MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

If, in September 1958, the $3,500,000 is deemed necessary by the Governor and Council, then, under the provisions of Section 30 of Chapter 18, as the loan of $3,500,000 does not exceed 1/3 of the highway revenues received during 1956-57, they may negotiate a loan for that amount, provided it must be paid back by June 30, 1959.

This amount is credited to the general highway fund and transferred to the Bond Issue account. On receipt of the Bond Issue funds, *during that fiscal year,* the $3,500,000 is transferred to the General Highway Fund and the loan paid from that fund.

The highway revenues referred to in Section 30 do not have to be revenues allocated to any specific type of expenditure. The intent of the borrowing provision was to give the State Highway Commission the right to anticipate 1/3 of its general revenue in order to expedite work during the year.

L. SMITH DUNNACK
Assistant Attorney General

July 31, 1958

To Dr. Warren G. Hill, Commissioner of Education

Re: Re-consideration of action at a town meeting

I have your request for an opinion concerning the proposition that the Town of Perham plans to insert an article in its warrant at the next town meeting scheduled for the election of school directors. The proposed article will be to re-consider and rescind action taken at a legally called town meeting held on June 21, 1958. At the meeting of June 21, 1958, the Town of Perham voted to join the towns of Castle Hill, Chapman, Mapleton, Wade, and Washburn to form a school administrative district. The Town of Perham at the June 21, 1958, meeting approved of the allocation of school directors to each town comprising the district and to authorize the district to assume full responsibility for amortizing certain school indebtedness outstanding in the municipalities and school district comprising the school administrative district. All of the other towns voted to join said school administrative district. The Maine School District Commission has records of returns of each of the towns comprising the said school administrative district on file and on July 17, 1958, made a finding that all of the steps in the formation of a school administrative district comprising the aforementioned towns were in order. Such finding and order were recorded in the School District Commission records and the official title was assigned to the school administrative district being School Administrative District #2. A certificate of organization was issued on July 17, 1958.

It is my opinion that any action taken at a future meeting by any of the component towns to rescind a vote which created the district would be void. The general rule as stated in *Bullard v. Allen,* 124 Me. 251 at page 26 is that a town ". . . may take action in one direction today and another tomorrow provided it does not impair intervening rights."

Parker v. Titcomb, 82 Me. 180, stating the above-mentioned general rule further states:

"A town may reconsider its action at the same meeting or at a subsequent meeting if seasonably done. That is if the action of a town

hath not accomplished its purpose. For if the vote of a town once accomplishes its purpose, works out the intended result and hath spent its force, it cannot be reconsidered and taken back.

"A town is free to act within its legal scope as it pleases. It may take one action in one direction today and in another tomorrow, provided it does not impair intervening rights. There is a wide difference, however, between reconsidering action that has once taken effect and worked its result, and, voting action to renew the original state of affairs by original and new proceedings."

I would like to point out *Knapp v. Swift River Community* School District, 152 Me. 350 at 353, which is a comparable fact situation. Chief Justice Williamson stated in the opinion:

". . . If the right of the District to do business depends from day to day upon the votes of town meetings, first granting, then taking away, and perhaps again granting rights, it is apparent that a District, duly organized, would not be worthy of the name of a quasi-municipal corporation with rights and powers, duties and obligations of its own."

In the instant situation all the necessary steps have been taken for the formation. The school administrative district is created by legislature and governed by the statutes. Once the certificate of organization is issued, Section 111-G of Chapter 443, Public Laws of 1957, provides that such issuance shall be *conclusive* evidence of the lawful organization of the School Administrative District. (Italics supplied) Section 111-P of Chapter 443, Public Laws of 1957, provides the means for withdrawal from a district.

To reiterate, any action by the Town of Perham at this time would be ineffective.

GEORGE A. WATHEN
Assistant Attorney General

July 31, 1958

To Robert M. Huse, Administrative Assistant to the Governor

Re: Removal of Humane Agents

. . . You inquire if anything can be done concerning the complaints against a State Humane Agent.

We would suggest three possibilities with respect to the problem:

1)   We have a strong feeling that the matter could be taken care of, if the judge himself should instruct the humane agent not to bring any further matters before his court;

2)   It is possible that the Governor might write and request that the State humane agent resign;—the Governor might do this in his own pleasant way and obtain results;

3)   Such agent could be removed from office by the Governor and Council.

Under the provisions of Chapter 140, Section 23, R. S. 1954, the tenure of office of State humane agents is not set forth.

Article IX, Section 6, Maine Constitution, provides: