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Political Corporations - What Are "Political Subdivisions of the State"?

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to evade the lottery laws, and such a device did not clear the scheme of the stigma of being a lottery.

The underlying purpose of lottery laws is to prevent people from foolishly wasting their money in gambling against odds which usually are not fully appreciated.¹⁶ The gist of the offense is the adverse effect on the public and not the wrongful intent of the promoter.¹⁷ Therefore, it matters not whether the scheme is an organized lottery or just a medium for advertising. And as the court in the instant case found that the "bank night" scheme presented the very evil at which the law was aimed,¹⁸ its decision would seem to be correct from a consideration of the foregoing principles.

R. K.

POLITICAL CORPORATIONS—WHAT ARE "POLITICAL SUBDIVISIONS OF THE STATE"?—An action was brought by the heirs of the former owner of property which had been adjudicated to the state for unpaid taxes and subsequently transferred to the Ponchartrain levee district, in which the title was vested at the time of suit, to compel the Registrar of the State Land Office to execute a certificate of redemption. The heirs relied upon statutes¹ permitting the redemption of property "as long as the title thereto is in the State, or in any of its political subdivisions. . . ." *Held*, that the

16. "Experience has shown that the common forms of gambling are comparatively innocuous when placed in contrast with the widespread pestilence of lotteries. The former are confined to a few persons and places, but the latter infests the whole community; it enters every dwelling; it reaches every class; it preys upon the hard earnings of the poor; it plunders the ignorant and simple." *Phalen v. Virginia*, 49 U.S. 163, 168, 12 L.Ed. 1030, 1033 (1850).

17. *Horner v. United States*, 147 U.S. 449, 13 S.Ct. 409, 37 L.Ed. 237 (1893).

18. "In this scheme there is present every element of the evils attendant upon mass gambling. A small stake concealed within the price of admission gives its chance for a large prize, which may become large enough to arouse intense cupidity; there is the excitement of drawing a lucky number with its attendant exultation for one fortunate individual; there is depression and disappointment for a thousand losers, many of whom must think enviously of what they could do with so much money had they won it and there is the constant temptation to continue to play in the hope of winning. We have thus created cupidity, envy, jealousy and temptation—the very things sought to be avoided by that enlightened public policy of most of the world which has outlawed lotteries." *Iris Amusement Corp. v. Kelly*, 366 Ill. 256, 8 N.E. (2d) 648, 653 (1937).

1. La. Act 161 of 1934, § 1, as amended by La. Act 14 of 1934 (4 E. S.) [Dart's Stats. (Supp. 1938) §8466.1]; and La. Act 170 of 1898, § 62, as amended by La. Acts 315 of 1910, §6, 41 of 1912, § 1, and 72 of 1928, § 1 [Dart's Stats. (1932) § 8466].

land could not be redeemed because a levee district is not a "political subdivision of the State" within the intendment of the statutes. *State ex rel. Hodge v. Grace*, 191 La. 15, 184 So. 527 (1938).

Although American courts have often been called upon to construe the words "political subdivisions of the State," apparently no satisfactory definition has resulted from their efforts.² Some courts have indicated that this phrase includes within its scope—in addition to counties,³ municipalities,⁴ and townships⁵—such local areas as drainage,⁶ school,⁷ lighting,⁸ irrigation,⁹ and road districts.¹⁰ Other courts, however, have been of the opinion that such a phrase, as used in the particular statutory matter then

2. The most frequently quoted definition of "political divisions" is that of Mr. Justice Dixon in *Lydecker v. Drainage and Water Commissioners of the Township of Englewood*, 41 N.J.L. 154, 157 (1879) where he states that the "distinctive marks" of political divisions are ". . . that they embrace a certain territory and its inhabitants, organized for the public advantage, and not in the interest of particular individuals or classes; that their chief design is the exercise of governmental functions, and that to the electors residing within each is, to some extent, committed the power of local government, to be wielded either mediately or immediately, within their territory, for the peculiar benefit of the people there residing."

3. *State ex rel. City of Missoula v. Holmes*, 100 Mont. 256, 47 P. (2d) 624, 100 A.L.R. 581 (1935).

4. *City of Pineville v. Meeks*, 254 Ky. 167, 71 S.W. (2d) 33 (1934); *Gracey v. City of St. Louis*, 213 Mo. 384, 111 S.W. 1159 (1908) (City of St. Louis, by virtue of constitutional provisions providing for its charter, is an independent political subdivision as distinguished from a mere city within a county); *Harris County Drainage Dist. No. 12 v. City of Houston*, 35 S.W. (2d) 118 (Tex. Civ. App. 1931); *Booten v. Pinson*, 77 W. Va. 412, 89 S.W. 985, L.R.A. 1917A, 1244 (1915). Cf. *Antelope Valley Union High School Dist. of Los Angeles County v. McClellan*, 55 Cal. App. 244, 203 Pac. 147 (1921).

