

MAINE STATE LEGISLATURE

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DECEMBER SPECIAL SESSION

E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 84

In Senate, Dec. 6, 1933.

Tabled by Senator Blaisdell of Hancock pending passage. Dec. 7 assigned.

ROYDEN V. BROWN, Secretary.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND THIRTY-THREE

Whereas, it appears to the Senate of the 86th Legislature that the following is an important question of law and the occasion a solemn one; and

Whereas, bills are before the Senate for consideration providing for the creation of school districts and water districts which carry emergency clauses and, for explanation of the emergency, set forth the need of immediately obtaining federal aid or grants which may be lost if immediate action is not taken and the setting forth that immediate re-employment of needy citizens is of the utmost importance, and setting forth in the cases of the school districts, the overcrowded condition of the schools as being a menace to the health of the children; and setting forth in the cases of water districts the danger from the lack of adequate fire protection and proper sanitation; and

Whereas, questions have arisen as to the constitutionality of these acts because of the possible infringement of the right to home rule for municipalities,

Ordered: That the Justices of the Supreme Judicial Court are hereby requested to give to the Senate according to the provisions of the Constitution on this behalf, their opinion on the following questions, to wit:

Question I. Does the bill now before the 86th Legislature, entitled "An Act to Incorporate the Town of Orono School District", H. P. 24, L. D. 39, constitute an infringement of the right to home rule for municipalities

as is contemplated in Section 16 of Article IV of the Constitution contained in Article XXXI of the amendments thereof?

Question II. If said act constitutes such an infringement, has the Legislature the power and authority to pass such a bill under the emergency clause in the form of an enabling act to become effective only by vote of the people within such municipality?