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One Hundred and Fourth Legislature

OF THE

STATE OF MAINE

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Index

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January 6, 1970 to February 7, 1970
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KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Friday, January 16, 1970

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Elmer Bentley of Augusta.

The journal of yesterday was read and approved.

Papers from the Senate

From the Senate: The following Communication: (S. P. 624)

STATE OF MAINE
LEGISLATIVE RESEARCH
COMMITTEE
STATE HOUSE
AUGUSTA

January, 1970

To the Members of the First Special Session of the 104th Legislature:

The Legislative Research Committee hereby has the pleasure of submitting to you a report on the Consumer Credit Code.

Although this report, designated as Committee Publication 104-23, is restricted to the Committee's preliminary findings and recommendations, which fall short of the ultimate conclusion, a basic foundation has been laid and appropriate vehicle ascertained to more properly establish a Consumer Credit Code for the State of Maine.

It is the hope of the Committee that the information contained in this report will prove of value to the members of the Legislature and the people of the State of Maine.

Respectfully submitted,
(Signed)
WILLIAM E. DENNETT
Chairman
Legislative Research Committee

Came from the Senate read and with accompanying Report ordered placed on file.

In the House, the Communication was read and with accompanying Report ordered placed on file in concurrence.

Ought to Pass in New Draft Passed to Be Engrossed

Report of the Committee on Business Legislation on Bill "An Act to Amend the Home Solicitation Sales Act" (S. P. 561) (L. D. 1638) reporting same in a new draft (S. P. 614) (L. D. 1796) under same title and that it "Ought to pass"

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence and the New Draft read twice. Under suspension of the rules, the New Draft was read the third time, passed to be engrossed and sent to the Senate.

Ought to Pass Passed to Be Engrossed

Report of the Committee on Public Utilities reporting "Ought to pass" on Bill "An Act relating to the Charter of the Van Buren Light and Power District" (S. P. 601) (L. D. 1772)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed.

In the House, the Report was read and accepted in concurrence and the Bill read twice. Under suspension of the rules, the Bill was read the third time, passed to be engrossed and sent to the Senate.

Divided Report

Report "A" of the Committee on Education reporting "Ought to pass" on Bill "An Act Repealing Provision for Student Tuition in Coordination of Public Higher Education" (S. P. 565) (L. D. 1640)

Report was signed by the following members:

Mr. MILLETT of Dixmont
Mrs. CUMMINGS of Newport
Mr. ALLEN of Caribou
Mrs. KILROY of Portland
Mr. CHICK of Monmouth
— of the House.

Report "B" of same Committee on same Bill reporting "Ought to pass" as amended by Committee Amendment "A".

Report was signed by the following members:

Messrs. KATZ of Kennebec
STUART of Cumberland
— of the Senate.

Mr. RICHARDSON
of Stonington
— of the House.

Report "C" of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following member:

Mr. KELLAM of Cumberland — of the Senate.

Came from the Senate with Report "B" accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House. Reports were read.

On motion of Mr. Richardson of Stonington, Report "B" was accepted and the Bill read twice. Committee Amendment "A" (S-366) was read by the Clerk and adopted in concurrence. Under suspension of the rules, the Bill was read the third time.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Haskell.

Mr. HASKELL: Mr. Speaker and Members of the House: We are concerned here with an extremely important piece of legislation that I think deserves rather careful consideration. The amount of money that may be involved here can very well be in the area of somewhere between a million and a million and a half dollars a year.

In my view, there was a very basic error that was made when the restrictions on tuition differentials was inserted into the laws of the State of Maine. And unfortunately this error has been repeated, and the Committee Amendment "B", which you are considering at this point, is an attempt to perpetuate this error.

This represents to me an error from this point of view. That it seems to me that the Legislature is here usurping a function that properly belongs to the Board of Trustees of the University of Maine, namely that of determining the level of tuition, and any proper differentials in that level between the various institutions in the public education sector. By inserting this artificial restriction we create a situation where the Legislature is unable to exercise its proper role, which, again in my view, is that of questioning the results and the operation of the policy of the university as it is contrary to our thinking.

Until we remove this artificial restriction and give the trustees of the university an opportunity to set reasonable tuition fees, we certainly are in no position to question the fact that the fees currently are totally unrealistic in respect to national averages in the field of public higher education. Again, this serves from the point of view of the university, as a very convenient peg to hang any other shortcomings that we might observe in the university operation on.

In short, if we criticize a particular phase of the university operation, they can very well point to this artificial restriction in the area of tuition as the reason why they do not operate efficiently.

Let me give you an example of what I have in mind. I think the university, at this point, can very properly be questioned and asked to account for the fact that their statistical record in respect to the development of Federal Research grants is the worst in the nation, dollar-wise and also as a percentage of their total operating budget, the university system is the lowest in the nation. When we raise the question, it is extremely easy for the university to say, because of the fact that the Legislature has tied our hands in the tuition area, we are unable to generate the resources to properly develop and implement a sound system of Federal Research at the university level.

Now I would like to point out that this is an extremely significant factor in public higher education. Nationally, at the present time, income from this source amounts to well over 20 per cent of the average public higher education budget. In the State of Maine, to my best knowledge, it is now running somewhere around four or five per cent.

I think that we have a wonderful opportunity in the super-university system to develop quality higher education in the State of Maine. However, we are not going to be able to do it unless there is a general recognition of the proper roles of the Legislature, the Executive, and the Board of Trustees of the University of Maine; and all play their parts well.

I submit that basically we are creating a very serious problem

when the Legislature attempts to usurp the proper function of the Board of Trustees of the University of Maine. And the report which has now been moved for acceptance in this body simply continues this very basic error of the Legislature trying to mastermind the Board of Trustees of the University of Maine. And we are only going to continue very serious problems in the university system as long as we persist in the efforts to do this.

The proper course of action for this body to take would be, in my view, to defeat the motion that is now on the floor, and to adopt instead the Report "A" of the committee, which in effect is a repealer of this clause.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Richardson.

