

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-First Legislature

OF THE

STATE OF MAINE

1923

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

HOUSE

Thursday, March 8, 1923

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

Prayer by the Rev. Mr. Purves of Augusta.

Journal of previous session read and approved.

(At this point Mr. Archibald of Houlton assumed the Chair as Speaker pro tem.)

Papers from the Senate disposed of in concurrence.

From the Senate: Bill, An Act to amend Section 80 of Chapter 82 Revised Statutes, relating to superior court for the county of Cumberland.

In the Senate, referred to the committee on judiciary.

In the House, on motion by Mr. Rounds of Portland tabled pending reference in concurrence.

From the Senate: The following order:

Ordered, the House concurring, that the thanks of the members of this Legislature be extended to the City of Portland, the State Chamber of Commerce and Agricultural League, and the Portland Chamber of Commerce, for the cordial hospitality, courteous attentions, and varied entertainment accorded them as guests of such city and organizations on the occasion of their recent trip to Portland.

Ordered further that copies of this order be sent by the Secretary of the Senate to the Mayor of the City of Portland and the presidents of the above named organizations.

In the Senate read and passed.

In the House, read and passed by a rising vote in concurrence.

Senate Bills in First Reading

Senate 194: Resolve, for the laying of county taxes for the year 1923.

Senate 195: Resolve, for the laying of county taxes for the year 1924.

Senate 161: An Act providing for retirement of justices of the supreme judicial and superior courts and their reappointment as active retired justices.

From the Senate: Report of the committees on Judiciary and Interior Waters jointly on bill, "An Act to cre-

ate the Kennebec Reservoir Company and define the power thereof," reported same in a new draft under same title and that it ought to pass.

In the Senate, report read and accepted and the bill passed to be engrossed.

In the House, on motion by Mr. Maher of Augusta tabled pending acceptance of the report in concurrence.

Senate Bills in First Reading—Continued

Senate 196: Resolve authorizing and directing the Governor and Council to convey certain land in Monmouth to the town of Monmouth.

Senate 198: An Act to provide for an issue of State highway and bridge bonds.

Senate 193: Resolve in favor of the National Conference of Commissioners on Uniform State Laws and of the commissioners from Maine for the promotion of uniformity of legislation in the United States.

Senate 148: An Act to amend Section 49 of Chapter 219 of the Public Laws of 1917, relating to the protection of wild hares or rabbits.

From the Senate: Resolve in favor of Maine State Prison for maintenance and current expenses.

This was finally passed in the House February 27, and passed to be engrossed February 22.

In the Senate, passed to be engrossed as amended by Senate Amendment A in non-concurrence.

In the House, it was voted to reconsider the action of the House whereby it was finally passed on February 27; and the House also voted to reconsider its action whereby this resolve was passed to be engrossed February 22.

The SPEAKER pro tem: Is it now the pleasure of the House that we accept Senate Amendment A?

On motion by Mr. Rounds of Portland, the resolve and amendment were tabled, pending adoption of the amendment in concurrence.

Reports of Committees

Mr. Adams from the committee on inland fisheries and game reported "ought not to pass" on bill "An Act to amend Chapter 136 of the Public Laws of 1921, relating to fishing in portions of Cobbosseecontee Stream, the outlet of Cobbosseecontee Lake and in Tacoma Lake, because the subject matter has been incorporated in

another bill reported by this committee.

The report read and accepted and sent up for concurrence.

Mr. Nichols from the committee on Judiciary reported "ought not to pass" on bill, An Act to amend section 34 of Chapter 211 of the Public Laws of 1921, and to provide for further exemptions from registration of certain non-resident motor vehicles.

Mr. Weeks from the same committee reported same on bill, An Act to regulate the civil jurisdiction of inferior courts.

Mr. Gardner from the same committee reported same on bill, An Act to exempt non-resident vehicles from registration and to establish reciprocal exemptions with other states.

Same gentleman from the same committee reported same on bill, An Act to amend Section 76 of Chapter 11, Revised Statutes, as amended by Chapter 182 of the Public Laws of 1921, relative to certificates of sale of tax deeds, and proceedings if redeemed.

Mr. Morrison from the committee on legal affairs reported same on bill, An Act to amend Section 51 of Chapter 80 of the Revised Statutes of Maine relating to trial terms of the supreme judicial court within the county of York.

Mr. Sanders from the committee on taxation reported same on bill, An Act relating to the taxation of forest property.

Same gentleman from the same committee reported same on bill, An Act to amend Section 1 of Chapter 10 of the Revised Statutes as amended by Chapter 42, Public Laws of 1921, relating to poll tax.

Mr. Atwood from the committee on towns reported same on bill, An Act to divide and set off a certain part of the town of Owl's Head and annex the same to the town of South Thomaston together with six petitions.

Reports read and accepted and sent up for concurrence.

Mr. White from the committee on appropriations and financial affairs on Resolve appropriating money for the care, maintenance and repairs of Fort William Henry in the town of Bristol, reported same in a new draft under same title and that it "ought to pass."

Mr. Boulter from the same committee on Resolve in favor of Leslie E. Jacobs, secretary to committee on

State reformatories and State schools, expense as per schedule, visiting the institutions, reports the same in a new draft under same title and that it "ought to pass."

Mr. O'Connell from the committee on inland fisheries and game on bill, An Act to amend Chapter 136 of the Public Laws of 1921, relating to night fishing in certain waters of Kennebec county, reported same in a new draft under title of "An Act to amend Chapter 136 of the Public Laws of 1921, relating to night fishing in certain waters in Kennebec county" and that it "ought to pass."

Mr. Crafts from the same committee on bill, An Act to amend Sections 1, 2, 3, 4, 5, 6, 10 and 12 of Chapter 173, Public Laws 1919, relating to registration of resident hunters, together with 32 petitions and four remonstrances, reported same in a new draft under title of "An Act to amend Chapter 173 of the Public Laws of 1919, relating to the registration of resident hunters" and that it "ought to pass."

Mr. Nichols from the committee on judiciary on bill, An Act to amend Section 7, Chapter 95, Revised Statutes of Maine, as amended by Chapter 47 of the Public Laws of 1921, relative to Mortgage may redeem within one year" reported same in a new draft under same title and that it "Ought to pass."

Mr. Maher from same Committee on Bill "An Act to amend Section 58 of Chapter 87 of the Revised Statutes relative to the setting aside of Verdicts by Single Justices" reported same in a new draft under same title and that it "Ought to pass."

Mr. Hale from the Committee on Legal Affairs on Bill "An Act to amend Section 19 of Chapter 5 of the Revised Statutes as amended by Chapter 69 of the Public Laws of 1917 and Chapter 171 of the Public Laws of 1921, relating to the Duties of Boards of Registration of Voters" reported same in a new draft under same title and that it "Ought to pass."

Reports read and accepted and the new drafts ordered printed under the Joint Rules.

Mr. Winn from the Committee on Maine Publicity on Resolve appropriating money to set forth the natural agricultural, industrial and recreational advantages of the State of Maine reports the same in new

draft, under same title, and that it "Ought to pass."

Mr. Hale on the Committee on Legal Affairs reported "Ought to pass" on Bill "An Act to incorporate the Fall Brook Improvement Company."

Same gentleman from same Committee reported same on Resolve authorizing the Treasurer of State to accept from the Executor of the Will of John Prescott two \$500 United States Liberty Bonds in lieu of the Legacy of \$1000 left by said Prescott to the Western Maine Sanatorium at Hebron.

Same gentleman from the same Committee reported same on Resolve authorizing the acceptance of Donation to Blaine Memorial Fund.

Mr. Keef from the Committee on Ways and Bridges reported same on Bill "An Act to amend Chapter 69, Public Laws of 1921, relating to the Fiscal Year of the State."

Same gentleman from the same Committee reported same on Resolve granting the Consent of the State to the Building of a Bridge between "Big Five Island" and "Hen Island" in the town of Georgetown.

Reports read and accepted and the Bills and Resolves ordered printed under the Joint Rules.

Mr. Keef from the Committee on Ways and Bridges on Resolve in favor of a bridge over the St. Croix river, between Vanceboro, Maine, and St. Croix, New Brunswick, reports that the same "Ought to pass."

Mr. Keef from the same Committee, on Bill "An Act relative to the weight of trucks, reports the same in a new draft, under a similar title and that it "Ought to pass."

Reports read and accepted and the bill and resolve ordered printed under the Joint Rule.

Mr. Sanders from the Committee on Taxation reported "ought to pass" on Bill, "An Act to amend Section 29 of Chapter 9 of the Revised Statutes, relating to time of payment of excise tax on railroads.

Report read and accepted, and the bill having already been printed (House Document No. 161), received its first reading under suspension of the rules

On motion by Mr. Weeks of Fairfield, tabled pending second reading.

First Reading of Printed Bills and Resolves

House 276: An Act for the better protection of clams within the limits of the town of Roque Bluffs.

House 277: An Act to amend Section 78, Chapter 16 of the revised statutes, to provide transportation for pupils who live on islands on which there are no secondary schools and from which regular transportation lines are established.

House 279: An Act to amend Section 3, and Paragraph 7 of Section 4 of Chapter 100, of the Private and Special Laws of 1921, relating to Belgrade Lakes Village Corporation.

(On motion by Mr. Perkins of Orono, the rules were suspended, and the bill given its three readings and passed to be engrossed.)

House 280: An Act to amend Section 75 of Chapter 45 of the revised statutes, relating to the taking of smelts.

House 282: An Act to amend Section 129 of Chapter 301 of the Public Laws of 1917, relating to the care and treatment of certain infectious diseases.

House 283: An Act to amend Section 3 of Chapter 264 of the Public Laws of 1919, as amended by Chapter 100 of the Public Laws of 1921, relating to applications for soldiers' bonus.

House 285: An Act to amend the act of incorporation of the trustees of Fryeburg Academy, in the town of Fryeburg and county of Oxford.

House 286: An Act to amend Paragraph 7 of Section 45 of Chapter 117 of the revised statutes, as amended by Chapter 214 of Public Laws of 1919, as further amended by Chapter 219 of the Public Laws of 1921, relating to amount allowed for clerk hire in the offices of register of deeds and register of probate in Kennebec County.

House 288: An Act to promote the production and sale of certified seed and to protect the branding thereof, and repealing Chapter 141 of the Public Laws of 1917.

House 281: Resolve in favor of Miss Edith L. Soule.

House 284: Resolve making an appropriation for the Maine Seed Improvement Association.

House 287: Resolve for carrying out the provisions of an act of the Legislature of 1923, relating to the production and sale of certified seed.

Passed to be Engrossed

Senate 104: An Act to amend Section 2 of Chapter 55 of the revised statutes, relating to Public Utilities Commission.

Senate 160: An Act to amend Section 45 of Chapter 117 of the revised statutes, relating to clerk hire in the office of clerk of courts in Androscoggin County.

House 274: An Act relating to taking of clams in Machiasport.

House 275: An Act relating to Good Templar's Hall in Dexter.

(At this point Speaker Holley resumed the Chair, and Mr. Archibald, Speaker pro tem, retired, amid the applause of the House.)

Passed to be Enacted

An Act to regulate the taking of clams in the town of Sorrento.

An Act to ratify, affirm and make valid the re-organization of the parish of the Protestant Episcopal Church in Bangor.

An Act to amend Section 32 of Chapter 75 of the private and special laws of 1919, relating to the board of education of the City of Augusta.

(Tabled by Mr. Maher of Augusta pending passage to be enacted.)

An Act to incorporate the Patten Water and Power Company.

