

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date April 22, 1980

Speaker of the House John Martin Dept. Legislature
 From William R. Stokes, Ass't A.G. Dept. Attorney General
 Subject Actions of Malapportioned School Administrative District

You have requested information concerning whether the acts of a School Administrative District, whose membership is alleged to have been selected in violation of the principle of one-man, one-vote, are lawful and valid notwithstanding the alleged malapportionment.

The answer to your inquiry appears to be found in the last paragraph of 20 M.R.S.A. §301 (1965-1979 Supp.) which provides:

"The directors of a School Administrative District during the reapportionment of its membership shall serve until the reapportionment is completed and shall be legal representatives of the district until the reapportioned board is selected and qualified. The directors shall carry out all business of the district including the borrowing of necessary funds which may be required during the period of board reapportionment."

Moreover, the Maine Supreme Judicial Court has had occasion to address this precise point. The Court held that even assuming that a governmental body was found to be malapportioned

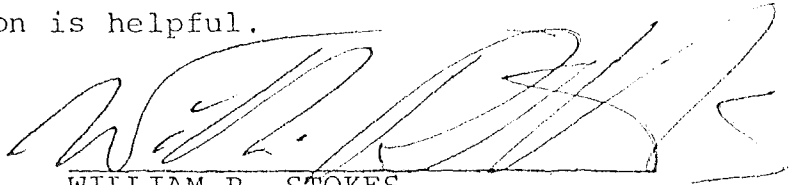
"...the unique nature of the malapportionment question itself has produced a general consensus that notwithstanding a judicial pronouncement that an elected body exercising governmental functions is malapportioned, actions of the body taken prior to the issuance of the malapportionment pronouncement are unaffected as to their legal validity and remain lawful."

Cohen v. Ketchum, Me., 344 A.2d 387, 395 (1975).

Thus, it is clear that in the event that a School Administrative District was judicially declared to be malapportioned, the past actions of the SAD would, nevertheless, be valid.

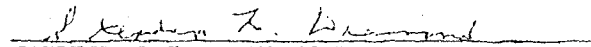
The Court in Cohen v. Ketchum, supra also addressed the issue of whether future actions of an elected body, whose membership has been judicially declared to be malapportioned, would be valid. The Court held that such a body could continue to act with legal validity, until the malapportionment had been corrected. Id. at 396-97 quoting 20 M.R.S.A. §301 (1965-1979 Supp.). See also Fortson v. Morris, 385 U.S. 231 (1966).

I hope this information is helpful.



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Approved by:



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