Mr. RICHARDSON: Mr. Speaker and Members of the House: I am sorry that I have to disagree with my very good friend from Houlton, Mr. Haskell, but this amendment is very limiting in its scope. It limits the exemption from increasing tuition to those students who are registered in the university system as of September 30, 1968. It also goes further than this, because it removes the exemption from non-resident students.

The Chancellor was very specific when he appeared before the committee, that he could live with this. Of course, he would like to see it completely removed, but he can live with it.

As far as increasing the tuition, one of the statements that he made was that it was possible that he would lower it, and that the Board of Trustees would go along with lowering it in some sections.

I feel that we made a commitment to those people who are in college and were in college as of September the 30th, 1968. And I would hate to see this Legislature renege on a promise to those people. I would, therefore, urge you to accept Report "B" with the committee amendment.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Allen.

Mr. ALLEN: Mr. Speaker and Members of the House: I am sorry to have to disagree with our chairman, Representative Richardson. I was here in the 103rd Session, and I know the troubles, the great deal of work, the close vote we had on the enlarged University of Maine. We did, in my opinion, not pass this amendment freezing these tuition fees because we were thinking of students. We were thinking of the one or two votes that we needed to get this bill by this House. We run into complications when we leave these tuition rates as they are.

Our chairman on our Education Committee has mentioned that we have corrected one by saying it will not now apply to out-of-state students. But we also have the complication that when we merge Gorham and the University of Maine at Portland, some students in the same class will pay one rate, and some will pay this reduced, bargain rate.

I hope that we reject Report "A" and go along with Report "B". Excuse me, I made a mistake there. I hope we reject Report "B" and go along with Report "A".

The SPEAKER: The Chair would advise the House that a motion to reconsider the adoption of Committee Amendment "A" is in order.

The Chair recognizes the gentleman from Houlton, Mr. Haskell.

Mr. HASKELL: Mr. Speaker, would a motion to indefinitely postpone be in order?

The SPEAKER: The Chair would advise the House and the gentleman that the only motion proper at this time is to reconsider its action whereby it adopted Committe Amendment "A".

The Chair recognizes the same gentleman.

Mr. HASKELL: Mr. Speaker, I move we reconsider our action.

The SPEAKER: The gentleman from Houlton Mr. Haskell, moves that the House reconsider its action.

On motion of Mr. Finemore of Bridgewater, tabled pending the motion of Mr. Haskell of Houlton to reconsider the adoption of Committee Amendment "A" and

specially assigned for Monday, January 19.

Non-Concurrent Matter

Bill "An Act to Create the Eastern Hancock County Community School District" (H. P. 1393) (L. D. 1748) which was passed to be engrossed as amended by Committee Amendment "A" in the House on January 13.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" and Senate Amendment "A" in nonconcurrence.

In the House: The House voted to recede and concur.

From the Senate: The following Order:

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Monday, January 19, at 3 o'clock in the afternoon. (S. P. 628)

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

Messages and Documents

The following Communication:

STATE OF MAINE
SUPREME JUDICIAL COURT
AUGUSTA

January 15, 1970

Mrs. Bertha W. Johnson
Clerk, House of Representatives
State House
Augusta, Maine

Dear Mrs. Johnson:

There is enclosed the Answers of the Justices to the Questions of January 7, 1970.

Respectfully yours,
(Signed)
ROBERT B. WILLIAMSON

ANSWERS OF THE JUSTICES TO THE HONORABLE HOUSE OF REPRESENTATIVES OF THE STATE OF MAINE:

In compliance with the provisions of Section 3 of Article VI of the Constitution of Maine, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following answers to the questions propounded on January 7, 1970.

QUESTION NO. I. Do any of the provisions of H. P. 1395, L. D. 1751, violate the Establishment Clause of the First Amendment of the United State Constitution or Article I Section 3 of the Constitution of the State of Maine?

Inasmuch as opinions differ in response to Question No. I the several views subscribed by those adopting the same are respectfully submitted. Four of the Justices are of the opinion that H. P. 1395, L. D. 1751 is not constitutional. Two of the Justices are of the opinion that H. P. 1395, L. D. 1751 is constitutional. As to Question II, III and IV all Justices agree.

ANSWER: The answer is in the affirmative, as to sectarian schools.

Since the earliest days of the Federal Constitution it has been declared that its First Amendment erects a "wall of separation" between the Church and the State. While this phrase may seem archaic, the principle has not changed. A myriad of courts and legal writers over the years, the listing of which would serve no purpose, have dealt with the issue, not that the necessary independence in religious matters of the Church from the State and of the State from the Church no longer exists, but whether upon a given set of facts this wall has been breached or the mutual independence violated.

Increasingly, it has become desirable to formulate a test by which it could be determined whether a given proposition does or does not invade that independence.

The Supreme Court of the United States in **School District of Abington Township Pennsylvania et al v. Schempp**, in forbidding bible reading in the public schools, decided in 1963 (374 U. S. 203, 83 S. Ct. 1560) declared that the test may be stated as follows:

"What are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the constitution. That is to say that to withstand the Strictures of the Establishment Clause there must be a secular

legislative purpose and a primary effect that neither advances nor inhibits religion."

We are bound by this test.

In **Board of Education v. Allen** 88 S. Ct. 1923 (1968, 6-3 decision), the Supreme Court of the United States upheld a New York statute against an attack under the Establishment Clause "because the Act authorizes the loan of text books to students attending parochial schools." In approving and applying the **Schempp** text the Court considered that there was no reason to distinguish the loan of text books from the bus transportation approved in 1947 in the landmark decision of **Everson v. Board of Education** 330 U. S. 1, 67 S. Ct. 504 (1947). **Allen** did not involve the situation here presented in which the State would (in the words of the statute) contract for secular education service in a sectarian school and would enter into direct relationship with non-public or sectarian schools.

In approaching an analysis of the proposed legislation two threshold considerations arise:

a) "It is not what has been done, or ordinarily would be done under a statute, but what might be done under it that determines whether it infringes upon the constitutional right of the citizen." **Sleeper, Appellant** 147 Me. 302. 308.

b) That our Maine Constitution carries "no more stringent prohibitions than the First and Fourteenth Amendments to the Federal Constitution." **Squires v. City of Augusta** 155 Me. 151, 164.