An Act to limit the number of pounds of fish that may be taken from Cobbosseecontee Stream and connecting ponds in the county of Kennebec.

An Act providing for protection of white perch in Bear Pond, situated in the town of Hartford, in the county of Oxford, and in the town of Turner, in the county of Androscoggin.

An Act to amend Section 59 and 60 of Chapter 18 of the revised statutes, relating to registration of veterinary surgeons.

Finally Passed

Resolve in favor of the commissioners of Pharmacy.

On motion by Mr. Rounds of Portland, the rules were suspended and that gentleman took from the table State Prison resolve in regard to maintenance, tabled by that gentleman earlier in the session; and that gentleman yielded the floor to the gentleman from Hallowell, Mr. Tilden.

On motion by Mr. Tilden, Senate Amendment A was adopted in concurrence, and the resolve as amended by Senate Amendment A was passed to be engrossed in concurrence.

Orders of the Day

On motion by Mr. Maher of Augusta, the rules were suspended, and that gentleman took from the table the bill tabled by him March 7, House Document No. 224, an Act relating to amount for clerk hire in registry of probate in Washington County, tabled pending third reading; and on further motion by the same gentleman, the bill received its third reading and was passed to be engrossed.

On motion by Mr. Wing of Auburn, it was voted to take from the table the majority and minority reports on Resolve amending the Constitution to limit appropriations for private institutions, being Senate Document No. 60, tabled by that gentleman March 1, pending acceptance of either report.

Mr. WING: Mr. Speaker, I move the acceptance of the minority report, House 233 in new draft, and I yield to the gentleman from Bangor, Mr. Barwise.

Mr. BARWISE of Bangor: Mr. Speaker and gentlemen: this is a question of fundamental importance and one which we should approach with slow pulse and with equanimity. There is nothing about this question about which anyone should become the slightest bit excited. The less heat we develop in a discussion of this kind, the more light we shall shed upon the subject.

This is a constitutional question. It is a proposition to amend the Constitution of the State of Maine. Under our theory of government Constitutions are written so that they may be certain. We have discarded in America the English theory of government where the constitution remains unwritten and the Legislature, the House of Parliament, is supreme. We people of Maine limit all of our rights, legislative, executive, judiciary, and our own individual rights, by a written Constitution. Our Constitution is fundamental, being conditioned only upon being in harmony with the Federal Constitution and with treaties and laws made in accordance therewith. For the people of Maine, with this excep-

tion, our Constitution is our fundamental, organic, basic law. Our Constitution was established in 1820. Since that time we have made almost a new one by having more matter added in amendments than was in the original document. We have added 37 amendments, during the course of the last 103 years, to the Constitution of our State. Whenever the exigencies of the occasion, whenever the progress of the times have seemed to demand some particular act on the part of the people in adding to their fundamental law, the people have so added, for the people of Maine make the Constitution. The Legislature merely proposes, but all amendments to our Constitution, all amendments to all the State Constitutions, are approved by the ratifying vote of the people.

In order that this amendment may be clearly understood I will read a part of it, Mr. Speaker.

"Section 1. After December thirty-first, nineteen hundred and thirty, neither the Legislature nor any branch of the State government, nor any subdivision of the State, political or otherwise, shall appropriate any money, lend credit, or contribute any property or thing of value to, any denominational, sectarian, parochial, or religious school, institution, association, corporation, cause or purpose."

This amendment is drawn with some care, based upon the experience of many states in dealing with this question. Every word in that first section has been found, in the different controversies in the several states, to be essential. It may appear to some members of the House that there is something of redundancy, something of a surfeit of language, but I assure you that such is not the case. "Neither the Legislature nor any branch of the State government." You may question why "any branch of the State government" is put in. Well, in our State we have a very large contingent fund which is under the control of the Chief Executive. We might at some future time—not I think under the present executive—we might at some future time, have an executive who might divert some of the funds from their proper courses. That is put in there as a limitation on the executive, as well as the legislative branch. "Nor any subdivision of the State, political or otherwise." "Nor subdivision of the State, political,"

might be construed, it has been construed, by certain superior courts in the country as simply applying to counties, towns and cities. There might be divisions of the State made with a similarity to forest districts or water districts or some conceivable district, which might not be construed as a subdivision, which might be given power by some future Legislature to raise money and to divert it to sectarian or parochial purposes, so it is very carefully stated "political or otherwise." The series of words beginning "school, institution, association, corporation, cause or purpose" have all been found to be wise in other states.

The second section merely applies to the Legislature which shall meet in 1925 and 1926, limiting the appropriation to 75 per cent of that passed for this sort of institutions by the Legislature of 1921 and the succeeding paragraphs limit the Legislatures of 1927, 1928, 1929 and 1930, but at December 31st, 1930, the act, if approved by this Legislature and approved by the people, becomes a part of the organic law of our State.

This amendment, as all of you are more or less familiar, is a redraft of a resolve which I introduced early in the Legislature, which prohibited all appropriations for all private purposes whatsoever. The Judiciary Committee, in their wisdom, reported back in a majority and minority report, a majority report, signed by seven, that the bill ought not to pass in any form, and a minority report, signed by three, that the bill ought to pass in this draft, a part of which I have read to you. This new draft is based squarely and fairly upon a fundamental American doctrine, that of the total and complete separation of Church and State. Those of you who are familiar with our Colonial history and with the history of Europe at the time our country was going through its formative period, will recall something of the struggle that was going on in Europe, something of the struggle that was going on here in America even, all during the reigns of Charles the Second and James the Second, and even down into the reigns of William and Mary to a considerable extent. There was the most bitter warfare going on between those who belonged to the Catholic church and those who belonged to the various Protestant churches, mostly the Church

of England at that time, although the Dissenters were becoming somewhat strong by 1865. Every ship that came to America during that period when our colonies were growing up, was laden with refugees fleeing from either one side or the other.

Human nature is about the same all the world over, and it is about the same in our religious denominations. The evils which come from political tyranny when united with religious tyranny, are the same all over the world among all classes of people. There are no exceptions. Those of you who are familiar with eastern history know that the same is true among the Mohammedans, Buddhists and Confucianists. Everywhere in the world where Church and State have been united there have followed dire results. As I say, during our Colonial history every ship that came over brought news that different ones of their cousins or aunts or other relatives had been tortured or had been put to death or had suffered in the Tower of London simply because they happened to belong to one side or the other. There was no superiority to one side or the other; one was equally as bad as the other.

During the rule of James the Second, when the Catholics were in control, we had Jeffreys and the Bloody Assizes. But just a little later when the Whigs came into control we had even worse conditions on the other side. Thousands of Catholics were murdered in cold blood, judicially perhaps, or by military order or otherwise, simply because they were Catholics, just as a few years before thousands of Protestants were murdered for the same reason and for no other reason. Now, this was the condition of the world at the time our formative thought in America was taking shape. This was what our Colonial ancestors were discussing beside those big open fireplaces. When a neighbor dropped in they discussed the news of the latest ship from Philadelphia, or from Boston, or from Baltimore, or down in Virginia—Richmond. Gradually, during all this time, the settled conviction began to grow in the minds of our Colonial ancestors that the only safe way, the only safe course, was to establish a total and complete separation between Church and State, that politics and religion should be entirely and separately handled, that politics were a public matter, that

religion should ever remain a private matter, a sacred matter to each individual.

We did not wholly escape here in America. Our Puritan ancestors in Massachusetts drove Roger Williams and some of his friends out of Massachusetts Colony, in weather something like this, where there were no other colonies within hundreds of miles, where there was the immediate and imminent prospect of being frozen to death or of starving to death, simply because they differed on some little point as to the doctrine of the Trinity or some of the points which the Puritans regarded as essential to salvation. And only by the grace of God and by the friendliness of the heathen Indians of Rhode Island were some of our Christian ancestors preserved. And Providence, as you know, was the name which Williams gave to the place where the Indians protected him and his few friends. As I say, this question of the separation of Church and State was a common topic of those times which our Colonial ancestors were discussing, and discussing with just the same heat and ardor as some of us discuss the Eighteenth Amendment.

Those of you who have read the correspondence between men of that time know that it was the topic of the day above all others—the total and complete separation of Church and State. So, after the Revolution we got ready to set up a government, after the critical period between the close of the Revolution in 1783 and the Constitutional Convention of 1787. When that Convention was called the doctrine was completely and thoroughly established. Nobody doubted it. Nobody had any idea of doubting the proposition that in America there must be a complete separation of Church and State, and in the Convention of 1787 they thought, from their experiences and from experiences abroad, that they were accomplishing the results when they put into the Sixth Article of the original document of the Constitution of the United States, that No religious test should ever be required as a qualification for holding public office or in any public trust under the government of the United States. They had had the example in Massachusetts, just before this, that nobody in Massachusetts, for more than 80 years, could vote in a town meeting unless he was a member of

the Congregational Church. He had to be a member of the Congregational Church before he could vote in town meetings. That was one of the examples that was before our ancestors.

Now those of you who have followed the debates in the Constitutional Convention of 1787, those of you who have followed the debates in the ratifying conventions in the several states, know that the people became alarmed. They were not satisfied with this arrangement as it was left. It was not broad enough to cover what they were fearful of, and during the most exciting period that America has ever seen, when the entire group of the Federalists and the entire group of the Anti-Federalists went to Pennsylvania then on to New York, then down to Virginia, and to the various places where the ratifying conventions were being held, using all of their arguments for and against, debating this great document, the Constitution of the United States, those of you who followed that know that the Constitution of the United States would never have been ratified in the world, unless—and it was only ratified in some states by one or two votes—it never would have been ratified unless Madison and Hamilton and the leading Federalists had given their words that something more would be done in the way of guarantying total and complete separation of Church and State in America.

So the very first Congress that met under the new government in 1787, the very first Congress, proposed this amendment which was ratified: "Congress shall make no law restricting the establishment of religion or prohibiting the free exercise thereof." Some have construed that to mean that Congress shall not establish a national religion. That is not the true construction. "Congress shall make no law in any way affecting or respecting any religion" is the construction which James Madison put upon it. You will remember that the two big men—they were all big men, to be sure—but the two men who stood head and shoulders above all others in our Constitution, were Alexander Hamilton and James Madison. James Madison penned with his own hand the larger part of the Constitution. The rough draft, the original rough draft of the American Constitution, is in the handwriting of James Madison, and he presumably knew something about what it meant.

When he was President of the United States in 1811, Congress took occasion to appropriate some townships of land, to a Baptist church in Salem, in the Mississippi territory, and he says in his veto message, "I now return the same to the House of Representatives in which it originated, with the following objection: Because the bill in reserving a certain parcel of land of the United States for the use of said Baptist church comprises a principle and precedent for the appropriation of funds of the United States for the use and support of religious societies, contrary to the article of the Constitution which declares that 'Congress shall make no law respecting a religious establishment.'"

So much then, that you may clearly view, have clearly in your minds what is meant by the American doctrine of total and complete separation of Church and State as applied to our National Government. Very soon it was discovered that this did not go quite far enough to carry out the intention to make the American doctrine secure, for the various states started in to appropriate money for sectarian and denominational purposes, and let me observe right here, Mr. Speaker, that perhaps it does not need to be stated in words because some things are too clear to be written, but it ought to be clear to anyone that we cannot have a total and complete separation of Church and State when, by a law of the State, we can take money from all the citizens and appropriate that money by another law of the State to an institution that is run and controlled by any church, for taxation is one of the principal functions of the State. It is one of the functions that more nearly deals with the heart and soul of our system of government than any other. It is the one thing, perhaps, that has caused more trouble in different governments of the world than any other.

