

STATE OF MAINE

Inter-Departmental Memorandum Date December 9, 1980

To George Mayo, Director Dept. Property Tax
 From James A. Buckley, Assistant *JAB* Dept. Attorney General
 Subject Town Meeting's Control Over Assessors

You posed the question of whether a town meeting can tell the assessors how they will assess. I have concluded that they cannot.

The Supreme Judicial Court has frequently referred to the unique position as public officers which assessors have historically occupied. In Dillon v. Johnson, 322 A.2d 322 (1974), the Court said:

[Assessors] have certain responsibilities which are unique and distinct from those of other elected officials. Since their duties are defined by statute [chapters 102 and 105 of Title 36] they are not subject to the direction and control of the municipalities in which they function. Young v. Johnson, 161 Me. 64, 207 A.2d 392 (1965).

Section 328 does not change the duties imposed on and the authority granted to the assessors, nor was it intended by § 328 to change the principle that the assessors are not subject to the direction and control of the municipality. The word "municipality" as used in section 328 is meant to refer to all appropriate municipal officials, whether assessors, selectmen or a town meeting. The section is designed to ensure that the municipalities' independence and invention is not unduly restrained by the Bureau of Taxation in enforcing the assessing standards. The word "municipalities" is used instead of "assessors" because some of the functions and procedures listed could be administered or determined by other officials, e.g. budgets, office hours. Although the section recognizes other officials may determine the budget or hours of the assessors office, it would be incorrect, however, to conclude that, therefore, section 328 empowers the municipality, distinct from the assessors, to dictate assessing methods to the assessors. The well-established principle referred to in Dillon v. Johnson is still the law.

You also asked whether section 2.01 of the Orrington Charter empowers the town meeting to so control the assessors. That section authorizes town meeting action only on matters that fall within the jurisdiction of the town. Assessing property values is a matter within the jurisdiction of the assessors, not the town; therefore, section 2.01 does not authorize the town meeting to control the assessors. Even if the section did so authorize, it would be of no effect since the assessor's independence of control by the municipality is dictated by the constitution and laws of Maine.

JAB:cc