In November 1969, **Lemon et als v. Kurtzman et als,** the Pennsylvania Non-Public Elementary and Secondary Education Act (Purdon's Pennsylvania Statutes, Title 24 Sections 5601- 5609), was upheld constitutionally by a 2-1 decision by a three-Judge Federal Court, which decision is now on appeal to the U. S. Supreme Court. Finality has not been reached. The Pennsylvania Act is not identical to ours.

Our L. D. 1751 goes beyond the Pennsylvania Act (Pa. Act) in two critical areas. The Pa. Act proposed the purchase of secular educational service only in mathematics, modern foreign languages, physical science and physical education. Mr. Justice Douglas in his dissent in **Allen, supra,** at page 1932, advances a rationale for such limitation, the significance of which was not lost on the framers of the Pa. Act. L. D. 1751 is not so limited.

The Pa. Act declares its policy to be based on parental freedom to choose non-public educational resources which then were educating "more than twenty percent" of the school population and that, should a majority of parents of the present non-public school population desire to remove their children to the public schools" the financial burden and derangement of public education would be allegedly intolerable. L. D. 1751 justifies itself on the threatened closing of non-public schools, with allegedly resultant dire effects on the public school system, which imminence, disclosed by supporting material, is prompted by financial need. Under the Pa. Act the financial benefit to the non-public schools was inferential. Under L. D. 1751 it is expressly and directly solicited.

The **Lemon** case is neither apposite in fact nor decisive in law, as applied to L. D. 1751.

Fundamentally it cannot be gainsaid that the sectarian school exists for the purpose of adding an additional dimension, to-wit, advancement of the faith, to the secular education which it supplies. If the parents sought only the secular education, such is available to them as a matter of right in the public school system. Sectarian school education is selected for its religious atmosphere and teaching.

Budgets for the secular instruction may be technically separable from the budget of the entire operation of the school, but the institution is an inseparable whole, which is strengthened in its institutional purpose when it is strengthened in any of its departments by outside financial assistance. See **Schempp, supra,** page 1575. **Economics is not the controlling factor in determin-**

ing the validity or invalidity of L. D. 1751. The Constitution is the controlling factor. The school administrative units accomplish nothing under this Act that they could not reasonably accomplish within the public school systems and without benefit to sectarian schools.

Applying the **Schempp** test, the purpose and primary effect of L. D. 1751 is to subsidize those sectarian schools, the closing of which would cast an increased student burden on the public school system as measured under Section 3804. Such subsidization by its assuring the continuance of the school, assures the continuance of the purpose for which the school exists,—advancement of the faith it represents. The net result of all of this is for the State to invade the sectarian school system in a manner which violates the independence to which it is constitutionally entitled. The result is not the neutrality required by the Constitution.

With reference to the **Lemon** case, Chief Justice Robert B. Williamson is of the opinion that the Pennsylvania statute and L. D. 1751 are so closely alike that in his opinion a decision of the Supreme Court of the United States on the constitutionality of the Pennsylvania Act under the Establishment Clause would in all probability control the issue with reference to L. D. 1751.

Respectfully submitted,
(Signed)
ROBERT B. WILLIAMSON
HAROLD C. MARDEN
RANDOLPH A. WEATHERBEE

TO THE HONORABLE HOUSE OF THE STATE OF MAINE:

In compliance with the provisions of the Constitution of Maine, I, the undersigned Justice of the Supreme Judicial Court, have the honor to submit the following answer to the first question propounded on January 7, 1970.

QUESTION (1): Do any of the provisions of H. P. 1395, L. D. 1751, violate the Establishment Clause of the First Amendment of the United States Constitution or Article I, Section 3 of the Constitution of the State of Maine?

ANSWER: I answer in the affirmative with respect to aid which may be furnished under the proposed legislation to sectarian schools providing instruction in both sectarian and secular subjects.

In my view we are required to give an informed anticipatory judgment as to what decision will be rendered by the Supreme Court of the United States when the precise issue here involved is presented to that Court for decision, either upon review of the very recent case of **Lemon et als** v. **Kurtzman et als** (1969) Civil Action, No. 69-1206 (District Court, E. D. Pa.), or by some other appropriate legal vehicle. To attempt to anticipate a decision of the Supreme Court of the United States in an area of the law as yet unexplored by that Court is at best fraught with uncertainty.

I look first to the opinion in **Board of Education** v. **Allen** (1968) 392 U. S. 236, 88 S. Ct. 1923 in which the Supreme Court found no First Amendment violation in a New York statute requiring local public school authorities to lend textbooks free of charge to all students in grades 7 through 12, including students attending private parochial schools. It is important to try to ascertain whether or not **Allen** marks the approximate limits beyond which the Supreme Court will not go in the field of church-state separation. The Court first analyzed **Everson** v. **Board of Education** (1947) 330 U. S. 1, 67 S. Ct. 504 as the "case decided by this Court that is most nearly in point for today's problem." **Everson** was based on the protection of the health, safety and welfare of children on the public streets and permitted bus transportation which would involve only a remote and indirect benefit to sectarian schools. The **Allen** Court recognized that there are First Amendment limits to the providing of public aid to sectarian schools when it said:

"Everson and later cases have shown that the line between state neutrality to religion and state support of religion is not easy to locate. 'The constitutional standard is the separation of Church

and State. The problem, like many problems in constitutional law, **is one of degree.'** " (Emphasis mine).

The **Allen** Court made it clear that one must look beyond the stated purpose of legislation and see whether or not the necessary and primary effects thereof are the advancement or inhibition of religion. In determining that the lending of textbooks to all children including those in sectarian schools was permissible, the Court noted that the educational benefits are conferred upon the children rather than the school and that ownership of the books remained with the State. The Court said:

"Thus **no funds** or books **are furnished to parochial schools**, and the financial benefit is to parents and children, not to schools." (Emphasis mine)

My concern is that this language was an intentional caveat to suggest that when funds are furnished directly to parochial schools, the necessary and primary effect thereof being to further their general purposes, such aid would be deemed violative of First Amendment principles and beyond the intended permissive scope of **Allen**.

