

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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April 17, 1959

To: The Honorable William R. Cole
Senate Chambers
State House
Augusta, Maine

Dear Senator Cole:

I have your request for an opinion concerning the last sentence of Section 111-P, Chapter 41, Revised Statutes of 1954, which states:

“No such withdrawal shall be permitted while such School Administrative District shall have outstanding indebtedness or shall be obligated to the Maine School Building Authority pursuant to any contract, lease or agreement.”

It is our opinion that this language is proper and is not void under the theory that the Legislature cannot bind itself to prevent any further change or repeal of a statute. One of the questions in *Greaves v. Houlton Water Co.*, 143 Me. 207, was whether the Legislature has suspended its power of taxation. The language which you have cited refers to the sovereign power of taxation which the Legislature is prohibited from surrendering or suspending. (Article IX, Section 9, Constitution of Maine)

Article VIII of the Constitution of Maine provides in part:

“A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important object, the legislature are authorized, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of the public schools; . . .”

This article points up the proposition that education is a function of the State and is governed only by the Legislature. The control of education is in the hands of the Legislature, *Opinion of Justices*, 68 Me. 582; *Sawyer v. Gilmore*, 109 Me. 169.

In this instance the Legislature has provided standards for the formation of districts and reserved unto itself the right to pass on withdrawal of any municipality from a school administrative district once formed pursuant to the duties set out in Article VIII. It has further set a prohibition against withdrawal based on outstanding indebtedness. This provision is binding on future legislatures in the same manner as any other statute. There is nothing in this sentence which attempts to prevent change or repeal by future legislatures, but it is binding only on the municipalities in a School Administrative District.

It is our opinion that the legislature has enacted a law in a field in which only it has authority to act.

Very truly yours,

GEORGE A. WATHEN
Assistant Attorney General