5. *Inhabitants of Township of Bernards v. Allan*, 61 N.J.L. 228, 236, 39 Atl. 716, 719 (1898).

6. *Wabash Ry. Co. v. South Daviess County Drainage Dist.*, 12 F. (2d) 909 (1926), cert. denied 273 U.S. 751, 47 S.Ct. 455, 71 L.Ed. 873 (1927), error dismissed 274 U.S. 764, 47 S.Ct. 658, 71 L.Ed. 1328 (1927); *Squaw Creek Drainage Dist. No. 1 v. Turney*, 235 Mo. 80, 138 S.W. 12 (1911); *Arthaud v. Grand River Drainage Dist.*, 208 Mo. App. 233, 232 S.W. 264 (1921); *Anderson v. Inter-River Drainage and Levee Dist.*, 309 Mo. 189, 274 S.W. 448 (1925); *Standard Oil Co. v. National Surety Co.*, 143 Miss. 841, 107 So. 559 (1926); *Tallahatchie Drainage Dist. No. 1 v. Yocona-Tallahatchie Drainage Dist. No. 1*, 148 Miss. 182, 114 So. 264 (1927); *Pryor v. Goza*, 172 Miss. 46, 159 So. 99 (1935).

7. *McNair v. School Dist. No. 1 of Cascade County*, 87 Mont. 423, 288 Pac. 188, 69 A.L.R. 866 (1930); *State ex rel. City of Missoula v. Holmes*, 100 Mont. 256, 47 P. (2d) 624, 100 A.L.R. 581 (1935); *Jacobberger v. School Dist. No. 1, Multnomah County*, 122 Ore. 124, 256 Pac. 652 (1927); *King's Estate v. School Trustees of Willacy County*, 33 S.W. (2d) 783 (Tex. Civ. App. 1930). See *Goldtree v. City of San Diego*, 8 Cal. App. 505, 509, 97 Pac. 216, 218 (1908).

8. *Smith v. Howell*, 60 N.J.L. 384, 38 Atl. 180 (1897); *State v. Corker*, 67 N.J.L. 596, 52 Atl. 362, 60 L.R.A. 564 (1902).

9. *Ashton et al. v. Cameron County Water Improvement Dist.*, 298 U.S. 513, 56 S.Ct. 892, 80 L.Ed. 1309 (1936).

10. *Hicks v. Parish of Union*, 6 La. App. 543 (1927); *State, at Inf. of Gentry v. Hughesville Special Road Dist. No. 11 of Pettis County*, 319 Mo. 1246, 6 S.W. (2d) 594 (1928).

under their immediate consideration, does not include drainage,¹¹ school,¹² levee,¹³ and irrigation districts,¹⁴ or even municipalities.¹⁵

11. *Jackson v. Breeland*, 103 S.C. 184, 88 S.E. 128 (1916); *Wilson v. King's Lake Drainage and Levee Dist.*, 237 Mo. 39, 139 S.W. 136 (1911), where the words "other political subdivisions" as used in constitutional provisions extending the jurisdiction of the state supreme court were held to mean subdivisions created with powers similar to those of a county and not to refer to drainage districts, school districts, levee districts, or townships.

12. *School Dist. No. 1, Tp. 24, Range 4 v. Boyle*, 182 Mo. 347, 81 S.W. 409 (1904); *State ex rel. School Dist. No. 4 v. School Dist. No. 3*, 238 Mo. 407, 141 S.W. 1111 (1911).

13. *Board of Directors of St. Francis Levee Dist. v. Kurn*, 98 F. (2d) 394 (1938).

14. *Maricopa County Municipal Water Conservation Dist. No. 1 v. La-Prade*, 45 Ariz. 61, 40 P. (2d) 94 (1935); *Wood v. Imperial Irr. Dist.*, 216 Cal. 748, 17 P. (2d) 128 (1932).

15. *Smith v. City of Sedalia*, 228 Mo. 505, 128 S.W. 735 (1910); *City of Missoula v. Holmes*, 100 Mont. 256, 47 P. (2d) 624, 100 A.L.R. 581 (1935).

