



OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

June 16, 1947

Honorable L. A. Woods
State Superintendent
Department of Education
Austin, Texas

Opinion No. V-255

Re: Exemption of the municipal light and power plant of the City of Jasper from taxation by the Jasper Independent School District

Dear Sir:

You have requested an opinion from this Department as to whether or not the power and light plant now being operated by the City of Jasper is subject to taxation by the Jasper Independent School District. The brief which accompanied your request reveals the following facts:

The properties here in question were purchased by the City of Jasper in 1946 for a cash consideration of \$120,000.00. No lien of any character or kind was retained. In other words absolute title in fee simple is vested in the City of Jasper. These properties are now being managed and operated for the City by a commission of five resident citizens. Apparently no delinquent taxes had accrued prior to the time the City acquired ownership. Therefore this opinion is limited to a consideration of whether or not the Jasper Independent School District may presently subject these properties to taxation.

A similar fact situation was before the Supreme Court of Texas in A. & M. Consolidated Independent School District v. City of Bryan, 184 S.W. (2) 914. The City of Bryan owned and operated a rural electrification system which supplied electrical energy and lights to the inhabitants of the City of Bryan and the surrounding rural territory. The School District sought to impose a tax on the rural electrification lines within the District but outside the City of Bryan. The Court held that all the property both in and out of the City was "public property used for public purposes" and exempt from taxation either by virtue of Article XI, Section 9 of the Constitution of the State of Texas or by virtue of Article 7150, R.C.S., enacted in pursuance to the provisions of Article VIII, Section 2 of the Constitution of the State of Texas.

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This result was reached in denial of the District's contention that in order to gain the exemption the property must be devoted primarily to serving the inhabitants of the municipality. The Court said:

"In our opinion the particular location of the property within the State has nothing to do with the right to the exemption, nor does the right to the exemption depend on the residence of those of the public who enjoy the use thereof. It is the fact that the property is owned by the public and is used for the welfare of the public of some portion of the State that entitles it to the exemption."

You are therefore advised that the municipal light and power plant of the City of Jasper is exempt from taxation by the Jasper Independent School District. For a detailed analysis of the controlling constitutional and statutory provisions see the opinion in the City of Bryan case, supra, and the authorities cited therein.

SUMMARY

The municipal light and power plant of the City of Jasper is exempt from taxation by the Jasper Independent School District. Article XI, Section 9, and Article VIII, Section 2 of the Constitution of the State of Texas; Article 7150, R.C.S.; A. & M. Consolidated Independent School District v. City of Bryan, 184 S.W. (2) 914.

Yours very truly,

APPROVED:

Price Daniel
ATTORNEY GENERAL

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By *Marietta Creel*
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