Mr. Justis Harlan, while concurring in the Allen opinion, took occasion to remind us once again that the governmental activity, in order to be permissible within First Amendment strictures, must be one which "does not involve the State 'so significantly and directly in the realm of the sectarian as to give rise to * * * divisive influences and inhibitions of freedom.' " This suggests the possibility that the learned Justice would not go much beyond the reach of **Allen** in the direction of piercing the "wall of separation."

It may be noted that Mr. Justice Black was the writer of **Everson**, an opinion in which Mr. Justice Douglass joined. Yet both of these members of the Court were unable to take the step from **Everson** to **Allen** and each filed a vigorous dissenting opinion in the **Allen** case. Mr. Justice Black penned words of admonition which in my view would not be rejected by his colleagues, even though a majority of the Court did not deem them applicable to the Allen facts. He said:

"The First Amendment's prohibition against governmental establishment of religion was written on the assumption that state aid to religion and religious schools generates discord, disharmony, hatred, and strife among our people, and that any government that supplies such aids is to that extent a tyranny. And I still believe that the only way to protect minority religious groups from majority groups in this country is to keep the wall of separation between church and state high and impregnable as the First and Fourteenth Amendments provide."

In conclusion my concern is that what in the legislative proposal is termed a contract for secular educational service will be viewed as in reality a method for providing public aid to a sectarian school in support of all of its purposes, such subsidy to be computed on the basis of a formula which uses as a prime factor certain of its costs in furnishing secular education. In my opinion, such financial aid would not be permissible under the First Amendment.

Respectfully submitted,
(Signed)
Donald W. Webber

ANSWER OF ARMAND A. DUFRESNE, JR., J. TO THE HONORABLE HOUSE OF REPRESENTATIVES OF THE STATE OF MAINE:

In compliance with the provisions of Section 3 of Article VI of the Constitution of Maine, I have the honor as a Justice of the Supreme Judicial Court to subscribe and submit the following answers to Question I propounded to the Justices of the Supreme Judicial Court by House Order dated January 7, 1970: QUESTION I. Do any of the provisions of H.P. 1395, L.D. 1751, violate the Establishment Clause of the First Amendment of the United States Constitution or Article I Section 3 of the Constitution of the State of Maine? (1) Respecting the Establishment Clause of the First Amendment of

the United States Constitution, I answer in the negative.

The Establishment Clause provides that "Congress shall make no law respecting an establishment of religion * * * ." The United States Supreme Court has ruled that the Establishment Clause of the First Amendment is made applicable to the states by the Fourteenth Amendment of the United States Constitution. **Cantwell v. State of Connecticut**, 1940, 60 S.Ct. 900, 310 U.S. 296; **Murdock v. Commonwealth of Pennsylvania,** 1943, 63 S.Ct. 870, 319 U.S. 105. Its interpretation of that clause is the law of the land and is binding on the courts of this State as well as on the Legislature by reason of the Supremacy Clause of Article VI of the United States Constitution. **State v. Wheeler,** 1969, Me., 252 A.2d 455. However, to this day, the United States Supreme Court has not adjudicated the constitutionality of any state law purporting, as the instant Nonpublic Elementary Education Assistance Act proposes, to purchase secular educational services by reimbursing the participating nonpublic elementary schools for the actual cost of teachers' salaries, textbooks and instructional materials after and to the extent that such costs have actually been incurred by the institution. Under such circumstances, the answer to this question will be the correct one only if it accords with the future decision of the United States Supreme Court. A review of the pertinent decisions leads me to believe that the present proposed legislation will receive constitutional imprimatur from the Supreme Court of the United States, and thus in anticipatory concurrence I say the intended Act violates in no way the Establishment Clause of the First Amendment.

The only authority in the country which has come to my attention has so ruled regarding Pennsylvania legislation upon which the proposed Act was obviously patterned. **Lemon et als. v. Kurtzman et als.,** Civil Action, No. 69-1206, in the United States District Court for the Eastern District of Pennsylvania. This decision was rendered on November 28, 1969 by a statutory three-man court available in the federal system under congressional legislation when state statutes are under attack for alleged transgressions against the Constitution of the United States. I note that one member of that panel dissented. I am impressed by the reasoning of the majority which views the present legislation as a legitimate extension of the rulings of the United States Supreme Court in **Everson v. Board of Education,** 1947, 67 S. Ct. 504, 330 U. S. 1 and **Board of Education v. Allen,** 1968, 88 S. Ct. 1923, 392 U. S. 236. In **Everson,** the United States Supreme Court held that the United States Constitution did not prohibit the State of New Jersey from spending tax-raised funds to pay the bus fares of parochial school pupils as part of a general program in which the state paid the fares of pupils of public and other schools. In **Allen,** the United States Supreme Court upheld the constitutionality of a New York statute which provided for the purchase by the State of textbooks for the use of students in grades 7 to 12 in all schools of the State of New York, including parochial as well as public schools.

I am satisfied that the instant legislation does not on its face offend the Establishment Clause of the First Amendment. Initially, permit me to state that as individual Justices of this Court our approach to constitutional issues must be made without any concern being given to the propriety or wisdom of the legislative action. We must focus our consideration solely upon the issue of power of the Legislature to enact such legislation in light of the First Amendment prohibitions. We are charged with the duty of ascertaining legislative intent but not with any responsibility for economic and social effects of legislation. **Coca-Cola Bottling Plants v. Johnson,** 1952, 147 Me. 327, 87 A.2d 667. Whether or not the enactment of a law is the best means to achieve the desired results is a matter for the Legislature and not for the court. **Cushing v. Inhabitants of Town of Bluehill,** 1952, 148 Me. 243, 92 A. 2d 330. Secondly, in our consideration of the constitutional

