

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA

May 29, 1935

Honorable Lewis O. Barrows  
Secretary of State  
Augusta, Maine

Dear Sir:

In the matter of the disorganization of the Town of Kingman, I am of the following opinion with respect to its present status.

The 87th Legislature passed a Private and Special Act which was approved March 22, 1935. The Act was an emergency act and provided for the disorganization of the town. It was not to become operative, however, until it had been approved by the town of Kingman at a special town meeting called for that purpose and held prior to April 15, 1935. The notice of such approval, if voted, in the form of a certified copy of the record of such meeting was to be filed with the Secretary of State. Instead of calling a special town meeting for the purpose, an appropriate article was inserted in the warrant calling the annual town meeting, and at the annual town meeting the voters of Kingman gave their approval. The office of the Attorney General was consulted respecting the validity of the meeting, and it was ruled that the vote at the annual town meeting was void and ineffectual for the legislative intent, as expressed in the Act, was that the question to be submitted to the people should be considered only at a special town meeting.

Accordingly, there was approved on April 6, 1935, a second bill bearing the same title as the first and almost identical with the first except that there was added another paragraph to Section 1 providing that the inhabitants of the town should organize themselves into a plantation under the general law, and that the duly elected plantation officers should have authority to levy and collect taxes for the purpose of carrying out the provisions of Section 1.

The second bill also provided that approval might be voted at any time prior to June 30, 1935. At the special town meeting approval of the town was again voted. A question as to the validity of the vote has arisen for the reason that the warrant calling a

special town meeting was signed by the selectmen of Kingman whose terms of office expired March 30, 1935 at the annual town meeting, there being no selectmen elected at that meeting; secondly, for the reason that in the call for the special town meeting the article notifying the inhabitants was to the effect simply to see whether the town would vote its approval under the provisions of an act to provide for the surrender by the town of Kingman of its organization being identical with the article in the warrant calling the regular town meeting; thirdly, because the clerk of the town, instead of filing a certified copy of the complete records of the meeting, filed simply that portion of the records which related directly to the vote on the question of approval.

With respect to the first question, I am of the opinion that the special town meeting was lawfully called by the 3 men who had been selectmen of Kingman and whose terms of office had expired on March 30, but who were still presuming to act as selectmen. From the decisions of the courts, I am of the opinion that the selectmen were officers de facto and that the call was a lawful one.

With respect to the second point, I am of the opinion that the voters of Kingman must in law be considered as having voted approval of the provisions of the second act. The first act, in my opinion, was repealed and supplanted by the passage of the second act containing all of the provisions of the first act with a slight addition. At the time of the special town meeting, the first act having been repealed, the town was not called upon to take any action with respect thereto. The only act which could concern them was the second act. The citizens must be presumed to have been voting upon an act having a then present existence. Such being the case, the second act was approved April 13, and the town disorganized.

With respect to the third question raised, I am of the opinion that the notice to be filed by the town clerk was not a condition precedent to disorganization of the town and that if the record is incomplete it may be completed at any time by the town clerk.

I am of the opinion that the Town of Kingman is now disorganized and the inhabitants should proceed at once to organize themselves into a plantation under the general law.

Very respectfully yours,

ANGUSTIA  
DEPARTMENT OF THE ATTORNEY GENERAL  
Attorney General  
STATE OF MAINE

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