

MAINE STATE LEGISLATURE

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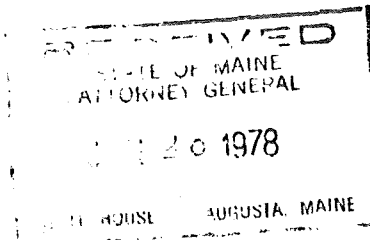
JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

January 25, 1978



Representative Edward L. Dexter
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Dexter:

This responds to your request for advice concerning the Town of Carrabassett Valley's inclusion in the Maine Forestry District.

FACTS:

Prior to its incorporation the unorganized territory located in Franklin County and consisting of Township 3, Range 2, B.K.P.: W.K.R. was part of the administrative district known as the Maine Forestry District, 12 M.R.S.A. § 1201. By act of the 105th Legislature, Private & Special Laws, 1971, c. 104, the qualified voters of this part of the unorganized territory were given an opportunity to vote on incorporation as the Town of Carrabassett Valley. As a condition of incorporation the Town of Carrabassett Valley was required to be a member of the Maine Forestry District, Private & Special Laws, 1971, c. 104, § 3. On October 26, 1971 the voters voted to be incorporated into the Town of Carrabassett Valley.

QUESTION:

Could the Legislature lawfully require the inclusion of Carrabassett Valley in the Maine Forestry District, as a condition of the town's incorporation?

ANSWER:

Yes, the Legislature could require the inclusion of the Town of Carrabassett Valley in the Maine Forestry District, as a condition of the town's incorporation.

REASONING:

Article IV, Part 3, Section 1 of the Maine Constitution states, in part, that:

"The Legislature shall have full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States."

It is well established law that the Legislature "may enact any law of any character or on any subject, unless it is prohibited, either in express terms or by necessary implication, by the Constitution of the United States or the Constitution of this State." Baxter v. Waterville Sewerage District, 146 Me. 211, 215 (1951).

The Supreme Judicial Court of Maine has stated frequently that the Legislature has the power to establish the powers and duties of towns.

"Towns are mere agencies of the State. They are purely creatures of the Legislature and their powers and duties are within its control. The wisdom, reasonableness and expediency of statutes, and whether they are required by the public welfare, are subject to exclusive and final determination by the law-making power, which is measured not by grant but by limitation. It is absolute and all embracing except as expressly or by necessary implication limited by the Constitution. The Court will only pronounce invalid those statutes that are clearly and conclusively shown to be in conflict with the organic law. Municipal corporations are but instruments of government, created for political purposes and subject to legislative control." Opinion of the Justices, 133 Me. 532, 535 (1935).
See also: State v. Rand, 366 A.2d. 183; Ace Tire Co., Inc. v. Municipal Officers of Waterville, 302, A.2d. 90; Sawyer v. Gilmore, 109 Me. 169.

In view of the foregoing, it is clear that the Legislature has the power to condition the incorporation of a town upon its inclusion in the Maine Forestry District. Such an act was a proper matter of legislative concern and it did not offend the Constitution.

Respectfully submitted,



Andre G. Janelle
Assistant Attorney General