So I wish to make that clear. When I say this bill stands squarely upon the American principle, I mean that it is impossible to have a total and complete separation of Church and State if, by a law of the State we can take money from all the people and divert it to an institution run by any group of people, any denominational group of people.

But, as I say, Mr. Speaker, the states have found it necessary to go a little beyond that in order to protect our American doctrine. With

your permission I will read brief selections from the constitutions of thirty of our states. These states comprise 77 per cent of the American people. They comprise all of the biggest states. All of the states in America which are ranked as the big states, are included in these thirty states, and here in New England, Massachusetts and New Hampshire are among the number.

The Constitution of Arizona says: "No tax shall be laid or appropriation of public money made in aid of any church or private or sectarian school."

The Constitution of California says: "No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools."

From the Constitution of Colorado: "No appropriation shall be made for charitable, industrial, educational or benevolent purposes, to any person, corporation, or community not under the absolute control of the State, nor to any denominational or sectarian institution or association."

The Constitution of Delaware: "No portion of any fund now existing or which may hereafter be appropriated, or raised by tax, for educational purposes, shall be appropriated, to, or used by, or in aid of any sectarian, church or denominational school."

Florida's Constitution: "No preference shall be given by law to any church, sect or mode of worship, and no money shall ever be taken from the public treasury directly or indirectly in aid of any church, sect or religious denomination, or in aid of any sectarian institution."

Georgia's Constitution says: "No money shall be taken from the public Treasury, directly or indirectly, in aid of any church, sect or denomination of religionists, or of any sectarian institution."

From the Constitution of Idaho: "Neither the Legislature nor any county, city, town, school district or other public corporation, shall ever make any appropriation or pay from the public fund or moneys whatever, anything in aid of any church or sectarian, or religious society, or for any religious or sectarian purposes, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution controlled by any church; secretarian or religious denomination whatsoever."

Indiana's Constitution: "No money shall be drawn from the treasury for the benefit of any religious or theological institution."

The Constitution of Kansas: "No religious sect or sects shall ever control any part of the common school or University funds of the state."

Kentucky's Constitution says: "No portion of any fund or tax, now existing, or that may hereafter be raised or levied for educational purposes, shall be appropriated to, or used, by or in aid of, any church, sectarian, or denominational schools."

The Constitution of Massachusetts says: "No grant, appropriation or use of public money or property or loan of public credit shall be made on authorized by the commonwealth or any political division thereof for the purpose of founding, maintaining, or aiding any school or institution of learning whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school, or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under its exclusive control, order and superintendents of public offices or public agents authorized by the commonwealth or federal authority or both."

The Constitution of Minnesota says: "In no case shall any public money or property, be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or any religious sect are promulgated or taught."

Mississippi's Constitution: "nor shall any funds be appropriated towards the support of any sectarian school."

"Missouri's Constitution: "Neither the General Assembly, nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever anything in aid of any religious creed, church or sectarian purpose; or to help to support or sustain any private or public school, academy, seminary, college, university or other institution of learning, controlled by any religious creed, church or sectarian denomination whatever."

The Constitution of Montana: "Neither the Legislative Assembly, nor any county, city, town, or school district, or any other public corporations shall

make directly or indirectly, any appropriations, or pay from any public funds or moneys whatever, or make any grant of lands or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university, or other literary, scientific institution, controlled in whole or in part by any church, sect or denomination whatever."

The Constitution of Nebraska: "No sectarian instruction shall be allowed in any school or institution supported in whole or in part by the public funds set apart for educational purposes; nor shall the state accept any grant, conveyance, or bequest of money, lands or other property to be used for sectarian purposes."

Nevada's Constitution: "No public funds of any kind or character whatever, state, county, or municipal, shall be used for sectarian purposes."

New Hampshire's Constitution says: "No money raised by taxation shall ever be granted or applied for the use of the school or institutions of any religious sect or denomination."

New Mexico's Constitution: "No appropriation shall be made for charitable, educational or other benevolent purposes to any person, corporation, association, institution or community, not under the absolute control of the state."

The Constitution of New York says: "Neither the state nor any sub-division thereof, shall use its property or credit or any public money, or authorize or permit to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught."

North Dakota's Constitution: "No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school."

The Constitution of Ohio: "No religious or other sect, or sects, shall ever have any exclusive right to or control of, any part of the school funds of this state."

Oklahoma's Constitution says: "No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or

for the use, benefit or support of any priest, preacher, minister, or religious teacher or dignitary, or sectarian institution as such."

The Constitution of Pennsylvania: "No appropriations, shall be made for charitable, educational or benevolent purposes, to any person or community, nor to any denominational or sectarian institution, corporation or association."

South Dakota's Constitution: "No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution."

Utah's Constitution: "Neither the Legislature nor any county, city, town, school district, or other public corporation shall make any appropriations to aid in the support of any school, seminary, academy, college, university, or other institution controlled in whole or in part by any church, sect or denomination whatever."

The Constitution of Virginia says: "No appropriation of public funds shall be made to any school or institution of learning not owned or exclusively controlled by the state or some political subdivision thereof."

Washington's Constitution: "All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence."

The Constitution of Wyoming: "No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denomination or sectarian institution or association."

The Constitution of Illinois says: "Neither the General Assembly nor any county, city, town, township, school district or other public corporation shall ever make any appropriation, or pay from any public fund whatever, anything in aid of any church or sectarian purpose to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution controlled by any church or sectarian denomination whatever."

These selections from the constitutions of the different states, Mr. Speaker, will show what the American people have thought was necessary in carrying out and applying, so that it would mean something, this fundamental American doctrine. There has been some effort, after two hearings

here on the bills, and some effort made in the whisperings made about the lobby, to have it appear that this bill was aimed at religion as such, or was aimed at some particular kind of religion. Let me assure you, Mr. Speaker, that no man in Maine has any higher regard for religious liberty, absolute and complete, than I have. Let me assure you that this bill is designed to increase religious liberty and not to restrict it. Men, all down through the ages, in studying the universe—in trying to understand its meaning, in trying to explain its origin, its laws, its government—have come to various conclusions. All the theologians in the world, all the philosophers in the world, all the religions in the world even, have been trying to explain the meaning of this old Divine principle which underlies all, permeates all, directs all and controls all. We differ in our little, silly interpretations of this great cosmic, universal fact, and we have an honest right to entertain our differences, we have a sacred right to entertain them, we have a sacred right to be mistaken, if we will, in our religious views. The great, sacred thing is our right to think in these matters uncontrolled by any of the machinery of the State, whether exercised through schools or through any other agency.

As I say, some attempt has been made to becloud the issue, to make it seem as though this were an attack upon some particular religious view. Such is not the case. Every man has a right to his religious views. Nothing that this Legislature could do could interfere with it if we wanted it to. Every man, under the Constitution of the United States, has a right to "life, liberty, and the pursuit of happiness" in his own way, provided he does not interfere with the liberties of others. Every group of people, denominational or otherwise, have a right to establish rules or institutions and to run them in any way they see fit, provided they do not interfere with the public peace and welfare. Nothing in this bill, nothing, so far as I know, in the minds of anyone who is proposing or supporting this bill, would impair in the slightest degree the sacred rights of the citizens of the State of Maine to have their own institutions and run them in their own way. But that is a far different thing than it is to ask the people of Maine to contribute by public tax, for the purposes of carrying on their particular private institutions.

We have had some little attempt at

arousing fear in the hearings before this House. We heard something about sparks falling into tinder boxes, and conflagrations starting. Now there are no conflagrations, there are no tinder boxes that I know anything about. There are no sparks to fly that I know anything about. We are all living in the State of Maine in peace and harmony, we shall continue to do so, they are all living, in the other thirty states that have adopted this matter, in peace and harmony. There are no rivers of blood flowing in Pennsylvania or in any of the other states, that we heard about the other day here. All of that is mere bugaboo, my friends, merely attempts to arouse a latent fear, perhaps a pristine animal fear, which still lurks in all of us. Not the slightest ripple occurred in any of those states when those amendments were being adopted. They were all voted upon by the people, all ratified by the people, without the slightest ripple, without the slightest harm coming to anyone.

Now it is said that the amount of money that we appropriate for sectarian purposes is small. Very true, but the principle is great. The amount of money that was asked of John Hampden for the window tax was small, but those of you who are familiar with English history, remember that although Hampden was the leading man of his county, owned more land than any other man in his county, so that a few shillings would have meant nothing to him, considered that the principle was so great that he went to the Tower of London rather than pay a tax, an illegal tax, assessed contrary to a fundamental English doctrine. The tax on tea in our revolutionary times was small, but the principle was great enough so that we held a tea-party in Boston Harbor, and we won the war of the Revolution on the principle illustrated by the Boston tea-party, which involved only a few pounds in money but represented a principle as broad as the universe.

I cannot help but think, Mr. Speaker, that the opposition, although they do not realize it—I would not accuse them of realizing it—that the opposition to this matter, when analyzed, has its basis in selfishness. They are unconscious that that is the fact, but let us analyze it a bit and see whether or not it is so. What advantage can there be in having public money turned over to a parochial school in a given town?

What possible advantage can there be? Let us take, for instance, a town in Aroostook County where the town supports a parochial school by taxation, in whole or in part—the principle is the same whether it is in whole or in part. If the money is taken by taxation it is taken from all the people in the town. If it happens that all the people in the town are of the same religious denomination as the school, what possible hardship could it be in that town to prevent that town from raising taxes for that purpose? If I lived in that town, paying a part of the tax that went to school purposes in such a town, if the Constitution prohibited that town from assessing that tax, it could not prohibit me from contributing ten dollars toward the same school exactly, run by the same parochial authorities, only run as a private institution.

If, I say, all of the people in a certain town belonged to the same denomination that ran the school, it could not make the slightest difference to those people whether or not they handed over their money under a denomination or under an appellation called taxation, or whether they hand it over under an appellation called contribution. It takes the same amount of money to run the school, so the hardship which at first glance you think may come, certainly cannot come upon the people who run the institution. Then, if there is any advantage in having taxes, it must be in having the taxes of those people who do not belong to the same denomination as the people who run the institution. It must be, then, without their analyzing it, and without their realizing it, possibly, it must be that the basis of this proposition is to seek for money from all the people, from those outside of this particular denomination, in order to benefit this particular denomination's school.

Now there have been demands outside of those Aroostook cases, outside of our usual appropriation bills which we have. The Mayor of Portland authorized Senator Brewster to say the other day in this House that he was approached by the Bishop of Portland and asked for \$225,000 of public money to be turned over for the use of the parochial schools. The same demand has been made in South Berwick, I am informed, and from many other places demands are being made for more and more public

money for denominational and sectarian purposes.

Now, the best possible argument that could be made in favor of this amendment is, at this present time, that it be granted before greater injury be done to these people, that it be granted before the habit becomes established, so that we shall have to take away any more money from them than we have to now. I am sincerely sorry that it is necessary to suspend any appropriation. I am sincerely sorry if any school that needs this money may be hurt by this bill, but the time to attend to this matter is when it will do the least harm, when it will be the least hardship, when things can be more easily adjusted so that everybody by 1930 can adjust their affairs so as to come under the requirements of this bill.

Let me say, Mr. Speaker, in concluding these few rambling remarks, that I appeal to the members of the House, not for any new thing, not for anything that is untried, not to go on any wild goose chase, but to get back to the fundamental American doctrine of our ancestors, of total and complete separation of church and state.