issues involved, we must view the legislation, presently in the proposal stage, as if it had been already enacted and should accept as such the findings of facts which the lawmakers purport to make and declare in the reference Act. Issues which might be raised in application of the Act to divers and varied individual situations can neither be determined nor decided in advance of their presentation. These legislative findings above referred to are as follows: 1) a crisis in elementary education exists in the State of Maine by reason of rapidly increasing costs occasioned by the rise in school population and new and increasingly costly demands upon education generally; 2) the education of children generally and at the elementary level in particular is today recognized as a public purpose, and nonpublic education through providing instruction in secular subjects makes an important contribution to the achievement of such public purpose and the governmental duty to support public education generally may be in part fulfilled through the government support of those purely secular educational subjects and objectives through nonpublic education; 3) should the present trend toward the closing of nonpublic schools continue, the burden cast upon the public school systems in the various cities and towns will cause intolerable local financial burdens and will also result in the need for very substantially increased assistance at the state level, and the public interest would best be served through the purchase of secular educational services from nonpublic schools, under certain specific conditions. These legislative findings, if adopted, should not be set aside lightly. While recitals of fact in a legislative act may not be conclusive, a decent respect for a co-ordinate branch of the government requires the courts to treat them as true until the contrary appears. **Franklin Furniture Company v. City of Bridgeport**, 1955, 142 Conn. 510, 115 A. 2d 435. In these proceedings advisory in nature, such findings sufficiently establish as a fact that the proposed legislation was intended for the sole purpose of assuring the general diffusion of the advantages of secular education (Constitution of Maine, Art. VIII, Sec. 1) and in no way designed to advance or inhibit religion.

The issue remains whether the primary effect of the Act on its face or its necessary effect in administration is to promote or prohibit religion. The strictures put in the Act belie any such apparent effect and are proper safeguards against such end-results in operation. The educational services to be purchased are confined to instructions in a secular subject. The teacher whose educational services are purchased must be certified by the State Board of Education and must only teach secular subjects; in other words, an instructor in religion could not qualify, if he also participated in the secular part of the instructional program of the sectarian school. Textbooks are limited to those presently used or which may have been used in public schools within 5 years of the effective date of the Act; otherwise they must be submitted to and approved by the Commissioner of Education. Reimbursement for the secular educational services purchased is limited to the actual reasonable cost to the nonpublic school, payable in instalments after the services have been rendered; thus no surplus funds could be diverted to religious teaching or the advancement of religious purposes. The Commissioner of Education is empowered to establish uniform rules and regulations respecting the auditing of the expenditures subject to reimbursement and concerning forms of applications, contracts and other necessary documents to insure strict compliance with the provisions of the Act. Furthermore, the Legislature makes assistance under the Act conditional upon the factual finding by the municipal body having jurisdiction over the public schools in the administrative unit. 1) that the closing of a nonpublic school or schools educating its residents would have an adverse effect upon the unit's property tax rate; or 2) that the closing of a nonpublic school or schools would cause a burden on

the public school system by creating a shortage of or overcrowding of existing public classroom space, with resulting disruption of the education of the children involved. These necessary prerequisite findings preclude characterizing the proposed legislation as an invidious breach of the Establishment Clause under the First Amendment. That Amendment mandates neutrality on the part of the State in its relations with religious believers and nonbelievers; the use of state power to freeze or stifle religion is equally as obnoxious to the First Amendment as its use to favor it.

The education of our children is a proper subject of legislation; laws enacted for its furtherance are in the public interest and serve a public purpose. **Cochran v. Board of Education,** 1930 50 S.Ct. 335, 281 U.S. 370. Parents may, in the discharge of their duty under state compulsory education laws, send their children to a religious or sectarian school rather than a public school if the school meets the secular educational requirements which the state has power to impose. **Pierce v. Society of Sisters,** 1925, 45 S.Ct. 571, 268 U.S. 510; **Board of Education v. Allen,** supra.

The Act meets the test laid down by the United States Supreme Court in **School District of Abington Township, Pa., v. Schempp,** 1963, 83 S.Ct. 1560, 374 U.S. 203, to the effect that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. The proposed legislation essentially furthers a secular public purpose and any aid or benefit flowing from it to religious instruction or religion would be slight, vague and incidental. There is no essential difference between the proposed legislation and the constitutionally permissive legislation respecting busing of school children in **Everson** or the loan of textbooks in **Allen.** The mere fact that public funds are expended to an institution operated by a religious enterprise does not establish the fact that such funds are used to support the religion professed by the recipients. **Vermont Educational Buildings Financing Agency v. Mann,** 1968, Vt., 247 A.2d 68; Opinion of the Justices, 1968, Mass., 236 N.E.2d 523.

The dissent in **Lemon,** supra, rests mainly on abstract inferential assertions that sectarian institutions so intermix the secular with the religious or carry out the secular portion of their educational program with such overtones or in such atmospheres of religion that state action purporting to reimburse the actual reasonable cost of alleged strictly secular instruction is in fact instrumental in the teaching of religion. In the absence of factual evidentiary support, such reasoning lacks persuasiveness. See, **Allen,** supra. Without the realities of proof, I am unable to say that the proposed statute, when in actual operation, will necessarily result in an unconstitutional involvement of the State with religious instruction. (2) Respecting Article I, Section 3 of the Constitution of Maine, my answer is that the proposed Act formulates no unconstitutional infringement thereof. This provision of our State Constitution prohibits the establishment by law of any subordination or preference of any one sect or denomination to another, and mandates that all religious societies in this State shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance. My answer to the previous question indicates that the proposed legislation in no way impairs the State's neutral role in religion, and the same may be said of the State's impartiality respecting the several religious sects. Furthermore, the Act does not restrict religious societies in the election of their public teachers nor in their contracts with them. It is only the actual cost of the teacher's educational service, when strictly confined to secular instruction, which is reimbursed to the school and only after it has been furnished. I see in the Act no violation of the above mentioned section of our Maine Constitution.

Dated at Augusta, Maine, this 15th day of January, 1970.

Respectfully submitted:
(Signed)
ARMAND A. DUFRESNE, Jr.