Further confusion arises from the fact that the very same administrative units which are usually referred to as political subdivisions of the state are often designated as: (1) local subdivisions of the state: *People ex rel. Wetz v. Hepler*, 240 Ill. 196, 88 N.E. 491 (1909) (drainage districts); (2) political subdivisions of the county: *Sunset Lumber Co. v. Smith*, 95 Cal. App. 307, 272 Pac. 1068 (1928) (school districts); (3) public governmental agencies: *Arthaud v. Grand River Drainage Dist.*, 208 Mo. App. 233, 232 S.W. 264 (1921) (drainage districts); (4) public subdivisions of the state: *Houck v. Little River Drainage Dist.*, 248 Mo. 373, 154 S.W. 739 (1913) (drainage districts); (5) quasi-municipal corporations: *Newby and White v. Board of Drainage Com'rs of Bear Swamp Drainage Dist.*, 163 N.C. 24, 79 S.E. 266 (1913) (drainage districts); *Malim v. Benthien*, 114 Wash. 533, 196 Pac. 7 (1921) (drainage districts); *Strickfaden v. Green Creek Highway Dist.*, 42 Idaho 738, 248 Pac. 456 (1926) (highway districts); (6) bodies corporate and politic: *Croft v. Millard County Drainage Dist. No. 1*, 59 Utah 121, 202 Pac. 539 (1921) (drainage districts); *Wilmarth v. Reagan*, 242 S.W. 726 (Tex. Civ. App. 1922) (levee improvement districts); (7) political and established subdivisions: *Wharton County Drainage Dist. No. 1 v. Higbee*, 149 S.W. 381 (Tex. Civ. App. 1912) (drainage districts); (8) municipal corporations: *People ex rel. Gauen v. Niebruegge*, 244 Ill. 82, 91 N.E. 115 (1910) (drainage districts); *People ex rel. Wies v. Bowman*, 247 Ill. 276, 93 N.E. 244 (1910) (sanitary districts); *Judge v. Bergman*, 258 Ill. 246, 101 N.E. 574 (1913) (sanitary district of Chicago); *Wilson v. King's Lake Drainage and Levee Dist.*, 176 Mo. App. 470, 158 S.W. 931 (1913) (drainage and levee districts); (9) state agencies: *St. Louis Southwestern Ry. Co. v. Miller Levee Dist. No. 2*, 197 Fed. 815 (1912) (levee districts); *In re Cameron County Water Improvement Dist. No. 1*, 9 F. Supp. 103 (1934) (water improvement districts); (10) public agencies: *Peterson v. Board of Sup'rs of Solano County*, 65 Cal. App. 670, 225 Pac. 28 (1924) (reclamation districts); *Hanlon Dry Dock and Shipbuilding Co., Inc. v. California Reclamation Dist. No. 307*, 3 F. (2d) 408 (1925) (reclamation districts); (11) arms of the state: *Peterson v. Board of Sup'rs of Solano County*, 65 Cal. App. 670, 225 Pac. 28 (1924) (reclamation districts); (12) governmental agencies: *Wilmarth v. Reagan*, 242 S.W. 726 (Tex. Civ. App. 1922) (levee districts); *Sigler et al. v. Inter-River Drainage Dist.*, 311 Mo. 125, 279 S.W. 50 (1925) (drainage districts); (13) quasi corporations: *Shirkey v. Keokuk County*, 281 N.W. 837 (Iowa 1938) (counties and school districts); (14) quasi public corporations: *Drainage Com'rs of Washington County Drainage Dist. No. 4 v. East Carolina Home and Farm Ass'n*, 165 N.C. 697, 81 S.E. 947, Ann. Cas. 1915C 40 (1914) (drainage districts); *Watts v. Levee Dist. No. 1, Mississippi County, Mo.*, 164 Mo. App. 263, 145 S.W. 129 (1912) (levee districts); *Road Improvement Dist. No. 7 v. Guardian Savings and Trust Co.*, 298 Fed. 272 (1924)

In line with the recent development of local government throughout the United States,¹⁶ Louisiana has adopted a formidable array of local administrative units as a means of fulfilling special local needs.¹⁷ This multiplication of local areas makes more urgent a consideration of whether any, or all, of the instrumentalities created for the better administration of the government in matters of local concern are "political subdivisions of the State" within the intendment of the quoted phrase as it is used in constitutional and statutory provisions.

Numerous provisions of the Louisiana Constitution of 1921 contain the phrases "political subdivisions of the State" and "subdivisions of the State." No explanation of the meaning of either of these phrases, however, is contained in the Constitution, nor do any of the provisions of that instrument reveal whether the members of the Constitutional Convention meant to distinguish between *political* subdivisions and mere subdivisions of the State.