I appeal to you, gentlemen, to be men; to vote according to your consciences, not according to your political aspirations; to vote on principle and not on policy. I ask you to vote just the same as you would if you were casting the Australian ballot and nobody knew how you were voting.

Mr. MAHER of Augusta: Mr. Speaker and Gentlemen: It devolves upon me to answer, as best I can, the fair statement of the case presented by the gentleman from Bangor (Mr. Barwise) because I happen to be a member of the Judiciary committee, the majority of which has submitted a report at variance with the minority report, the adoption of which is now asked; and there may occur at once in the minds of all the members present a further coincidence, that I happen to belong to the particular religious persuasion that there is some, at least latent, suggestion that this particular change would particularly affect. I think I can address myself to the arguments advanced here in the same temperate and restrained manner that has characterized the fair presentation made by the gentleman from Bangor, and I agree with him that that is the way for members of this general court to approach any matter of this magnitude. I cannot go quite so far with

the gentleman as his peroration would indicate. For instance, I am sure that he could not have meant, what would have seemed to have been the reasonable deduction from his peroration, that there is any man here who, on his oath, representing a constituency in this State as a member of this coordinate branch of the government, will vote upon this, or any other, matter other than as his conscience suggests and his judgment dictates; because if it has come to the stage when policy is to prevail and expediency decide, it is a regrettable situation. I doubt very much if the gentleman even meant what his peroration would indicate; but it was an appeal to you, just as I would appeal, to vote just exactly as your common sense tells you,—and your common sense will be a good guide for your conscience as well as for your judgment. Now it seems to me that he has aptly stated the history of this House measure, and I think I am not aside from the question if I simply say that the inception of it seems to have been in the Executive branch. We notice in the Executive message a distinct reference to the proposition that public monies should not be used for other than public purposes. We all agree with that. I do not see how any man who is at all able to discharge the functions of a legislator could differ with it. The danger with dogmatic statements like that is that there is apparently created a condition the opposite of it. Now no one wants to divert public monies to other than public purposes. It has been determined over and over again that charities and education are public purposes. What are public purposes is a judicial question and the courts have determined again and again that these are public purposes. The speciousness of the position is that you must always have a public agency in order to the most effectively and effectually discharge functions having to do with public purposes, two totally different, absolutely opposed, propositions.

Following the executive suggestion, there was introduced by the gentleman from Bangor (Mr. Barwise) his proposition for a Constitutional amendment, which he has adverted to, and which I do not understand he now argues for. I have not heard him move to substitute his amendment for either report of the committee. The gentle-

man from Bangor seems to be willing, if I get the force of his argument, to have that particularly sweeping, comprehensive amendment of his narrowly focused to the proposition of religious institution, cause or purpose. Whereas his amendment was sweeping, covering all private agencies, not alone making the determining test religious. That proposition, I think, it is perfectly safe to say will not be advanced again in this session, because I doubt if there could be mustered a sufficient vote to give the same respectful consideration whether the suggestion emanates from the upper or the lower branch of the Legislature, or from any other coordinate branch of the government, that we will not permit public funds to be used for the alleviation of suffering by a private agency, such as the Augusta Hospital, the Bath Hospital, or any of the numerous eleemosynary institutions that are under private control, but doing public work and God's work all over Maine.

We come now to the minority report here, which to my mind is very much more objectionable than the somewhat parallel measure—which is not, of course, before us—introduced in the upper branch, and which is very much more objectionable than the suggestions which I think were based on specious premises made by the Chief Executive, because it narrows absolutely to a religious test. I say, gentlemen, and the member from Ft. Kent, that this measure is deserving of defeat for three reasons: It is absolutely unnecessary from a legal standpoint, it is absolutely unwise from a business standpoint; and it is absolutely impolitic and unjust from a religious standpoint.

The gentleman (Mr. Barwise) at the outset of his argument inadvertently, I think, notwithstanding his wide experience with the Constitution and his intimate interest in its present language, I think made, unwittingly, an erroneous statement of interpretation. If I understood him correctly, and the House will recall, he said that it was the function simply of the Legislature to propose,—that the Legislature simply proposes amendments. That is not exactly the whole of it. Let's see what the Constitution says upon that point with reference to adoption of amendments

Section two of Article XXXVII says: "The legislature, whenever two-thirds of both houses shall deem it necessary, may propose" etc. Now there is quite a lot of difference between saying that the legislature "may propose" and the actual language of that amendment which is that "whenever two-thirds of both branches shall deem it necessary." Now, gentlemen, that at the outset, is the basic thing for you to determine, whether or not there is that necessity which requires you to go on record, not simply as proposing,—because I submit that the reading of the two parases together necessarily carries with it this conclusion, that when two-thirds of both branches shall deem it necessary to propose an amendment, the electorate of the State has a right to assume that two-thirds of the Legislature has put its approval on it, and such a proposition at once comes with the advantage of the legislative sanction. Now, then, does two-thirds of this body deem it necessary? I say it is unnecessary, and I do not ask you to take my word. I think that it is unnecessary because it is already provided for. What does the gentleman's argument resolve itself into. Is it that the State should have absolute control of the purposes and policy of any institution to which it gives public funds? Have I not fairly stated his position? Is it not that the money of your constituents should not be devoted to any purpose unless it is a purpose under State control? Now I want to be fair. Well, if that is a fair statement, let us look at the Constitution of Maine as it is today, and which we have worked under since 1820, you gentleman have on your desks, undoubtedly, a copy of the Constitution, and I ask you to turn to Article VIII and peruse it quietly, and see what your deductions are. Now it does not need a lawyer to interpret that section. You do not need to hunt for law, whether bound in sheep or calf, to find out what is meant by that section. The section reads:

"A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people: to promote this important object, the Legislature are authorized, and it shall be their duty to require, the several towns to make suitable provisions at their own expense, for the support and maintenance of public schools;

and it shall further be their duty to encourage and suitably endow from time to time, as the circumstances of the people may authorize, all—not some—"academies, colleges, and seminaries of learning within the State: provided that no donation, grant, or endowment shall at any time be made by the Legislature to any literary institution now established or which may hereafter be established, unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to alter, limit, or restrain any of the powers vested in any such literary institution, as shall be judged necessary to promote the best interests thereof."

Is that separation of Church and State? It shall be the duty of the Legislature, Article VIII says, from time to time, in addition to the public schools, the common schools which the towns themselves must keep up and which the State is to aid,—it shall be the further duty of the Legislature from time to time as the circumstances of the people permit and as the occasion of the times permit, to endow all our academies, seminaries, institutions of learning higher than the common schools, and colleges if necessary; but, and it is the most important part of it, no donation shall ever be made unless, when it is made, the State of Maine, through the Legislature making it, shall have the power to alter, change, increase, any of the powers of the institution accepting—voluntarily accepting—aid from the State as the Legislature shall deem necessary in order to better effectuate the purposes of that institution which is taking money from the State. The decision forever and aye is with the branch of the government giving away the particular stipend, for under Article VIII it possesses the control. Oh, it has been suggested at a committee hearing as I read in the papers—I did not hear it—that there was some obscurity and that it was not exactly clear what was meant by that. Now I do not know how it could have been hazy, or doubtful what was meant by that, and if anyone wants to know what was intended by that, why do they not have recourse to the source, the origin of it? Gentlemen of the House, that particular amendment was not the result of any chance, any haphazard, it was not the

creation of any pigmy mind. William King, the first Governor of Maine, was interested enough in this particular subject, and in its far-reaching possibilities, that he journeyed to Monticello, and there had discussion with one of the sages of America, Thomas Jefferson; and in the Congressional Library at Washington, where any man may see who desires to go the original of Article VIII of the Constitution of the State of Maine in the handwriting of Thomas Jefferson. Someone may say, your authority for that? I say go and see it, and if you want authority today on it you turn to the documents of the Maine Historical Society, Volume seven, and on Page 31 you will find the following:

"During the session of the Legislature of 1834, as a member of the House I attended a meeting of the Committee on Education, when the subject of making a grant to one of the Seminaries of Learning was under discussion. Governor King being present was requested to give his views to the committee.

"He went very fully into the question, taking strong ground in favor not only of providing for Common Schools, but also of endowing our higher Seminaries. After speaking at considerable length upon education generally, and the means of promoting it, he stated that Article VIII of our Constitution was drawn by Mr. Jefferson, under these circumstances:

"After the vote of separation was passed and Governor King was elected a Delegate to form the Constitution, but before the Convention was held business called him to Washington. While there, it occurred to him that he should be very glad to see Mr. Jefferson and get his views of the best Constitution for the State. So he took a turn down to Monticello to see and converse with his old friend,' as he expressed it. He spoke of the interview as affording him a great deal of pleasure. Mr. Jefferson seemed to take a deep interest in the new State, and said it was very important to start right. They talked about the general provisions of the Constitution, but there was nothing that he entered into with so much spirit as the cause of education. Upon that he dwelt as the main pillar of the prosperity and character of the State.

"Near the close of the interview

Governor King said to Mr. Jefferson, 'I wish you would write what you have said, putting it in the form of an Article to be incorporated into our Constitution.' Thereupon Mr. Jefferson took his pen and wrote out the substance, if not the exact words, of Article VIII, which was inserted through the influence of Governor King.

(Signed) SAMUEL P BENSON
Brunswick, February 9, 1870"

Now, then, let's go back a minute and see that which is obscure. When this Article VIII—and I am now discussing, gentlemen, just one phase of this question, and that is that it is unnecessary—this Constitutional amendment—let's go back and look at the debates of those men who were solemnly charged with drafting this instrument, and who did draft here an instrument that, despite the thirty-seven other amendments adverted to by the distinguished gentleman from Bangor (Mr. Barwise), has gone untouched and unassailed through all these years—Article VIII.

"Mr. Shepley, of Saco, moved to strike out the words in italics, and insert the following":— This is in addition to what Jefferson drafted, and we will see why. "The Legislature of the State shall have the right to grant any further powers to alter, limit or restrain any of the powers vested in any such Literary Institution, as shall be judged necessary to promote the best interest thereof." This was introduced by Mr. Ether Shepley of Saco. Now who was Ether Shepley? Was his a pigmy mind? He was one of the first, he was one of the very early Justices of the Supreme Judicial Court, a Chief Justice of the Supreme Judicial Court, serving from 1836 on for a great many years. It is fair to assume that Mr. Shepley was a man with some degree of acumen. Well, there were present there some other men. Judge Dana arose and discussed that section, and it will be interesting to the members, I know, even though it is a bit tiresome. We are discussing a solemn matter that is of paramount importance. Let us see what Judge Dana said. On Page 206 of the Debates, he said: "Mr. President—I rise, Sir, in support of the motion of the gentleman from Saco (Mr. Shepley). Well as the gentleman on my right (Mr. Stockbridge) remarked that this subject creates no inconsiderable degree of

excitement." They were discussing it, weren't they? There had been created no inconsiderable degree of excitement. "I rejoice that it does, for no subject has, or can come before this Convention of deeper interest to the State; whatever constitution we may form and send out to the people, however excellent it may be in other respects, unless it contains ample provisions for the education of our youth, it will be materially deficient. On the literature and literary institutions of a country or State, its happiness and prosperity greatly depend; and not only its happiness and prosperity, but I may add, its respectability and celebrity." * * *

"The reported article, as amended, makes ample provision for the establishment of the various institutions of learning, necessary to the public welfare, and at the same time contains the salutary checks to prevent the abuse of the powers given to those whose duty it shall be to manage and direct them. In a free government, resting on the virtue and intelligence of the people, the public has an important interest in the education of the youth; and I am gratified that we are about to begin this great concern as we ought."

