

MAINE STATE LEGISLATURE

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August 2, 1971

Honorable Richard J. Carey
Mayor, City of Waterville
Waterville, Maine 04901

Dear Mayor Carey:

This is in reply to your letter of July 19, 1971 concerning the eligibility of State Senator Aaron Levine to serve as a Trustee of the Kennebec Sanitary Treatment District which was created by P. & S. L., 1971, Chapter 45, at the 105th Legislature of which Senator Levine was and still is a member. Senator Levine was appointed Trustee by the municipal officers of Waterville, as provided in Chapter 45, section 3.

The question arises because of the fact that Chapter 45, Section 3, provides that trustees "may receive such compensation, not exceeding \$10 per meeting, as the trustees may determine," whereas the Maine Constitution, Art. IV, Part 3, Section 10, provides that "no Senator or Representative, shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created . . . during such term" Chapter 45, Section 3, provides that no trustee shall be a town official, but contains no other limiting proviso, so that the crux of the matter is whether the office of trustee is an office "under this State."

It was said in Opinion of the Justices, 3 Me. 481, that the word "office" has reference to the division of the sovereign power into the legislative, executive and judicial departments. This clearly indicates that for an office to be "under this State" it must be one that is a direct part of the State government.

The Kennebec Sanitary Treatment District as created by Chapter 45, Section 1, is comprised of the several municipalities enumerated

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therein. It is a quasi-municipal entity with power granted in Section 8 of its charter to contract, inter alia, "with the State of Maine and the United States of America or any agency thereof." It has the power to sue in its name. It is not a part of State government.

It is the opinion of this office, therefore, that Senator Levine is eligible to serve as a Trustee of the District.

Very truly yours,

Leon V. Walker, Jr.
Assistant Attorney General

LVWJr:H

cc: Hon. Aaron Levine