

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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case no final verdict had been rendered. The defendant had asked the court to set aside the verdict because of intervening errors, as he claimed, rendering it ineffectual. Nothing but the plainest language excluding any other meaning could justify the construction of the Constitution contended for. But the language employed in the Constitution precludes such a construction. The Governor is required to communicate to the Legislature each case of pardon granted, "stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the reprieve, commutation, or pardon." This he could not do if there had been no judgment and sentence."

The cases we have examined, including *Com. v. Lockwood*, 109 Mass. 323, cited by petitioner, which hold that a pardon may be granted after verdict but before sentence, do not contain a constitutional provision similar to ours. In those states having provision such as ours, it has been held that sentence must be imposed, or else pardon is not proper.

In the instant case, petitioner has never been sentenced, and for that reason we are of the opinion that a pardon could not be granted on the present petition.

JAMES GLYNN FROST
Deputy Attorney General

April 7, 1960

To: R. W. MacDonald, Chief Engineer, Water Improvement Commission
Re: Houlton Water Company

We have your recent request for an opinion as to whether the Water Improvement Commission can grant funds to the Houlton Water Company for a survey of the company sewer system. This grant would be made under the terms of Section 7B, Chapter 79, Revised Statutes of 1954, as amended.

Under the terms of the above Section 7B, the Commission is authorized to make payments to municipalities and quasi-municipal corporations for approved sewage surveys. The question involved here is whether or not the Houlton Water Company is a quasi-municipal corporation so as to be eligible for such a payment.

The question of the status of the Houlton Water Company has been adjudicated by the Supreme Judicial Court of this State. In the case of *Greaves v. Houlton Water Company*, 140 Me. 158, the question was whether this company was a quasi-municipal corporation with respect to its property devoted to the service of surrounding towns. This issue arose because of the fact that the Houlton Water Company furnishes electricity for a large area surrounding the Town of Houlton. The court differentiated between activities carried on for the comfort and convenience of the people of Houlton and those services furnished the residents of other towns.

"We, therefore, conclude that, by legislative action and intentment, the corporate entity of the Houlton Water Company has been continued and maintained separate and distinct from the town of

Houlton; that the corporation has been endowed with authority to act in a dual capacity, one as a public municipal corporation so far as the town of Houlton and its inhabitants are concerned, and the other as a private enterprise in furnishing electric current to a dozen other towns and their inhabitants, . . .”

Greaves v. Houlton Water Company, 140 Me. 158, 165

In its capacity as a sewerage company, the Houlton Water Company is, by the terms of the above decision, a municipal corporation. This is because the authority of the Houlton Water Company to maintain the municipal sewer system does not extend into other towns. This authority was originally vested in a private corporation known as the Houlton Sewerage Company, which company was later bought by the water company. The authority of the sewerage company was limited to the Town of Houlton and would appear never to have been extended. It was organized

“ . . . for the purpose of providing in the town and village of Houlton, a system of public sewers and drainage, for the comfort, convenience and health of the people of said Houlton. . .” Private & Special Laws of Maine, 1887, c. 145, § 1.

The following conclusions can be drawn:

1. The Houlton Water Company is a municipal corporation with respect to its activities carried on for the benefit of the inhabitants of Houlton.
2. The Houlton sewerage system exists solely for the benefit of the inhabitants of Houlton.
3. The Houlton Water Company is a municipal corporation with regard to its function as a sewerage company.
4. The Water Improvement Commission has the authority to grant funds to a municipal corporation to aid in an approved survey of the municipal sewerage system.

It is our opinion, therefore, that the Water Improvement Commission has the authority to grant funds to aid the Houlton Water Company in an approved survey of the sewer system serving the Town of Houlton.

THOMAS W. TAVENNER
Assistant Attorney General

April 20, 1960

To: R. W. MacDonald, Chief Engineer, Water Improvement Commission

Re: Greater Portland Regional Planning Commission

We have your recent request for an opinion as to whether the Water Improvement Commission can grant funds to the Greater Portland Regional Planning Commission for sewerage planning. This grant would be made under the terms of Section 7B, Chapter 79, Revised Statutes of 1954, as amended.

Under the terms of the above section 7B, the Commission is authorized to make payments to municipalities and quasi-municipal corporations for approved sewage surveys. The question involved here is whether or not