Judge Dana was followed by Judge Parris, another, shall I say, not pigmy mind, because Albion K. Parris was the second governor of Maine, and was a man well known aside from the holding of that office, because we note that before the separation he was a member of the Massachusetts Legislature, was United States attorney, was United States Circuit Judge, and, as I have said, was the second Governor of Maine. He was a Justice of the Supreme Judicial Court from 1828 until 1836, when he resigned; and he was elected United States Senator from Maine, and then was chosen Comptroller of the Treasury. Now Albion K. Parris was a man of whom I think I would not be stretching it very far when I say that he had the interests of Maine at heart when he was discussing this question. Judge Parris says "It is with diffidence I approach this subject. But I must say that I do not agree with the gentleman from Saco, (Mr. Shepley) as to the extent of the control which the State ought to have over our Literary Institutions. I am in favor of retaining some control over and connection with them; but for what

purpose? To prevent abuses in their management of their funds. * * * "I am willing," he says, "You should control Academies and Schools which are endowed by the State. And no person would go further than myself in supporting them, and no one is more sensible of the policy of giving them all the encouragement in our power. I would go as far as to compel the Legislature to endow them liberally, and then give them the power to prevent abuses."

Now Judge Parris took a very much more liberal view than Judge Dana or Judge Thatcher or Mr. Shepley.

You will find, gentlemen, the discussion was taken up by another gentleman by the name of Holmes, showing the reason why that provision was put in. The year before the adoption of that Constitution, under which this State has lived and prospered, there was decided one of the historic cases upon constitutional law in the law books, the case of Dartmouth College against the State of New Hampshire. The whole question at issue was whether or not the charter of Dartmouth College was a contract, and whether or not the Legislature of New Hampshire that sought to increase the Board of Trustees of Dartmouth College, were impairing the obligation of that contract. It went to the Supreme Court of the United States and the question was argued by certain gentlemen of more than local reputation—Mr. Hopkinson, Mr. William Wirt, Mr. Daniel Webster and Mr. John Holmes of Maine—the Mr. Holmes who appeared in this Maine Constitutional Convention and whose remarks I am going to call to your attention. Mr. John Holmes was associated with Mr. William Wirt, representing the State of New Hampshire. Mr. Hopkinson was associated with Daniel Webster, representing the College; and the Supreme Court of the United States decided that the State of New Hampshire had no right to alter that charter because the charter was a contract, and that the subsequent attempted change was an impairment of the obligation of the contract. Now, it was a matter that was widely discussed, and the public was discussing it, and the delegates were talking about endowing educational institutions. Mr. John Holmes, who had been on the losing side of that case, was in that Constitutional Convention, and do you not think that it was in Mr. Holmes'

mind that he was going to do something when he was framing a new Constitution, so that at some other day any institution that took land or money from the State and put up its hands and said, "The State has not got any control over us,"—that at some future time even in 1923, long after Holmes and Webster and the others had gone to their final rest,—that even in 1923 there would be in that document the power to say, "You will come under the control of the State if you accept our largess?" Now what did Mr. Holmes say? "The subject before us is solemn and important. To provide for the education of our youth, 'to rear the tender thought, and teach the young idea how to shoot,' to take our children by the hand, and lead them on in the paths of wisdom and virtue, the object should be pointed out, and the obligation impressed on the Legislature * * *. The gentleman from Fryeburg has alluded to the doctrine established by a late decision of the Supreme Court of the United States. It goes to set up a literary institution, beyond the reach or control of the laws of a State. Let gentlemen be warned by this dangerous result. Let them never tolerate any power but that of the United States, within their jurisdiction, that shall be above their control. The time may come when creeds may be established, sects created, and parties built up, dangerous and destructive to the safety of the State and the liberties of the people. Corporations may exist, with power to fill their vacancies and perpetuate their existence. Against such evils we ought now to erect an effectual barrier. I hope the motion will prevail."

The amendment was adopted by 151 to 18. Mr. Holmes was one of the best Constitutional lawyers that the times produced, a man of distinguished capacity, a man who not only served as counsel in the Dartmouth College case and as a member of the Convention, but Mr. Holmes of Alfred was the first United States Senator from Maine. He was, after that, associated in a number of the largest cases that were tried before the Supreme Court of the United States. He was the associate, the contemporary, the political opponent of Hannibal Hamlin. John Holmes was one of the most distinguished minds that northern New England ever produced, and he

stands as one of the ablest men Maine can boast. He came from the Supreme Court of the United States, where he had just lost the Dartmouth College case, and, as against insinuations such as are the basis of argument today, he moved the adoption of that very section I have read to you at the beginning of this branch of my argument into the Maine Constitution, providing that "unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to alter, limit, or restrain any of the powers vested in any such literary institution" because he wanted it said—unequivocally said—that for all time any institution—private, religious, sectarian or denominational—taking public money under the Constitution of this State at that same time came under the control of the State.

I say, Mr. Speaker and gentlemen of this House, that both the amendment suggested by the gentleman from Bangor (Mr. Barwise), and the amendment suggested by the minority of the Judiciary committee, are absolutely unnecessary, because you have there the controlling law.

Now I may say further that it is unnecessary for another reason, and I will be extremely brief, gentlemen. I know you will pardon me for I feel that this is an important subject. The Legislature of the State of Maine cannot make any fixed policy in regard to taxes or in regard to appropriation. It can only appropriate from year to year for each two years. The Legislature of the State of Maine can only appropriate for two years and the next Legislature has the full power to change that policy, to refuse a continuation of any grant. Further than that, if you can conceive any time that our public school system will be imperilled,—and may I state there parenthetically that I myself, even though of the religious persuasion which I have said, I am a public school graduate. I was born in this city and first went to a private school which was decidedly non-sectarian. It had six pupils upon the same street where I lived and run by two ladies who have since passed on—the Misses Eaton—and it was in no sense a religious institution. From there I passed into our local schools, and have gone through those schools. I have four children and I claim that I have had some personal experience

in the matter of education. My oldest child has attended the French parochial school, and with success. From there she went to our high school. And my own view of these matters is so tolerant that I sent her to the parochial school on Sand Hill, and from there to Cony High school and then to a very conspicuous Catholic College, 18 miles up the river—Colby! (Laughter) My other children are at present in the public schools of Augusta. They never have been in the parochial school. So I cannot be said to have any very personal animus in the matter. But I say this that if any man suggests that there is going to come a day when the 760,000 non-Catholics in Maine, and I think I have stated it approximately—are ever afraid that the 160,000 Catholics in the State of Maine are going to dominate them, and by some mysterious legerdemain are to obtain control of both branches of the Legislature and the Governor of this State and set up a parochial school system in opposition to our public school system, taking away from you gentlemen your God-given liberties,—if that condition ever does come, do not forget that we have a proposition in our Constitution called the initiative and referendum, and all you have to do is to get ten thousand signers and submit that to the Secretary of State and they cannot vote you away. You will be protected for ninety days. It will then go to a vote, and there must certainly be something the matter if you cannot convince your own majority of 760,000 to 160,000. Those are not voters, of course, but I presume the voters will run relatively the same. Constitutions are made not to protect majorities; majorities do not need protection; it is minorities that need protection.

The gentleman read from James Madison. Let us see what another man said for a moment; and I as a Republican like to have recourse now and then to some of the opposite persuasion. Let's see what Thomas Jefferson said: "All will have in mind its sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess equal rights and to violate them would be oppression."

Now for one hundred years since 1820—one hundred and three years—we have gone along under this amendment and gone along pretty

satisfactorily, and there has been no real need of anybody becoming alarmed. I have here compiled as well as I could all the grants of money to institutions of higher learning, other than common schools since Maine became a State. It is very interesting to note that Bowdoin college first got 181,968 acres of land. Now mind you, these are non-sectarian institutions today. You all know, however, that in these institutions, these colleges and academies at the outset that the primary proposition was the honor and glory of God and that they worked for the honor and glory of God through bringing out the best there was in the youth of Maine. And these institutions of Maine, Protestant that they are, have brought forth a type of citizenship that the 160,000 minority of Catholics in Maine bow to and rejoice for their liberality and their fairness. For twenty-five years I have been trying cases to a jury in this county, and I do not recall in all that time that I have ever seen three Catholics on the jury. Do you believe that I have ever found anything other than the fairest of treatment in courts anywhere? I am here a hopeless minority from the standpoint of religion, if that is the actual test, representing the capital city of Augusta. I think this is through no special qualifications of mine but for three terms I have been here. Does that speak for intolerance? No, and we do not believe there is any such thing as that. God forbid the day that it shall ever be injected into the community life of Maine! Going back, Bowdoin College land, 181,968 acres of land and \$31,000 in money,—the institution honored by one of the minority senators of the Judiciary committee, a gentleman whose fairness I respect and whose great ability I have learned to admire. The Maine State Seminary originally, Bates College now has received from 1866 down to 1910, \$65,000 in money. As recently as 1909 and 1910 it received \$45,000. Bates College, I think would resent the suggestion that its primary purpose was not the inculcating and encouragement of religion. Now had this been the law in 1866, in 1905, 1909 and 1910, Bates College would have gone unhelped methinks. Waterville College—Colby, acres of land, 23,040; money, \$29,500 Down through the list, Presque Isle Academy, 6,460; Foxcroft Academy, 11,528 acres of land, \$14,600; Anson Academy \$9,750;

Bridgton Classical Institute, \$4,500; Wiscasset Academy, \$7,000; Westbrook Seminary, \$23,300 from 1832 to 1923; Somerset Academy, \$13,385; Thornton Academy, 11,528 acres of land. It does not make any difference, gentlemen, whether you are giving away land that belongs to the people or money. Some gentlemen complain that we are deprived of our natural birthright in that our timberlands were sold. I cannot conceive that if the principle of the gentleman from Bangor (Mr. Barwise) is correct, the distinction between giving land to private individuals and private corporations or land to private institutions, the principle is the same. Enough on that branch! There they are. I desire the House to observe them. There is a complete list of all the academies and higher institutions of learning that have received any aid from the State of Maine under Article Eight. All of them! No, I am wrong. There are two more that I overlooked. Those two are St. Joseph's Academy and St. Mary's College, and those are all the Catholic institutions there are, gentlemen,—institutions of higher learning. I am not referring to your Aroostook public schools, your common schools. Let me tell you what the two Catholic institutions of learning have had. They have had \$40,000 in all the years and Bates College had \$45,000 in 1909 and 1910. Enough of that! Gentlemen, I say that it is unjust, impolitic,—and I do not want anybody to think that I impugn the motives here of anybody. But it does not make any difference in matters of this sort what the motives are. It is the far-reaching consequences that you have to look after, and I tell you that you cannot help by passing this proposition but create an atmosphere of unrest; you cannot help but create a condition which fosters that of which we hear all through the land today which I do not believe needs any repressive legislation to meet it,—I do not believe in repressive legislation of any kind. I do not like it; but a good deal of this agitation which we hear in the land today is not all intended as malicious, not at all. It should not be encouraged either intentionally or stupidly. Every great war in its train has carried these consequences based upon emotion. As quickly as the objective at which the national sentiment has been aimed is won, new channels attract the flood. When the objective—shall I say of

hate because really that is what it is,—we know, whether right or wrong, that there was one nation in 1917 at which our hymn of hate was directed—is reached, the passion still lasts. We are trying to get away from that now, but immediately on removing the objective of hate, you cannot at once correct the mental and moral impulses of a people. You cannot do it. They still move right along just like some big engine that has got an impetus and goes along of its own force, and the result is you find, just as we have seen in the last few years that everybody who made a proposition that was not absolutely orthodox, why he was a Bolshevik. Why the Attorney General of the United States got so excited that he was inaugurating all kinds of "Reds" protection. I, myself, like every other man, used to look at the papers every morning to see when the Red uprising was coming. This was largely bugaboo, my friends. We must work along the proposition of normalcy and help counteract this unrest, both outside of the State and in. I tell you, my friends, that you cannot pass any such measure as this without encouraging that sentiment. It is going to be friend against friend; it is going to be associate against associate. You are going to have needless discussion upon unnecessary issues. I cannot imagine that any man here believes for a minute in stirring religious dissension in this State. On that proposition Washington said: "Instead of offering the most remote insult, it is the duty to address public thanks to our Catholic brethren, as to them we are indebted for every late success over the common enemy in Canada." Washington said that at Washington, November 5, 1775.

