

MAINE STATE LEGISLATURE

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March 19, 1976

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Education & Cultural Services

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Attorney General

Reapportionment - one-man, one-vote

Facts: School Administrative District No. 1 is divided into 17 sections. Each section elects a director to the district's board of directors. The city of Presque Isle contains 13 of these sections and shares two of the remaining sections with other towns. The reapportionment plan which established these sections was approved by the Federal District Court, N.D., in April, 1974, as being in compliance with the required application of the one-person, one-vote principal. Powers v. Maine School Administrative District No. 1 (D.C. Me. 1973) 359 F. Supp. 30. The plan also adheres to the procedure set out in 20 M.R.S.A. § 301 (Method A), which is the method which determines a section's level of representation on the board of school directors.

Section 302 of Title 20 M.R.S.A., contains provisions for filling a vacancy on the board which require the "municipal officers of the municipality in which the director resided" to select "a director from the municipality and section in which the director resided to serve until the next annual municipal or section election or next regular city election." There are further provisions within § 302 which require the board to declare a vacancy to exist if "any member of the board of school directors shall remove from the municipality that he represents or be absent from said municipality for more than 90 days." If the board declares such a vacancy to exist, then a replacement is to be appointed as provided.

A director of one of the 13 sections exclusively within Presque Isle has moved from one geographic section to another section also within Presque Isle.

Question: Does 20 M.R.S.A. § 302 authorize the Board of School Directors of SAD #1 to declare a vacancy on the board if the director from that section moves to another section of the district even though both sections are within the municipality of Presque Isle?

Answer: Yes.

Reasons: Title 20 M.R.S.A. § 302 contains language which mandates that the board of directors shall declare a vacancy whenever a director moves away from the municipality. It is my opinion that the legislature intended in this language that the board shall declare a vacancy whenever a director moves away from the section he or she represents within the district whether the section be an entire municipality or only a portion of a municipality. A careful reading of § 302 reveals that the

declare (WGB)

legislature provided the board with the necessary authority to ~~fill~~ a vacancy in the board whether the section within the district is comprised of an entire municipality or is comprised of only a portion of a municipality.

Reading Sections 301 and 302 together it is my opinion that the one-man, one-vote principal opted for by SAD #1 requires that the board of directors must declare a vacancy in the district which the director has moved from. This opinion is consistent with the order adopting SAD #1's reapportionment plan signed by Judge Edward T. Gignoux. Powers vs. M.S.A.D. #1, supra. Judge Gignoux's order specifically provides that SAD #1 shall be divided into 17 geographic sections and that each shall have only one director. Therefore, the board should declare a vacancy so that one of the sections doesn't go unrepresented while another section has two representatives living within it rather than only the one authorized by law.

WGB:jg