

[REDACTED]

Historical Soc'y, 133 Me. at 79, 173 A. at 812; see *Arlington American Sample Book Company v. Board of Taxation*, 116 N.H. 575, 364 A.2d 878 (1976). We have reviewed the merits and find no injustice. In a case in which the tax bill was erroneous, we refused to disregard a plain and positive deadline for petitioning for a tax abatement. *Larkin v. Portsmouth*, 59 N.H. 26 (1879). RSA 76:16-a I (Supp. 1975) and RSA 74:7 are as binding as any other statute. The plaintiff filed his inventory too late. The board implicitly found as a matter of fact that the taxpayer did not come within the exception in RSA 74:8. If we overruled the board we would in effect repeal RSA 74:7. The board properly denied the appeal. *Id. Farmington v. Downing*, 67 N.H. 441, 30 A. 345 (1893); see *Thayer v. State Tax Comm'n*, 113 N.H. 113, 302 A.2d 824 (1973).

Plaintiff's exceptions overruled.

DOUGLAS, J., did not sit; the others concurred.

[REDACTED]

Merrimack
No. 7686

JOHN LITTLEFIELD

v.

NEW HAMPSHIRE INTERSCHOLASTIC ATHLETIC ASSOCIATION

February 28, 1977

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

McLane, Graf, Greene, Raulerson & Middleton, of Manchester, and *Stephen E. Borofsky* (Mr. Borofsky orally) for the plaintiff.

Orr & Reno, Ronald L. Snow and *Neil F. Castaldo*, of Concord (Mr. Snow orally) for the defendant.

Sullivan, Gregg & Horton, of Nashua (Mr. *Sherman D. Horton, Jr.* orally) for Crotched Mountain Foundation as amicus curiae.

GRIMES, J. The issue raised by this interlocutory transfer is whether the trial court's issuance of a temporary injunction against enforcement of defendant's age limitation rule prohibiting plaintiff from playing on the Pembroke Academy basketball team was a proper exercise of discretion.

The plaintiff is a senior at Pembroke Academy who became twenty years old on January 15, 1977. The rules of the defendant provide that a "pupil may compete in interscholastic athletics during that school year if his 19th birthday is on or after September 1." Plaintiff therefore was not eligible to compete during this school year under the rules. Just before he was about to enter the first grade of school, plaintiff developed Legg Perthes disease which causes the ball of the hip joint to soften. He therefore was delayed from entering school for three years. He still has a slight limp.

By letter dated November 2, 1976, the principal of the school requested a deviation from the age rule pursuant to art. II, section 6 of the defendant's bylaws. The request was denied by the executive secretary on the basis that traditionally the eligibility committee "has not made exceptions in the area of the age rule." The eligibility committee thereafter denied plaintiff's appeal without a hearing.

The representative council of the defendant association after a hearing also denied plaintiff's appeal. Thereafter plaintiff filed a complaint in the United States District Court seeking injunctive relief which was dismissed for lack of subject matter jurisdiction. Plaintiff then began this action. After a hearing the superior court issued a temporary restraining order and defendant's exceptions were transferred by *Johnson, J.*

Plaintiff does not attack the age limitation rule as such but rather attacks the lack of any criteria for possible deviations from the rule and he also attacks the rules and rulings of the defendant