The gentleman from Bangor (Mr. Barwise), cites James Madison, and I like to quote him. Madison said: "That diabolical, hell-conceived principle of persecution rages among us. I have neither patience to hear, talk or think of anything relative to this matter; for I have squabbled and scolded, abused and ridiculed so long about it to little purpose, that I am without common patience."

Thomas Jefferson again: "All and every act of parliament by whatever title known or distinguished, which renders criminal the maintaining of any opinion in matters of religion or

exercising any mode of worship whatever shall henceforth be of no validity or force within this Commonwealth."

Abraham Lincoln, than whom I presume there is no more absolute typical personification of what we really mean and try to say and think of as Americanism--Abraham Lincoln writing to his intimate friend, Joshua F. Speed in 1855: "When the Know-Nothings get control, it (the Declaration) will read 'All men are created equal except negroes, foreigners and Catholics.' When it comes to this I should prefer emigrating to some country where they make no pretense of loving liberty."

William Howard Taft: "There is nothing so despicable as a secret society that is based upon religious prejudice and that will attempt to defeat a man because of his religious beliefs. Such a society is like a cockroach, it thrives in the dark so do those who combine for such an end."

Harding, our present President: "In the experiences of a year of the Presidency, there has come to me no other such unwelcome impression as the manifest religious intolerance which exists among many of our citizens. I hold it to be a menace to the very liberties we boast and cherish." That was March 24, 1922.

Now it is not in the minds or the heart of any man in this Legislature to do one single thing to bring himself under those descriptions; but, gentlemen, do you not believe that at this time when there is this manifestation, and you know it, that it is an unwise thing for the Legislature of the State of Maine to act under that provision? Let's go along easy, every one of us, whether he be a Republican or a Democrat, a Catholic or a Protestant, a Jew or a Gentile. Let us not do anything to stir up things until matters commence to get a little bit more quiet; and if there is any real need of this, it will crystallize and it will come naturally and not in opposition to the proposition of religious tolerance. I think the following well covers the idea I am trying to convey.

"A fire mist and a planet,—

A crystal and a cell,—

A jellyfish and a saurian,

And caves where the cave-men dwell;
Then a sense of law and beauty,

And a face turned from the clod,—

Some call it Evolution,

And others call it God.

A haze on the far horizon,

The infinite, tender sky,

The ripe, rich tint of the cornfields,

And the wild geese sailing high—

And all over upland and lowland

The charm of the goldenrod—

Some of us call it Autumn,

And others call it God.

Like tides on a crescent sea-beach,

When the moon is new and thin,

Into our hearts high yearnings

Come welling and surging in,—

Come from the mystic ocean,

Whose rim no foot has trod,—

Some of us call it Longing,

And others call it God.

A picket frozen on duty,—

A mother starved for her brood,—

Socrates drinking the hemlock,

And Jesus on the rood;

And millions who, humble and nameless,

The straight, hard pathway plod,—

Some call it Consecration,

And others call it God."

Not far amiss in the present juncture of criticism and unrest is the sentiment expressed in Kipling's L'Envoi.

When Earth's last picture is painted,
when the tubes are twisted and dried,

When the oldest colors have faded,
and the youngest critic has died,

We shall rest, and faith, we shall need it—lie down for an eon or two,

Till the Master of All Good Workmen shall set us to work anew!

And those that were good shall be happy; they shall sit in a golden chair;

They shall splash at a ten-league canvas with brushes of comets' hair;

They shall find real saints to draw from—Magdalene, Peter and Paul;

They shall work for an age at a sitting and never be tired at all!

And only the Master shall praise us, and only the Master shall blame;

And no one shall work for money; and no one shall work for fame;

But each for the joy of working, and each, in his separate star

Shall draw the Thing as he sees it for the Good of Things as They Are!

Now, gentlemen, I feel here today that this measure, conceived as the gentleman believes for the best interests of the State, is unnecessary because it is covered by the Constitution; that it is unwise from a business standpoint; that it is impolite and unjust because it will create contention. Gentlemen, I thank you for your attention. (Applause.)

Mr. WING of Auburn: Mr. Speaker and Members of this House: I do not

propose to go into this matter to any great extent, but I do wish to make a few remarks on this proposition at this time.

The issue here involved appeals to me a bit differently from the ordinary discussions that I have heard of it and from the discussions that I have heard here this morning. I look at it as a lawyer, not as a religionist, as one trying to formulate a rule of conduct under which we can abide in harmony with the utmost freedom of thought, and with the greatest amount of liberty to each, commensurate with equal liberty to the others. True liberty involves freedom of thought as well as freedom of body, but it must always be exercised with the idea in mind that others than ourselves possess the same liberty, to the end that our organized government may be of law and not of men. The religious touch frequently heard in debates such as we are now having, has no appeal for me. Religion needs no aid from the government, but government does need true aid from religious men, because from religion, in its broadest sense, spring, for the most part, the moral precepts which give sanction to the better ordering of our lives. True religion, tempered with a sound, reasonable philosophy, points the way to a sweet and well ordered life, but true religion sounds not in law, because men differ in religion and in religious thought, but law is supreme and knows no difference. It varies not. It is constant. It is the same law for all, for those who differ in religion as well as in politics, for the rich and the poor, for the wise and the foolish. Law seeks justice, the proper administration of power over others. Man has always sought power.

The history of law shows the constant tendency to curb the exactions of men exercising power. Give men power and they are very apt to forget right. It was so with King John, it was so with King James, it was so with the Puritans of Massachusetts, it was so with King George. We observed it again in those who would perpetuate human slavery in our land. It is the proper restriction of power, the power to tax, to which I wish to call your attention. The Convention which framed our Constitution, made in October, 1819—and I, too, have read the little book that my brother Maher held in his hand, and used so effectively in his debate—I have a copy of the record of that deliberation which shows two debates pertinent to our discussion here.

First, the third section of article one of the Bill of Rights. This section is our Magna Charter for religious freedom. When the debate on this section opened a memorial was presented to the Convention from the Catholics of Maine stating that under the Constitution of Massachusetts they were excluded from equal participation in the benefits of government, and asking that they might be admitted to an equality of religious and civil rights and immunities. It was observed by Judge Parris that the object of the memorialists would doubtless be secured to them by the Bill of Rights, and he moved that the petition lie on the table. Judge Thatcher spoke along lines of broad toleration in favor of the principle of the objection. And it was ordered by that Convention that the petition lie on the table, and it has been there ever since. It never came off. The article was passed and from that day to this Maine has had religious freedom, and no act of mine shall ever deny our citizens the sweet privileges of that article.

In order that you may understand it, I will read it to you.

"All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no one shall be hurt, molested, or restrained in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his conscience, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship;—and all persons demeaning themselves peaceably as good members of the State, shall be equally under the protection of the laws, and no subordination nor preference of any one sect or denomination to another shall ever be established by law, nor shall any religious test be required as a qualification for any office or trust, under this State; and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers and contracting with them for their support and maintenance."

Remember those words. Again read them as you can, for they are sound doctrine.

Second, the other debate, to which I referred deals with Article Eight, entitled "Literature," and it is that article to which my distinguished friend

and colleague from Augusta directed a large part of his argument. This discussion, that is the debate, as my brother Maher stated, shows the influence of the decision of the supreme court in the Dartmouth College case decided in the 1818 term of the supreme court at Washington. And the debate shows the desire of the framers of our Constitution that the State have a voice in the expenditure of money granted any institution. Then they amended the article as reported by adding the words, "The Legislature of the State shall have the right to grant any further powers to alter, limit, or restrain any of the powers vested in, any such literary institution, as shall be judged necessary to promote the best interests thereof." And the section as amended reads as follows: "A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people; to promote this important object, the Legislature are authorized, and it shall be their duty to require, the several towns to make suitable provisions at their own expense for the support and maintenance of public schools; and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorize, all academics, colleges and seminaries of learning within the State; provided that no donation, grant, or endowment, shall at any time be made by the Legislature to any literary institution now established, or which may hereafter be established, unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to alter, limit, or restrain any of the powers vested in, any such literary institution, as shall be judged necessary to promote the best interest thereof."

Now, to return to my proposition, the proper restriction of power, the power of the State over its funds raised by taxation. We have lived for a hundred years under these provisions, but in a hundred years many changes occur. Life constantly presents new conditions, new problems. Our forefathers had no conception of that great class of social and religious activities known as charities and which now receive the bounty of the State. You will not find the word "charities" in the sense I have just used, in their constitutional debates. Succeeding legislatures have granted

bounties to literary institutions—you have heard them read from a card catalogue here by my brother, Maher—without invoking the control over them which the framers of the Constitution so carefully debated and sought to preserve for posterity. They have never, in all this hundred years, invoked the control that is provided for in Article Eight. And that is just the point where I differ from my brother Maher. If the State shall say to a seminary, "You shall do so and so because we give you money," Article Eight is fulfilled. But the State has spread its bounties broadcast. It has never invoked the restraint, the limitation, which has provided for it in Article Eight.

Institution after institution has appeared and received state aid, concerning the organization of which and the necessity therefor, the State as such was not consulted in the least. Such institutions originate privately and are conducted privately, but the lapse of time shows them receiving almost as of right like grants of money. So then, we arrive at the crux of the problem; shall we restrict the power of the State to bestow its bounty, the money for which is raised by taxation, for private use in sectarian hands? To me the answer is simple. Its bare statement carries conviction. It is as axiomatic as the statement that all men are created equal. It is that public money raised by a tax shall not be used privately. We have grown away from the theory of Article Eight. We have not preserved in the administration of our bounty, the rights reserved in the State under Article Eight of our Constitution.

So then, let us write this principle, —the principle that public money, raised by a tax, shall not be used privately,—into our fundamental law and await the future with continued toleration of others, and give no man or group of men a grant which is the result of a tax levied upon all, the Jew and the Gentile, the Greek and the barbarian, alike, and which does not result in the common good of all.

The more I reflect on this proposition, the more I become convinced that I have stated to you a sound principle and a principle which will re-act for the benefit of the common good. Now, mark you, I said that I did not speak of this as a religionist, I speak of it as a lawyer. Now I am aware of the temper of this House. I

am aware that because a little dust is thrown in your eyes, possibly, you cannot see this proposition exactly as I have seen it, and that this report may not receive the favor of this House. But I could not discharge the oath which I took when I became a member of this House and its organization without signing this report as I did. And I sincerely trust that you gentlemen will give that matter the dispassionate consideration which the occasion requires. (Applause).

