

691125-1

**TAXATION:** Specific taxes in lieu of general ad valorem taxes.

**CONSTITUTIONAL LAW:** Authority of legislature to impose specific taxes.

A statute that imposes a specific tax on commercial forest reserves in lieu of the general ad valorem tax is constitutional.

November 25, 1969.

No. 4681

Representative John D. Payant  
House of Representatives  
The Capitol  
Lansing, Michigan

You have requested my opinion on the constitutionality of Act 94, P.A. 1925, as amended,<sup>1</sup> commonly cited as the commercial forest reserves act. It appears that officials of local government and school districts in Marquette County have expressed concern over the revenue loss occasioned by removal of forest lands from the ad valorem tax base and subjection of such lands to the specific acreage tax imposed by Section 5 of Act 94, P.A. 1925, as amended, supra, in lieu of the general property tax.

I must test, however, the constitutionality of Act 94, P.A. 1925, as amended, against the latitude of legislative discretion within the bounds established by the state constitution.

Article IX, Section 3, Michigan Constitution of 1963, provides *inter alia*:

“\* \* \* The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. \* \* \*.”

The Address to the People, in pertinent part, states:

“The provision for alternative means of taxation of property, in lieu of general ad valorem taxation, is also necessary if such taxes as the automobile weight tax, the tax on boats, the severance tax on oil and gas, the state assessment and taxation of certain utilities' properties are to be maintained. This provision gives the legislature reasonable freedom to remove certain kinds of property from general property taxation and to provide alternative tax treatment of such property.”

Official Record, Constitutional Convention 1961, Vol. II, p. 3398.

Act 94, P.A. 1925, supra, imposes a specific tax in lieu of the general ad valorem tax. The legislature, being specifically authorized to exempt designated real property from general ad valorem taxation and to subject it to a tax in lieu thereof, acted within its constitutional authority in the enactment of the commercial forest reserves act.

Relative to contention that the commercial forest reserves act is in conflict with the powers of local boards of review, established by Section

<sup>1</sup>MCLA §320.301, et seq; MSA 1967 Rev. Vol. § 13.221, et seq.

28 of the general property tax act,<sup>2</sup> one of my predecessors held specifically in O.A.G. 1925-1926, p. 125, that Act 94, P.A. 1925, supra, was not in conflict with the constitutional powers of the Tax Commission. Such holding was premised upon the authority of the legislature to withdraw designated property from ad valorem taxation and to impose thereon a specific tax, thereby removing it from the sphere of jurisdiction of persons administering the ad valorem tax laws.

A statute that imposes a specific tax on commercial forest reserves in lieu of the general ad valorem tax is constitutional. Whether public policy should countenance the preferential treatment of owners of commercial forest reserves land is within the discretion of the state legislature. Concern over diminishing sources of local revenue must be addressed to the legislature which has authority to respond.

FRANK J. KELLEY,  
*Attorney General.*

691202.2

**COLLEGES AND UNIVERSITIES:** Member of governing board in conflict of interest.

**CONFLICT OF INTEREST:** State officer in substantial conflict of interest.

**CONSTITUTIONAL LAW:** Conflict of interest of state officer.

A person who has matriculated at a state university as a candidate for a post graduate degree is in a substantial conflict of interest prohibited by the Constitution if during the time he is a student at the state university he is elected to and serves upon the governing body of the state university in which he is enrolled. However, the governing body of a state university may form an advisory board with student participation.

No. 4679

December 2, 1969.

Hon. George F. Montgomery  
Majority Floor Leader  
House of Representatives  
Lansing, Michigan

You have requested my opinion on the following question:

"Would a terminal degree candidate, at a state institution of higher education, be considered in conflict of interest if he were to run for and win a seat on that institution's governing board?"

Your question is related to a person who has enrolled in a state university for the purpose of earning a Doctor of Philosophy degree and who would during the time he is pursuing but before he has completed his academic program, seek and obtain nomination and election to the governing body

<sup>2</sup>Sec. 28 of Act 206, P.A. 1893, as amended, being M.C.L.A. § 211.28; M.S.A. 1969 Cum Supp. § 7.28.