requires that property in the unorganized territory "be taxed at rates determined by the legislature," clearly singling out property in this area as subject to special treatment by the legislature as respects rates.

Nor would a state tax on property in the unorganized territory, without an equal state tax on property in the municipalities, be discriminatory. In the unorganized territory the State has more functions to perform than in localities where there are local governments.

2. Q. Could the legislature enact a severance tax on timber cut, similar to the New Hampshire law, which allows a discount incentive to owners operating timber lands in accordance with standards of conservation practice?

A. Yes, as long as the methods for determining the just basis of property for taxation are uniform throughout the State, either generally or within such classification of property as the legislature may reasonably establish.

My reason for this answer is that the proposed amendment permits the legislature to establish different classifications of property. The conservation of natural resources is a well-recognized public interest. Therefore, timberland could be classified according to its growth; for example, timberland maintained according to defined standards of forestation could be one classification, and timberland not so maintained could be another.

3. Q. Could the legislature establish varying ratios for valuation of property within state-wide classification of property by kinds, subject to the requirement for state-wide uniformity?

A. Yes, for the same reasons I have given in my answer just previous.

4. Q. Could the legislature require different standards for ascertaining the just bases for property; e. g., to provide that the just basis of personal property be current worth and the just basis of real property be its market value in the light of long-term considerations?

A. Yes, for the same reason.

Having answered your specific questions I do not believe I should close this letter without pointing out that our Constitution elsewhere (Sec. 1, Part Third, Art. IV¹ requires that all legislation be "reasonable" and the 14th Amendment of the United States Constitution requires "equal protection of the laws". These constitutional restrictions would prevent discriminatory classifications which, I am sure, the legislature has no desire for and the people should not be given the impression that the proposed bill would justify.

Do not hesitate to let me know if I have not fully answered you.

(By Boyd L. Bailey for signature by
Alexander A. LaFleur)