

MAINE STATE LEGISLATURE

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April 9, 1979

Honorable Howard M. Trotzky
Senate Chambers
State House
Augusta, Maine 04333

Dear Senator Trotzky:

This letter responds to your request for an opinion as to whether the Constitution of Maine prohibits the State from providing financial support to public schools. We have concluded that although the Legislature is under a constitutional mandate to make provisions for the financial support of public schools at the local level, it is not prohibited from supporting the public school system on a state-wide basis.

As your letter points out, art. VIII, pt. 1, § 1, of the Maine Constitution provides, in relevant part, that:

The Legislature is 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 public schools [Emphasis added]

This article was adopted as part of the original Constitution of the State. In the course of the debates it was stated that its purpose was to impose a duty on the towns to maintain free schools at their own expense. At the same time it was observed that:

In addition to the means of support of these schools derived from towns, it is anticipated that the wisdom of future legislators will, as soon as the finances of the State permits, grant permanent funds for their constant maintenance.

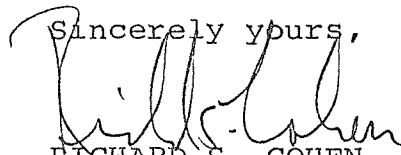
Debates and Journal of the Constitutional Convention of the State of Maine, 1819-29 ("Perley's Debates" - at 281-82.)

Relying upon the debates of the Constitutional Convention, the Maine Supreme Court ruled in 1872 that the term "suitable provision" as used in art. VIII does not mean a sufficient provision adequate to meet the educational needs of the people and that neither this nor any other article of the Constitution prevents the State Legislature from supplementing local support of public schools with state aid. Opinion of the Justices, 68 Me. 582, 584-85 (1872). This interpretation of art. VIII, pt. 1, § 1, has been consistently adhered to by the Court. See, Sawyer v. Gilmore, 109 Me. 169, 83 A. 673 (1912); Kelley v. Brunswick School District, 134 Me. 414, 187 A. 703 (1936); Opinion of the Justices, 153 Me. 469, 145 A.2d 25 (1958); Squires v. Inhabitants of City of Augusta, 155 Me. 151, 153 A.2d 80 (1959); McGary v. Barrows, 156 Me. 250, 163 A.2d 747 (1960); Opinion of the Justices, 261 A.2d 58 (Me. 1970).

The Maine Legislature has acted to provide state-wide support for local public schools in a variety of ways over the years. Presently the School Finance Act of 1978, 20 M.R.S.A. § 4741, et seq., provides that at least 50% of the cost of basic education shall be financed from General Fund revenue sources. Such legislation, in our opinion, does not violate art. VIII, pt. 1, § 1, of the Maine Constitution.

I trust this opinion fully answers your inquiry. Please feel free to contact me if I can be of any further assistance.

Sincerely yours,



RICHARD S. COHEN
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RSC:mfe