Mr. NICHOLS of Portland: Mr. Speaker and gentlemen: I did not intend to enter into this debate, but I cannot allow two statements made by the honorable representative from Augusta (Mr. Maher), to go unchallenged. He stated that in this State there were approximately 760,000 non-Catholics and 160,000 Catholics, leaving the population of this State at 920,000. Now I am not very familiar with these statistics, but the population of the State of Maine in 1920 was 768,014 souls, and if we have increased to 920,000, or some 150,000 in the past two years, then we are not in danger of race suicide.

Mr. Maher made an illusion to the institution which I attended—Bates College—as sectarian. That college, founded in 1866, was founded by a man far in advance of his time, Dr. Oren B. Cheney and he founded it absolutely non-sectarian. I will admit that some 20 years after, its constitution and by-laws were amended so that its President was to be taken from one denomination, and that amendment to the constitution and by-laws was in force for a period of ten years, and thereafter the people connected with that College saw the difficulty and injustice of sectarianism and it was wiped off of that Constitution and by-laws, and when I attended that institution its faculty consisted of two Free-will Baptists, two Congregationalists, one Baptist, one Methodist, and one Unitarian. Now, what sect did that represent?

Mr. CUMMINGS of Portland: Mr. Speaker and gentlemen of the House: I have no doubt that the members feel a great deal as I do, and that is mighty tired, and I do not want to weary the House with remarks, but unless this matter can be tabled for further consideration I do want to say a few words, and even then I think it should be placed on the table. We heard from one gentleman in particular, who made a splendid address, a great deal of Eng-

lish history. But outside of the very remarkable prophesy of John Holmes, there was very little that applied to present day conditions.

I also call your attention to the fact that a great deal of the burden of his remarks were to the effect that we did not need this action because it was already covered in existing law. If that is the case, gentlemen, I do not see why there should be such great opposition to this. It seems inconsistent. Now the fact is, as we have heard repeatedly in this House, that we have had Legislature after Legislature and they have not seen the need of doing this thing, contains absolutely no argument. The fact that those who founded this State and created its Constitution were unable to foresee the conditions of this year, 1923, is no reflection upon them. They are not supposed to be infallible. There is only one source on earth, that I know of, that claims infallibility. It is a fact that until there was rain, neither raincoats nor umbrellas were invented. And until we saw the faults rising out of appropriations of public funds for sectarian institutions, there was not any occasion for safeguards.

This thing has increased and it is a question of great importance to the people of this State, whether they will permit this thing to go on or whether they will stop it where they are. It is also a fact—and I do not propose to dodge it—that the greatest question of all today involved in this matter is the question of the perpetuation of our public schools and of keeping them what they were intended to be. It is very true that there is an increasing demand for a division of the school fund, and it is wise on the part of this State to consider that question now and to forever set that matter at rest, so that there can never be any difficulty in that regard.

I ask you, gentlemen, to consider this matter carefully, as good citizens, with the interest of this State today and of the days to come in mind. Do you want to see our citizenship divided? Do you want to see the parochial schools extended? Do you want to see, not only Roman Catholic parochial schools, but Jewish schools and schools of various other denominations? That is involved in this question today and that is the matter that we want to consider and decide. Up to within a short time, outside of these

academies—and the principle of appropriations to these institutions was always wrong, and I freely admit it—but until recently there had been no thought, no attempt to divide the funds created for the purpose of maintaining public schools. It is at the very root and foundation of this government, for it is true that only can you rest in safety in this country of ours except upon the intelligence and education of our people and the unity of our people, and the big thing in this country is that we shall forever maintain intact our public schools, and never see them divided.

Now, our friend the Bishop here has, on several occasions, stated that he was opposed to the union of Church and State, that he would be one of the first men, if such a thing were proposed, to oppose it. Gentlemen, he knows just as well as I do that to whatever extent you appropriate public moneys to religious institutions, just to that extent you have a union of Church and State, and it is no use for anybody to deny it. Again, our friend is a member of a denomination that believes in temporal power. It is the dogma of his church. It has been taught for many hundreds of years, and, in addition to that, he must admit that they have also proclaimed the doctrine of infallibility. And I am glad to say that the Protestant denominations of this State have arrived at a point where they are willing to forego that which they have received from the public, that we may, acting together, for the good of all, see to it that Church and State are forever kept separate in the State of Maine.

Mr. STURGIS of Auburn: Mr. Speaker and gentlemen; we have heard a good deal today about Catholic institutions. I have been a member of the Baptist Church for fourteen years and I have found upon investigation that in the year 1922 the Baptists, as a denomination, received nearly half of the public funds for public schools, there being a total of \$24,000.

The SPEAKER: The question before the House is on the motion of the gentleman from Auburn, Mr. Wing, that the minority report, ought to pass in a new draft, which is before you in House Document 233 be accepted. Is the House ready for the question? As many as are in favor of adopting the minority report, or of the acceptance of the minority report, will say aye, those opposed no.

Mr. MAHER: Mr. Speaker, I ask for the yeas and nays.

The SPEAKER: The Chair not having announced the vote, the motion is in order. As many as are in favor of the yeas and nays will rise and stand in their places until counted.

A sufficient number having arisen, the yeas and nays were ordered.

The SPEAKER: Those in favor of the acceptance of the minority report, which is new draft House 233 when their names are called will answer yes; those opposed to the acceptance of the minority report when their names are called will answer no. Is the question plain? The Clerk will call the roll.

Mr. ADAMS of Litchfield: Mr. Speaker, I want to be sure that I understand that question. May I have it repeated?

The SPEAKER: The Chair again at the request of the gentleman from Litchfield, Mr. Adams, will state the question. The question is on the motion of the gentleman from Auburn, Mr. Wing, that the minority report of the committee on Judiciary be accepted, that report appearing in House Document 233, which is ought to pass in new draft. Those in favor of the acceptance of the minority report, as mentioned by the gentleman from Auburn, Mr. Wing, will say yes when their names are called; those opposed will say no. Is the question clear? The Clerk will again call the name of Mr. Adams.

YEA—Adams of Litchfield, Baker, Barwise, Beckett, Bickford, Blaisdell, Boman, Bradbury, Brett, Brewster, Brown, Cates, Chalmers, Cherry, Conant, Crafts, Cummings, Curtis, Dain, Dilling, Downing, Dudley, Dunbar, Dunn, Edwards, Foss, Gamage, Gile, Gillespie, Gilmour, Goldthwaite, Gordon, Granville, Greenleaf, Hayes of Chelsea, Hayford, Heal, Hobbs, Hodgkins, Hutchinson, Jewett, Johnson, Jones, Jordan of Cape Elizabeth, Jordan of Westbrook, Keef, Knight, Lamson, Leathers, Leland, Littlefield, Lord of South Portland, Lord of Wells, Ludgate, Macomber, Moody, Morse of Bath, Nevins, Newcomb, Nichols, Nickerson, Pendleton, Perry, Phillips, Pierce, Plummer, Ranney, Reed, Rogers, Sanders, Saunders, Sayward, Suddall, Small, Sparrow, Staples, Stevens, Story, Stratton, Sturgis, Teague, Thomas of Chesterville, Thomas of Leeds, Tilden, White, Whitney, Williams, Willis, Wing, Winslow, Wood—91.

NAY—Archibald, Atwood, Ayer,

Bartlett of Hanover, Bartlett of Waterville, Belliveau, Benoit, Boulter, Burns, Crowley, Finnell, Gagne, Gagnon, Gardiner, Gauvin, Hale, Hamilton, Hammond, Holmes, Houghton, Keene, Maher, Martin, McDonald, McIlheron, Melcher, Morrison, Nadeau, O'Connell, Overlock, Owens, Perkins, Pinkham, Piper, Ramsdell, Ray, Rounds, Rowell, Stitham, Towne, Weeks, Wing—42.

ABSENT—Adams of Liberty, Bisbee, Clarke, Douglas, Drake, Farley, Fickett, Hallett, Hayes of Gorham, Jacobs, Kitchen, Morse of Greene, Oakes, Palmer, Smith, Storm, Tarr—17.

The SPEAKER: Ninety-one having voted in the affirmative, 42 having voted in the negative, the motion to accept the minority report is carried.

On motion by Mr. Wing of Auburn, it was voted that the rules be suspended, the resolve having already been printed, and that it have its first reading at this time.

The resolve then had its first reading and tomorrow morning at ten o'clock was assigned for its second reading.

On further motion by Mr. Wing it was voted to indefinitely postpone the majority report.

On motion by Mr. Wing of Auburn, it was voted to take from the table the communication from the Governor asking return of his veto message, tabled by that gentleman pending further consideration.

Mr. WING: I move, Mr. Speaker, that this message be placed on file.

Mr. BARWISE of Bangor: Mr. Speaker, this is a very unusual situation in which we are placed, and I think that there are other members of the House who feel as I do that we would like a ruling of the Chair on the parliamentary situation of whether or not veto messages may be recalled by the Governor once having been read.

The SPEAKER: The Chair will state, in answer to the question of the gentleman from Bangor, Mr. Barwise,—the Chair rules that the Governor cannot recall a veto message after it is in the possession of the House, and that action must be taken upon the veto by the House as prescribed by regular parliamentary procedure and the Constitution of Maine. Is it the pleasure of the House that the message from the Governor taken from the table by the gentlemen from Auburn, Mr. Wing, be now placed on file.

The motion prevailed.

Mr. HAMILTON of Caribou: Mr. Speaker—

Mr. WING: Will the gentleman from Caribou (Mr. Hamilton) do me the courtesy to yield for a moment?

The SPEAKER: The gentleman from Caribou, Mr. Hamilton yields to the gentleman from Auburn, Mr. Wing.

Mr. WING: I move, Mr. Speaker, that the veto of the Governor on Resolve in favor of Commissioner of Agriculture, House Document 123, takes its constitutional course.

The SPEAKER: The gentleman from Auburn, Mr. Wing, moves to take from the table veto of the Governor, tabled by the gentleman from Caribou, Mr. Hamilton, yesterday and that it take its constitutional course, and the Chair recognizes the gentleman from Caribou, Mr. Hamilton.

Mr. HAMILTON: Mr. Speaker, I intended to make that same motion; so I now support the motion. I wish to make an explanation in regard to the peculiar situation in which we are placed in relation to this resolve. You can easily understand that there has been a change of mind and that if it had been permissible, this veto would have been taken back and come back into the House without any opposition. Now the reasons given by the Governor for his veto can be easily answered and he is satisfied himself. This resolve was for the purpose of carrying out an act that was passed by the Legislature of 1921, and I suppose approved by the Governor, himself, and in that there is a provision for \$3,000 to enable the Department of Agriculture to inspect potatoes at the local point, and fruits, so that those potatoes or fruits, whatever they might be, would have the seal of the State. We have saved by this method thousands of dollars. Now this is not asking this Legislature to appropriate one cent of money. That will be taken out of the treasury only in one way. The \$6,000 will be taken out for the purpose of carrying on the work and as much as \$6,000 pay come back in fees so, we will not appropriate one single cent. When that was discovered, there was no objection to the matter going through. Thinking that there might be some difficulty in regard to the matter, I immediately put in an act to amend the 1921 act, changing the figure "three" to "six." It is provided for in another section

and it will be all right for us to sustain the veto of the Governor in this matter.

Mr. ROUNDS of Portland: Mr. Speaker, I move that we adjourn until ten o'clock tomorrow morning.

The SPEAKER: A motion to adjourn is not debatable. The Chair may very well state that we have other business to act upon. Is it the pleasure of the House that we now adjourn? As many as are in favor will say aye; those opposed no.