TO THE HONORABLE HOUSE OF REPRESENTATIVES OF THE STATE OF MAINE:

In compliance with the provisions of Section 3 of Article VI of the Constitution of Maine, I, the undersigned Justice of the Supreme Judicial Court, have the honor to submit the following Answers to the Questions propounded on January 7, 1970.

QUESTION 1: Do any of the provisions of H. P. 1395, L. D. 1751, violate the Establishment Clause of the First Amendment of the United States Constitution, Article I, Sec. 3, or of the Constitution of the State of Maine?

ANSWER: I answer in the negative.

Finding myself in disagreement with at least some of my associates, I have some reluctance in expressing the reasons for my own conclusion. However, the individual opinion of each Justice is asked for, and although my personal wish is to defer to the views of my colleagues whose judgment at all times commands my respect, I feel that my duty demands that I set forth the reason why I would answer the first question submitted differently from the answers submitted by some of my colleagues.

In **Squires v. Inhabitants of City of Augusta,** 155 Me. 151 at 164; 153 A.2d 80 at 88, this Court said:

"In so saying we recognize that the decision of the Supreme Court of the United States in **Everson** is the law of the land and that the provisions of the Maine Constitution relating to the expenditure of public monies for public purposes and to the separation of church and state, carry no more stringent prohibitions than the First and Fourteenth Amendments to the Federal Constitution."

The First Amendment to the Federal Constitution has been judicially incorporated into the Fourteenth Amendment and now represents a limitation on both State action and Federal action. **Cantwell v. Connecticut,** 310 U.S. 296 (1940).

The present interpretation placed upon the First Amendment as it relates to "an establishment of religion" is well defined in **Board of Education v. Allen,** 392 U.S. 236 (1968) and **Abington School District v. Schempp,** 374 U.S. 203 (1963). In these cases the following test was promulgated for distinguishing between "forbidden involvement" of the State with religion and those contacts which the Establishment Clause permits.

"The test may be stated as follows: What are the purpose and primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion."

Allen involved a New York statute permitting the Board of Education to **loan** secular textbooks approved by the Board of Education to students in both public and private schools at the request of the student. In the briefs and oral argument before the Supreme Court all parties to Allen suggested that in practice the authorities in the private schools submitted the request of the individual students to the Department of Education; that the books were delivered to the private schools and were allowed to be kept in the private schools. The Supreme Court approved the practice and declared it to be non-violative of the Establishment Clause.

In Schempp the Court gave joint treatment to the basic questions arising under two slightly different factual situations. One was a public law of the Commonwealth of Pennsylvania which required that at least ten verses from the Holy Bible be read without comment at the opening of each public school on each school day. The other was a rule adopted by the Board of School Commissioners of Baltimore City, Maryland, providing for the holding of opening exercises in the schools of Baltimore consisting primarily of reading, without com-

ment, a chapter in the Holy Bible and/or the use of the Lord's Prayer. Schempp held both practices to be violative of the Federal Constitution as being exercises of a religious character, and, therefore, not neutral, religion vis-a-vis "secularism."

Everson v. Board of Education, 330 U.S. 1, dealt with a statute authorizing reimbursement of parents for fares paid public carriers for the transportation of children attending public and Catholic schools. Mr. Justice Black, speaking for the majority, declared that the statute had not breached the wall between church and state which was erected by the First Amendment.

The difference between the actions found to be permissible in Everson and Allen and the practices barred by the First Amendment in Schempp, it is obvious, was that the impermissible action had an essentially religious purpose and its effect was primarily to advance the Christian religion and inhibit other religions or what Mr. Justice Clark described in Schempp as the "religion of secularism."

There is no gainsaying there is religious significance in a recitation of the Lord's Prayer or Bible reading. It is difficult to see the religious significance in riding on a bus, even a bus having as its ultimate destination a parochial school, or reading a textbook on mathematics, even if the reading is done in the basement of a Catholic Church which is free of religious trapping or in the recreation hall of a Jewish Synagogue.

The appellants in Allen asserted that all church-related education constitutes religious education and is, accordingly, disqualified from government aid. Their position rested on two related premises:

(1) That church-related education is one single enterprise rendered religious by the atmosphere and the motivation of the teachers, and

(2) That parochial schools employ teaching practices which implicitly permeate all subjects with religion.

A majority of the Court in Allen rejected the "single enterprise" view and adopted a "dual education" thesis.

The Court declared that parochial schools pursue both sectarian and secular goals. **Allen v. United States**, 392 U.S. at page 245. The opinion referred to this view as having been "long recognized." The secular function, the Court said, is consititutionally qualified for aid while the sectarian function is not.

Mr. Justice Douglas, dissenting in Allen, accepted as an irrefutable presumption that there is no standard by which secular and religious textbooks can be distinguished from each other. The majority promptly rejected this conclusion, pointing out that public school officials are already required to distinguish and exclude religion when selecting texts for public school use.

I know of no reason to believe the Supreme Court of the United States will retreat from its "dual function" concept and will in the future hold that aid to the secular function of a parochial school is constitutionally impermissible.

The narrow questions, it seems to me, become, does the statute now under consideration,

(a) have as its purpose aid to the secular function of private schools, and

(b) is its primary effect to advance or inhibit religion?

Our proposed statute authorized administrative units, in the circumstances there described, to contract and pay for secular educational services from nonpublic schools.

Secular education service is defined as providing instruction in a secular subject. This term is described as

"any course which is presented in the curricula of the public schools of the State, and shall not include any subject matter expressing religious teaching, or the morals or forms of worship of any sect."

The Act would permit the administrative unit to pay the reasonable cost of textbooks which are used in the public schools of secular subjects, lay teachers' salaries, teaching materials such as chalk, pencils, etc., to be furnished students in elementary

nonpublic schools who would be entitled to attend elementary public schools if they so desired.

The Act itself describes its purpose as public, i.e., the education of children at the elementary level. The Legislature, if it enacts the proposed statute in its present form, will declare a secular legislative purpose.

"The decisions of this Court from the beginning lend no support whatever to the assumption that the judiciary may restrain the exercise of a lawful power on the assumption that a wrongful purpose or motive has caused the power to be exerted." **McCray v. United States,** 195 U.S. 27.