The legislature frequently has used the phrase "political subdivisions of the State," but only two acts offer any explanation of what administrative units are comprehended within the scope of these words. Act 256 of 1910 (§ 1)¹⁸ enacted that "parishes, wards, cities, towns, villages, school districts, road districts, drainage districts and sub-drainage districts are declared to be political subdivisions of the State."¹⁹ Apparently, in this statute, which deals with the levying of special taxes and the issuance of bonds by certain administrative units, the legislature was not attempting to lay down an exclusive definition to be applicable in all instances but rather to limit the phrase with respect to this par-

(special road districts); (15) public corporations: *People v. La Rue*, 67 Cal. 526, 8 Pac. 84 (1885) (swamp land and reclamation districts); *Harris County Drainage Dist. No. 12 v. City of Houston*, 35 S.W. (2d) 118 (Tex. Civ. App. 1931) (drainage districts); *Wise v. Eubanks*, 159 So. 161 (La. App. 1935) (road districts); (16) corporate subdivisions: *State, ex inf. McAllister v. Albany Drainage Dist.*, 290 Mo. 33, 234 S.W. 339 (1921) (drainage districts); (17) legislative agencies: *State ex rel. Hausgen v. Allen*, 298 Mo. 448, 250 S.W. 905 (1923) (drainage districts); (18) bodies corporate: *State ex rel. City of Missoula v. Holmes*, 100 Mont. 256, 47 P. (2d) 624, 100 A.L.R. 581 (1935) (counties and school districts); (19) administrative districts of the state: *Fairlie and Kneier, County Government and Administration* (1930) 478; (20) subordinate subdivisions of the state government: *Antelope Valley Union High School Dist. of Los Angeles County v. McClellan*, 55 Cal. App. 244, 203 Pac. 147 (1921) (municipalities).

16. *Fairlie and Kneier, County Government and Administration* (1930) 476-494.

17. *Carleton, Local Government and Administration in Louisiana* (1935) 65-67, 216-257.

18. *Dart's Stats.* (1932) § 8912.

19. It is to be noted that levee districts are not included within the administrative units listed by this statute.

ticular piece of legislation²⁰ in order that repeated enumerations of the various agencies with which the act deals might be avoided in subsequent sections of the same act. Act 415 of 1938 (§ 2)²¹ enacted: "Irrigation districts are hereby recognized as, and declared to be political subdivisions of the state, within the purview and intendment of Article XIV, of the Constitution of 1921, and all amendments thereof."

Louisiana jurisprudence is equally devoid of assistance. *Hicks v. Parish of Union*,²² the only Louisiana decision dealing with the problem prior to the instant case, *held*, without discussion, that a road district is a political subdivision of the state within the meaning of the Employers' Liability Act.²³

In the light of the uncertainty and confusion in the use of the phrase in all jurisdictions, attempts to formulate a general test by which to determine the scope of "political subdivisions of the State" seem fruitless. That questionable decisions may be expected from the continued use of these indefinite words is demonstrated by the difficulties—experienced by the court in the instant case—in attempting to determine, by an application of the ordinary rules of statutory construction,²⁴ the scope of the phrase. Every statutory provision in which the words appear is a potential problem of construction. The only suggestion that might profitably be made is that future legislation avoid uncertainty by stipulating in unambiguous language the specific governmental agencies with which it deals.²⁵

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20. In *Crow v. Board of Sup'rs of Road Dist. No. 19, Parish of Natchitoches*, 141 La. 1017, 1025, 76 So. 182, 185 (1917), the court in referring to La. Act 256 of 1910 said: "But where a body, vested with such authority, has assumed to create a political subdivision, *such as the act defines* . . . section 17 is applicable. . . ." (Italics supplied.) Cf. *Depew v. Venice Drainage Dist.*, 158 La. 1099, 1100, 105 So. 78 (1925), where the court referred to an administrative unit enumerated in Act 256 of 1910 as "a public corporation designated by law as a political subdivision of the state."

21. *Dart's Stats. (Supp. 1938)* § 7140.2.

22. 6 La. App. 543 (1927).

23. La. Act 20 of 1914, § 1 [*Dart's Stats. (1932)* § 4391].

24. Arts. 13-20, La. Civil Code of 1870.

25. See Marr, *Political Corporations Under Louisiana Law (1935)*, for a detailed consideration of the statutes, judicial decisions, and municipal ordinances dealing with the various types of political corporations existing in Louisiana. It is worthy of note that in the preface of this work, the author states that there are "encyclopaedic works of great merit, entitled 'Municipal Corporations'—using that phrase in the sense that the Louisiana Statutes use 'political subdivisions' . . ." This language would seem to imply that, in the opinion of the author, "political subdivisions" as used in Louisiana law is synonymous with "municipal corporations."