

MAINE STATE LEGISLATURE

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DECEMBER SPECIAL SESSION

E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

No. 187

In Senate, Dec. 15, 1933.

Ordered placed on file. 500 copies ordered printed.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND
THIRTY-THREE

**Answers to Questions Propounded to the Justices of the Supreme Judicial
Court by the Senate of Maine.**

To The Honorable Senate Of The State Of Maine:

The undersigned Justices of the Supreme Judicial Court, having considered the questions upon which their advisory opinions were requested by Senate Order of December 6, 1933, respectfully submit the following answers.

Question 1. Does the bill now before the 86th Legislature, entitled "An Act to Incorporate the Town of Orono School District," H. P. 24, L. D. 39, constitute an infringement of the right to home rule for municipalities as is contemplated in Section 16 of Article IV of the Constitution contained in Article XXXI of the amendments thereof?

Question 2. If said act constitutes such an infringement, has the Legislature the power and authority to pass such a bill under the emergency clause in the form of an enabling act to become effective only by vote of the people within such municipality?

Answer 1 - 2. We are of the opinion that it is not within the scope of our duty to answer these questions, in view of the fact that the bill to which they refer, in its present form, could not accomplish its desired purpose, irrespective of the propositions involved in the interrogatories submitted. A careful analysis of its provisions forces the conclusion that its passage without amendment, whether the emergency clause was included or not,

would result only in the enactment of a measure, the usefulness of which would be destroyed by its inherent legal defects and insufficiency.

Very respectfully,

WILLIAM R. PATTANGALL

CHARLES J. DUNN

GUY H. STURGIS

CHARLES P. BARNES

SIDNEY St. F. THAXTER

JAMES H. HUDSON

Dated December 13th, 1933.