A viva voce vote being taken, the motion to adjourn was lost.

Mr. ROUNDS: I doubt the decision of the Chair.

The SPEAKER: The gentleman from Portland, Mr. Rounds, doubts the decision of the Chair. As many as are in favor of adjourning until ten o'clock tomorrow morning will rise and stand in their places until counted, and the monitors have returned the count.

A division being had.

Eighty-two voting in the negative and 20 in the affirmative, the motion to adjourn was lost.

Mr. ROUNDS: Mr. Speaker, the matter under discussion is the Governor's veto?

The SPEAKER: It is the Governor's veto, and the motion is that of the gentleman from Auburn, Mr. Wing, that we proceed under the Constitution which provides for a ye and nay vote, the matter having been tabled and assigned for today.

Mr. ROUNDS: It is debatable now?

The SPEAKER: The Governor's veto is debatable.

Mr. ROUNDS: I want to say here that we are going to get a lot of vetos, (Laughter) and if you want to stay here we will do so. Now this matter was thoroughly discussed two years ago that we should have this appropriation for seeds and the like, and it was thought at that time that it would be all right to have it go through, and we all voted for it; but now they say this law is wrong—somebody has found some flaw in the law. I want to say here that I do not wish to change my tactics at all, and we will talk on vetos right up to six o'clock. I want to say that I am not one of the kind that eats much dinner, but the rest of you have got to come back at two o'clock for hearings and you will probably have to forego your dinner. Veto

messages are coming in from the Governor. He wants to save a little money. He always has been that way, and I have known him for many years. He said years ago that he drove a hack for his father to be Mayor of the city of Portland.

Mr. WING of Auburn: I rise to a point of order.

The SPEAKER: The gentleman will state his point.

Mr. WING: Hack driving in the city of Portland has nothing to do with the Constitutional question. It is an evident attempt to filibuster here and it does not meet with my favor. (Applause).

The SPEAKER: The Chair will state in answer to the point of order that the Chair was inclined to give the gentleman from Portland (Mr. Rounds) some latitude, and thinks perhaps the debate was not entirely to the motion. The gentleman from Portland (Mr. Rounds) I think has the floor.

Mr. ROUNDS: Then we will talk about vetoes. I have heard about them here for the last ten, yes fifteen, years, and I expect to hear about them a great many more years because I am not going to die right away—

Mr. WING: Mr. Speaker, I again appeal to the Chair that the discussion is not of the veto in question.

The SPEAKER: The Chair asks the gentleman from Portland, Mr. Rounds, if he understands the proposition of the gentleman from Caribou, Mr. Hamilton, who has the matter in charge that the subject matter here before us in the form of a veto is now taken care of by a new bill now on its way through this Legislature.

Mr. ROUNDS: On a new bill? I thought we were discussing a veto here, not a new bill.

The SPEAKER: The Chair, asking the gentleman the question before it rules either in favor of or against the gentleman from Portland (Mr. Rounds), the gentleman may answer it or not.

Mr. ROUNDS: I did not know there was any other bill. I supposed we were talking on this veto.

The SPEAKER: The Chair is making the statement entirely to enlighten the gentleman from Portland, Mr. Rounds, and will again make the statement that a bill covering this matter is now on its way through this Legislature.

Mr. ROUNDS: Will you state the number of the bill?

The SPEAKER: The bill was introduced yesterday the last day that a bill could be introduced, and is not yet printed.

Mr. ROUNDS: We have a veto message of course?

The SPEAKER: We have a veto.

Mr. ROUNDS: As I understand it a veto of \$3,000?

The SPEAKER: Six thousand dollars.

Mr. ROUNDS: Six thousand dollars; \$3,000 to go to Springfield, am I right? (Laughter) May I ask what this veto is for? (Laughter)

The SPEAKER: The Chair will rule that the gentleman from Portland, Mr. Rounds, is not speaking to the motion before the House and is out of order.

Mr. ROUNDS: Will the Clerk please read the veto?

Mr. WING of Auburn: Mr. Speaker, I think the gentleman from Portland (Mr. Rounds) should be in order.

The SPEAKER: The gentleman from Portland, Mr. Rounds, the Chair rules is in order when he asks that the veto be read. The Clerk will read the veto.

(The Clerk starts to read veto)

Mr. WING interrupting: I move that the further reading of the veto be dispensed with at this time.

A viva voce vote being taken, the motion to dispense with the reading of the veto prevailed.

The SPEAKER: The question is a Constitutional one, and is on a veto from the Governor. The question before the House is: Shall this bill become a law notwithstanding the objections of the Governor? and under the Constitution this calls for a yea and nay vote. As many as are in favor of this resolve becoming a law notwithstanding the objections of the Governor will say yes when their names are called, and those opposed will say no. Is the House ready for the question.

The question was called for.

The SPEAKER: The Clerk will call the roll.

Mr. WINN of Lisbon: I would like to ask this question: What is the requirements of the Governor so that we may vote on it intelligently.

The SPEAKER: The gentleman

from Caribou, Mr. Hamilton, will answer through the Chair the gentleman from Lisbon, Mr. Winn.

Mr. HAMILTON: Mr. Speaker, I will say that the requirement of the Governor is that we should not increase the appropriation, and this is proper for the \$3,000 that was appropriated in 1921 is offset by fees that are charged to different shippers at the time of inspection, so only \$3,000 was expended in 1921 and 1922. Now we are asking for \$6,000 for the purpose of extending the work in other sections. The \$6,000 comes out of one pocket and goes back into the other pocket.

Mr. ROUNDS: Mr. Speaker, what has that got to do with the—

The SPEAKER: Does the gentleman rise to a point of order or a question of personal privilege?

Mr. ROUNDS: Mr. Speaker, I rise to a point of order.

The SPEAKER: The gentleman will state his point.

Mr. ROUNDS: I want to know what taking money out of one pocket and putting it into another has got to do with a veto?

The SPEAKER: The House will be in order, and the Chair will state for the benefit of the gentleman from Portland, Mr. Rounds, that the gentleman from Caribou, Mr. Hamilton, was answering a question through the Chair, asked by the gentleman from Lisbon, Mr. Winn, and the gentleman was in order. Is the House ready for the question? As many as are in favor of the previous question will rise.

A sufficient number arisen, the previous question was ordered.

The SPEAKER: The Clerk will call the roll. As many as are in favor of this Resolve becoming a law notwithstanding the objection of the Governor will say yes when their names are called; those opposed will say no.

YE A:—Ayer, Cummings, Edwards, Gile, Gillespie, Ray, Rounds—7

NAY:—Adams, Liberty; Adams Litchfield; Archibald, Atwood, Baker, Bartlett, Hanover; Barwise, Beckett, Benoit, Bickford, Blaisdell, Boman, Bradbury, Brett, Brewster, Brown, Burns, Cates, Chalmers, Cherry, Conant, Crafts, Crowley, Curtis, Dain, Dilling, Downing, Dudley, Dunbar, Dunn, Finnell, Foss, Gagne, Gagnon, Gamage, Gardiner, Gauvin, Gilmour, Goldthwaite, Gordon, Granville, Greenleaf, Hale, Hamilton, Hayes, Chelsea; Hayford, Heal,

Hobbs, Hodgkins, Holmes, Houghton, Hutchinson, Jewett, Johnson, Jones, Jordan, Cape Elizabeth; Jordan, Westbrook; Keef, Knight, Lamson, Leathers, Leland, Littlefield, Lord, South Portland; Lord, Wells; Ludgate, Macomber, Maher, Martin, McDonald, McIlheron, Melcher, Morrison, Morse, Bath; Nadeau, Nevins, Newcomb, Nickerson, O'Connell, Overlock, Perry, Phillips, Pierce, Pinkham, Piper, Plummer, Ramsdell, Ranney, Reed, Rogers, Rowell, Sanders, Sayward, Siddall, Small, Smith, Sparrow, Staples, Stevens, Stitham, Story, Stratton, Sturgis, Teague, Thomas, Ch'ville; Thomas, Leeds; Tilden, Towne, Weeks, White, Whitney, Williams, Wills, Wing, Winn—114.

ABSENT:— Bartlett, W'ville; Belliveau, Bisbee, Boulter, Clarke, Douglas, Drake, Farley, Fickett, Hallett, Hammond, Hayes, Gorham; Jacobs, Keene, Kitchen, Moody, Morse, Greene; Nichols, Oakes, Owens, Palmer, Pendleton, Perkins, Saunders, Smith, Storm, Tarr, Winslow, Wood—29.

The SPEAKER: Seven having voted in the affirmative and 114 in the negative the veto is sustained.

The SPEAKER: The Chair now presents a veto from the Governor, out of order, which the Clerk will read.

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA

March 9, 1923.

To the Honorable Senate and House of Representatives of the 81st Legislature:—

I return herewith without my approval

RESOLVE, to Place the Flags of Maine in the World War in the Hall of Flags.

This Resolve would have been in order and I should have gladly given it my approval had it not been that the placing of the flags already has been attended to by the Governor and Council and there is no need of action being taken by the Legislature.

More than a year ago I formulated plans to procure two flag cabinets in which to place the battle flags of the Spanish War and of the World War. It took me some time to get the plans drawn and to place the contract. All details, however, were attended to and the order placed for

the cabinets several months ago, notice of which was published in the newspapers. I am daily expecting the arrival of the cabinets and hope they will come before the Legislature adjourns so that the Senators and Representatives may see that the flags have been cared for properly by the Governor and Council.

Respectfully submitted,

(Signed) PERCIVAL P. BAXTER
Governor of Maine.

Mr. GRANVILLE of Parsonsfield: Mr. Speaker, I move that the veto message lie on the table, and be specially assigned for Tuesday, March 13.

Mr. NADEAU of Biddeford: Mr. Speaker, I rise to speak on an assignment—

The SPEAKER: A motion to table is not debatable. A motion to specially assign is debatable. Does the gentleman wish to talk on the motion to specially assign?

Mr. MAHER of Augusta: I rise to a point of personal privilege.

The SPEAKER: Will the gentleman state his point?

Mr. MAHER: I should like to know what the veto is about.

The SPEAKER: Will the gentleman from Parsonsfield, Mr. Granville, withdraw his motion?

Mr. GRANVILLE: I will.

The SPEAKER: Is it the pleasure of the House that the gentleman be accorded the privilege of withdrawing his motion.

The unanimous consent being given, the motion was withdrawn.

The SPEAKER: The gentleman from Augusta, Mr. Maher, asks that the veto message be read. Is this the pleasure of the House?

The motion prevailed.

(The Clerk reads veto message)

On motion by Mr. Nadeau of Biddeford, the resolve and veto message were tabled, and specially assigned for Wednesday, March 14.

Mr. BAKER of Steuben: Mr. Speaker, I rise to a question of privilege. Word has been received by me that our esteemer brother, Mr. Smith of Ludlow, is to bury his mother, probably this afternoon, and I thought it would be in keeping with our former policy to have our Clerk send a telegram of sympathy

to the gentleman in the great loss which has come to him.

On motion by Mr. Baker of Steuben, the Clerk was instructed to send a telegram of condolence as above statement which was adopted by a rising vote.

On motion by Mr. Tilden of Hallowell, it was voted to take from the table, resolve in favor of State School for Boys for maintenance,

tabled by that gentleman yesterday, pending second reading, and on further motion by the same gentleman, the resolve was re-committed to the Committee on State School for Boys, State School for Girls and State Reformatories.

On motion by Mr. Baker of Steuben,

Adjourned until tomorrow morning at ten o'clock.