

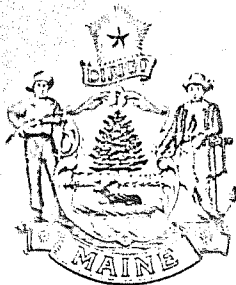
MAINE STATE LEGISLATURE

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

April 26, 1979

Honorable David G. Huber, Chairman
Honorable Michael D. Pearson, Chairman
State House
Augusta, Maine 04333

Dear Senator Huber and Representative Pearson:

I am writing in response to your request for advice concerning the constitutionality of L.D. 23, "Resolve to Reimburse the Town of Eastbrook in the Amount of \$25,644.35 for Losses Caused by Excessive State Valuation."

We are of the opinion that L.D. 23, if enacted, would not violate either the Special Legislation Clause (art. IV, pt. 3, § 13) or the Equal Protection Clause (art. I, § 6-A) of the Maine Constitution.

In an earlier opinion we prepared for you (March 6, 1979), we indicated that resolves of this type, dealing with individuals and organizations, were subject to analysis under the Equal Protection and Special Legislation Clauses of our Constitution. Nadeau v. State, 395 A.2d 107 (1978). We are of the view that our conclusions in that opinion should not be extended to cover resolves authorizing payments to municipalities.

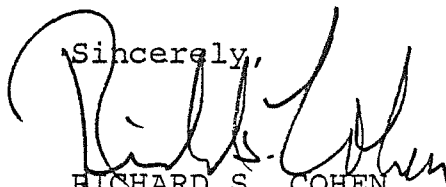
Municipalities are mere agents of the State. Their existence, powers and duties lie within the control of the Legislature. See, Opinion of the Justices, 133 Me. 532 (1935); Sawyer v. Gilmore, 109 Me. 169 (1912). Necessarily the Legislature enjoys great latitude in dealing with its political subdivisions.

Although the Law Court in Nadeau invalidated certain forms of legislatively enacted preferential treatment for individuals and organizations, the courts have not indicated whether the Nadeau rule applies to municipalities. As discussed above, municipalities occupy a status different from that

of individuals and organizations. Given that fact and given the presumption of constitutionality accorded acts of the Legislature, it is our view that the Nadeau rule should be treated as inapplicable to municipalities until the courts specifically indicate otherwise. Thus, we perceive no legal barrier to the enactment of L.D. 23.

If we can be of any further assistance, please do not hesitate to call on us.

Sincerely,



RICHARD S. COHEN
Attorney General

RSC/ec