"Inquiry into the hidden motives which may move a Legislature a power constitutionally conferred upon it, is beyond the competency of courts.'' **McGowen v. Maryland,** 366 U.S. at 496.

Having in mind we are asked to pass upon the constitutionality of the proposed statute on its face, the conclusion seems to me inescapable that its overriding purpose is aid of **secular** education.

The Justices of this Court cannot predict every issue which may be presented as the result of the application of the proposed statute, should it become law. Such issues can be decided only if the occasion arises.

Would the primary effect of the proposed statute, if enacted, be to advance or inhibit religion?

It seems to me those who would answer Yes to this question accept Jefferson's metaphor, a "wall of separation," as a constitutional doctrine to be interpreted literally. To paraphrase Mr. Justice Reed in **McCollum vs. Board of Education,** 333 U.S. at page 245, they would draw a rule of law from a figure of speech. The permeation of religious teachings to the secular activities in church-oriented schools is inevitable, they argue. They would interpret **any** religious effect as a **primary** effect. The result is a "no aid" thesis, a thesis which has been rejected time and time again by the Supreme Court.

As early as 1899 in **Bradfield v. Roberts,** 175 U.S. 291, the Supreme Court rejected the religious permeation view. The language of Mr. Justice Peckham in that case is especially apt to the problem at hand.

"Nor is it material that the hospital may be conducted under the auspices of the Roman Catholic Church. To be conducted under the auspices is to be conducted under the influence or patronage of that church. The meaning of the allegation is that the church exercises great and perhaps controlling influence over the management of the hospital. It must, however, be managed pursuant to the law of its being. That the influence of any particular church may be powerful over the members of a non-secretarian and secular corporation, incorporated for a certain defined purpose and with clearly stated powers, is surely not sufficient to convert such a corporation into a religious or sectarian body."

"Primary" is defined by Webster's as first in importance and chief, principal. Aid to parochial education often involves multiple effects, some secular, some religious. Most often the religious effects are interwoven. The problem of ascertaining primary effect of a particular statutory scheme, I feel, does not lend itself to solution by the use of constitutional doctrinal process.

"It is idle to pretend that this task is one for which we can find in the Constitution one word to help us as judges to decide where the secular ends and the sectarian begins in education. Nor can we find guidance in any other legal source. It is a matter on which we can find no law but our own pre-possessions." Jackson, J., concurring in **McCollum v. Board of Education**, 333 U.S. 237.

The test promulgated in Allen is as far as the courts can and ought to go. Each new statutory scheme must be judged on an ad hoc basis. Within the limits prescribed in Allen the judgment is essentially political, not legal. The judgment must be made in the light of cumulating experience and revised community opinion.

I am satisfied the proposed statute, if enacted, would not

offend either the letter or the spirit of the First Amendment of the Constitution of the United States or Article I, Section 3, of the Constitution of the State of Maine.

I would answer Questions No. 2, 3 and 4 exactly as do my colleagues.

Dated at Augusta, Maine, January 15, 1970.

Respectfully submitted,
(Signed)
CHARLES A. POMEROY

QUESTION NO. II. Do any of the provisions of H.P. 1395, L.D. 1751, violate the Free Exercise Clause of the First Amendment of the United States Constitution?

ANSWER: We answer in the negative.

To constitute a violation of the Free Exercise Clause, it must appear that the legislation in its operation has a coercive effect upon the person alleged to be aggrieved thereby in the practice of his religion. **Schempp, supra,** and **Allen, supra**. On the face of the Act, no such discrimination appears nor can any be presumed.

QUESTION NO. III. Whether any provisions of Section 3804 of H.P. 1395, L.D. 1751, delegates legislative power to any administrative unit in violation of Article IV, Part First, Section 1 of the Constitution of Maine?

ANSWER: We answer in the negative.

The Legislature may not constitutionally delegate general legislative authority. **State v. Prescott,** 1930, 129 Me. 239, 151 A. 426. But it may delegate authority to a governmental agency charged with the duty of administering an act, provided the legislation sets up sufficient standards to guide the administrative body in the exercise of its discretionary functions respecting implementation of the law to particular situations. **Smith v. Speers,** 1969, Me., 253 A. 2d. 701. We are satisfied that the proposed Act furnishes adequate guide - lines in full compliance with constitutional requirements

QUESTION NO. IV. Do any of the provisions of H.P. 1395, L.D. 1751, violate the provisions of Section 1 of Article VIII of the Constitution of Maine?

ANSWER: We answer in the negative.

Article VIII of the Constitution of Maine is a mandate to insure the establishment of public schools, **Sawyer v. Gilmore** 109 Me. 169, but it does not prevent the promotion of education by other constitutional means. Opinion of the Justices 153 Me. 471, 474. That portion of Article VIII dealing with "donation, grant or endowment" to any literary institution was intended to apply to the higher institutions of learning. Maine Constitutional Convention, Debates and Journal (1894 Reprint) Page 278 et seq.

Dated at Augusta, Maine, this 15th day of January, 1970.

Respectfully submitted:
ROBERT B. WILLIAMSON
DONALD W. WEBBER
HAROLD C. MARDEN
ARMAND A. DUFRESNE, JR.
RANDOLPH A. WEATHERBEE
CHARLES C. POMEROY

Caveat

The questions addressed to us do not ask for an opinion on the constitutional validity of Section 3802, Paragraph 7, but in anticipation of future questions or litigation in which the provision is involved, it is respectfully pointed out that there is a principle of constitutional law that for a statutory classification, here of schools, to meet constitutional requirements it must be of such a nature "as to embrace all those who may thereafter be in similar circumstances and conditions." 16 Am. Jur. 2d. Constitutional Law § 503 and specifically **Fountain Park Co. v. Hensler et al** 155 N.E. 465 (Ind. 1927) **Sutton v. State** 36 S.W. 697 (Tenn. 1896).

When the classification is based upon time, "putting in one class all the instances existing on a designated date, and placing all others in another class" and where such procedure discriminates "unwarrantably in favor of establishments * * * existing * * * on a given date, such classification has been held a denial of equal protection of the laws." (Amendment XIV U. S. Constitution) 16 Am. Jur.

