

MAINE STATE LEGISLATURE

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September 17, 1929

To Bertram E. Packard, State Superintendent of Schools
Re: Date of Meeting to Act on District Charter

You inquire whether in the Rumford School District Act passed by the recent Legislature the requirement for a town meeting to be held within a certain length of time after the approval of the Act legally fixes a date for such town meeting in accordance with this expression.

To so interpret it would require holding a town meeting prior to the date when, under the referendum amendment to the Constitution, the Act itself becomes valid and effective. This being so, it is my opinion that the provision cannot be interpreted to require a meeting at such a date. Nobody can be held to take notice of an act of the Legislature which has not yet become effective under the referendum clause. It seems to me that the Legislature has no power to impose a condition which requires action to be taken prior to the time when the statute itself becomes effective.

I suppose that the opinion the other way is perhaps based on the general principle that a condition precedent may be imposed by parties to a contract which must be fulfilled even though it is absurd. I cannot believe that any such principle could apply to so solemn a procedure as the putting into effect of an act of legislation under the Constitution of the State.

The substantive objects with reference to the vote which the Legislature sought to accomplish were that the favorable opinion of the voters should be obtained, and that expeditiously. These substantive results follow if the vote is taken, as is the case, very shortly after the adjournment of the Legislature. The Legislature cannot have intended to nullify the whole Act by making it depend upon the performance of an impossible condition; viz, - the holding of a town meeting at a time prior to the taking effect of the whole enabling act.

As a practical matter, the Legislature can remove any doubt by validating the action taken, and this might well be done at the special session in view of the fact that the misapprehension has arisen in the interpretation of an act passed by this same Legislature.

Clement F. Robinson
Attorney General

CFR/V