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June 6, 1933

Hon. Bertram E. Packard State Commissioner of Education Augusta, Maine

Dear Mr. Packard: Re: Election Superintendent Kennebunk--Kennebunkport School Union.

Confirming my oral opinion recently given you, I am pleased to suggest that the member of the committee who had been regularly elected but who had failed to be sworn prior to the time of the meeting of the committee, was an officer de facto and had a right to participate in such meeting, and his acts would be binding upon the town, and all parties interested.

Our Courts have decided, in the case of <u>Pease v. Parsonsfield</u>, 92 Me. 346, that a highway surveyor who had been duly elected and had not been qualified was apparently clothed with authority and, acting under color of authority so far as the public or third persons are interested, his acts were just as valid and binding as if he had been an officer de jure.

In the case of <u>Woodbury v. Knox</u>, 74 Me. 462, where a school agent acts under color of his election, the Court has said that he is an agent de facto, and his contract with a teacher is sufficient to bind the town, though the meeting at which he was elected was not duly notified, and he was never sworn as agent.

Trusting that the foregoing will give you the information you require, I am

Very truly yours,

Deputy Attorney General

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