2d, supra, § 512 and **Mayflower Farms, Inc. v. Ten Eyck** 297 U.S. 266, 56 S. Ct. 457 (1936).

An exception has been recognized to a limited extent in "curative or remedial," and therefore temporary, statutes, within which our proposed L. D. 1751 does not fall.

The reference section is of doubtful constitutionality.

(Signed)

ROBERT B. WILLIAMSON
DONALD W. WEBBER
HAROLD C. MARDEN
RANDOLPH A. WEATHERBEE
CHARLES A. POMEROY

Mr. Justice Dufresne does not join in the expression of this caveat.

The Communication was read and ordered placed on file.

House Reports of Committees
Leave to Withdraw
Covered by Other Legislation

Mr. Bragdon from the Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating Funds to Maine Maritime Academy for Library Acquisitions and Salary Increases" (H. P. 1396) (L. D. 1752) reported Leave to Withdraw, as covered by other legislation.

Report was read and accepted and sent up for concurrence.

Ought to Pass
Printed Bills
Passed to Be Engrossed

Mr. Benson from the Committee on Appropriations and Financial Affairs reported "Ought to pass" on Bill "An Act Appropriating Funds to Greater Bangor Chamber of Commerce to Aid in Defraying Costs of a Promotional Film" (H. P. 1402) (L. D. 1758)

Mr. Sahagian from same Committee reported same on Bill "An Act relating to Snow Removal from Airports" (H. P. 1411) (L. D. 1777)

Reports were read and accepted and the Bills read twice. Under suspension of the rules, the Bills were read the third time, passed to be engrossed and sent to the Senate.

Ought to Pass with
Committee Amendment
Passed to Be Engrossed

Mr. Pratt from the Committee on Retirements and Pensions on Bill "An Act relating to Certain Charges to the State Retirement Allowance Fund" (H. P. 1351) (L. D. 1680) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was read and accepted and the Bill read twice. Committee Amendment "A" (H-638) was read by the Clerk and adopted. Under suspension of the rules, the Bill was read the third time, passed to be engrossed as amended by Committee Amendment "A" and sent to the Senate.

The following papers appearing on Supplement No. 1 were taken up.

Passed to Be Enacted
Emergency Measure

An Act relating to Power of Houlton Water Company to Purchase Securities of Other Public Utility Corporations (H. P. 1408) (L. D. 1774)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 134 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Clarify the Law for Eligibility for Burial in the Maine Veterans' Memorial Cemetery (H. P. 1413) (L. D. 1780)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 136 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Repeal the Law Providing a Uniform Fiscal Year for Municipalities (H. P. 1424) (L. D. 1794)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 137 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act relating to Bag Limit on Bears and Roadside Menagerie Permits for Bear (H. P. 1374) (L. D. 1723)

An Act to Clarify Inconsistent Laws Relating to Harness Racing (H. P. 1378) (L. D. 1727)

An Act relating to Penalty for Violations by Guides Under Fish and Game Laws (H. P. 1401) (L. D. 1757)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

HOUSE REPORT — Committee on Public Utilities on Bill "An Act to Incorporate the Mapleton Water District" (H. P. 1347) (L. D. 1676) reporting "Ought to pass" as amended by Committee Amendment "A" (H-636)

Tabled — January 15, by Mr. Bragdon of Perham.

Pending — Acceptance.

Thereupon, the Report was accepted and the Bill read twice. Committee Amendment "A" (H-636) was read by the Clerk and adopted. Under suspension of the rules, the Bill was read the third time, passed to be engrossed as amended and sent to the Senate.

The Chair laid before the House the second tabled and today assigned matter:

REPORT "A" (5) — "Ought to pass" — Committee on Taxation on Bill "An Act relating to Property Tax Exemption for Nature Conservancy" (H. P. 1372) (L. D. 1721)—REPORT "B" (5) —"Ought not to pass"

Tabled — January 15, by Mr. Susi of Pittsfield.

Pending — His motion to accept Report "A".

On motion of Mr. Susi of Pittsfield, retabled pending his motion to accept Report "A" and specially assigned for Monday, January 19.

The Chair laid before the House the third tabled and today assigned matter:

SENATE REPORT — Committee on Education on Bill "An Act relating to Difference of Student Tuition Between University of Maine and the State Colleges" (S. P. 596) (L. D. 1767) reporting "Ought not to pass" as covered by other legislation. (In Senate — accepted)

Tabled — January 15, by Mr. Levesque of Madawaska.

Pending—Acceptance in concurrence.

On motion of Mr. Levesque of Madawaska, retabled pending acceptance in concurrence and specially assigned for Monday, January 19.

The Chair laid before the House the fourth tabled and today assigned matter:

Bill "An Act to Create a School Administrative District in the Town of Madawaska" (H. P. 1403) (L. D. 1759)

Tabled — January 15, by Mr. Allen of Caribou.

Pending — Passage to be engrossed.

On motion of Mr. Allen of Caribou, retabled pending passage to be engrossed and specially assigned for Monday, January 19.

The SPEAKER: The Chair would like to point out to the members here today that one of the members of this body is to be signally honored this coming Sunday. And I notice in the Lewiston Daily Sun, as of January the 15th, 1970, that Representative Louis Jalbert is being highly commended. The dedication next Sunday of the Maine Instructional

Building of the Central Maine Vocational Technical Institute in Auburn, is going to be designated as the Louis Jalbert Industrial Center, in deserved recognition of the veteran Lewiston lawmaker, and the outstanding work he has done in the field of vocational education. I have before me a record of this gentleman's endeavors in the behalf of vocational education, since July the 2nd of 1959. I am sure he deserves the applause and the approbation of this entire body. Will you join me in honoring Louis Jalbert in receiving this signal honor to be held next Sunday. (Applause, Members rising)

(Off the record remarks.)

On motion of Mr. Tyndale of Kennebunkport,

Adjourned until Monday, January 19, at three o'clock in the afternoon.