

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Special Sessions

OF THE

Ninety-Eighth Legislature

OF THE

STATE OF MAINE

October 28, 1957

January 13, 1958

May 6, 1958

DAILY KENNEBEC JOURNAL

AUGUSTA, MAINE

SENATE

Wednesday, January 15, 1958.

Senate called to order by the President.

Prayer by Rev. Victor P. Musk of Augusta.

On motion by Mr. Hall of York, Journal of yesterday read and approved.

**Senate Committee Reports
Ought Not to Pass**

Mr. Butler from the Committee on Judiciary on Bill, "An Act relating to Municipal Borrowing in Anticipation of Taxes." (S. P. 653) (L. D. 1661) reported that the same Ought not to Pass.

Mr. Martin from the Committee on Legal Affairs on Bill, "An Act Creating a Planning and Zoning Board for the City of Lewiston." (S. P. 651) (L. D. 1665) reported that the same Ought not to Pass as Covered by Other Legislation.

(On motion by Mr. Lessard of Androscoggin, tabled pending consideration of the report.)

Which reports were read and accepted. Sent down for concurrence.

Referred to Next Legislature

Mr. Cole from the Committee on Highways on Bill, "An Act Relating to Directional Signs at the Falmouth Spur, So Called." (S. P. 654) (L. D. 1658) reported that the same be referred to next Legislature.

(On motion by Mr. Lessard of Androscoggin, tabled pending consideration of the report.)

Which report was read and accepted.

Sent down for concurrence.

Ought to Pass

Mr. Parker from the Committee on Highways on Bill, "An Act Allocating Eight Hundred and Fifty Thousand Dollars from the Highway Bond Issue Proceeds to Highway Construction for the Fiscal Year 1958-1959." (S. P. 656) (L. D. 1657) reported that the same Ought to Pass.

Mr. Carpenter from the Committee on Inland Fisheries and Game on Bill, "An Act Regulating Fishing in Reclaimed Waters." (S. P. 655)

(L. D. 1659) reported that the same Ought to Pass.

The same Senator from the same Committee on Bill, "An Act Relating to Rules and Regulations of Department of Inland Fisheries and Game." (S. P. 659) (L. D. 1669) reported that the same Ought to Pass.

Mr. Woodcock from the Committee on Judiciary on Bill, "An Act Relating to Liberation of Convicts Unable to Pay Fine or Costs." (S. P. 645) (L. D. 1660) reported that the same Ought to Pass.

Mr. Reed from the Committee on Legal Affairs on Bill, "An Act Relating to Castle Hill - Chapman - Mapleton Community School District." (S. P. 648) (L. D. 1662) reported that the same Ought to Pass.

Mr. Charles from the same Committee on Bill, "An Act to Ratify and Make Valid the Incorporation of the Winter Harbor School District." (S. P. 650) (L. D. 1664) reported that the same Ought to Pass.

Mr. Butler from the Committee on Natural Resources on Bill, "An Act Relating to Wesserunsett Lake." (S. P. 647) (L. D. 1666) reported that the same Ought to Pass.

Mr. Davis from the Committee on Retirements and Pensions on Bill, "An Act Relating to Survivor Benefits for Local Participating Districts under Retirement Law." (S. P. 646) (L. D. 1667) reported that the same Ought to Pass.

Which reports were severally read and accepted, the bills read once and under suspension of the rules, were read a second time and passed to be engrossed.

Ought to Pass—as Amended

Mr. Lessard from the Committee on Appropriations and Financial Affairs on Bill, "An Act Relating to Cost of Relocating Utility Services of Towns." (S. P. 657) (L. D. 1656) reported that the same Ought to Pass as amended by Committee Amendment A.

Mr. Low from the Committee on Education on Bill, "An Act Relating to Educational Aid and to Clarify the Procedure of the Reorganization of School Administrative Units." (S. P. 658) (L. D. 1637) reported that the same Ought to Pass as amend-

ed by Committee Amendment A (L. D. 1673)

(On motion by Mr. Sinclair of Somerset, tabled pending consideration of the report.)

Mr. Martin from the Committee on Legal Affairs on Bill, "An Act Amending the Charter of the City of Biddeford." (S. P. 649) (L. D. 1663) reported that the same OUGHT TO PASS as amended by Committee Amendment A

Mr. Farley from the Committee on Towns and Counties on Bill, "An Act Relating to Loans by Franklin County." (S. P. 652) (L. D. 1668) reported that the same OUGHT TO PASS as amended by Committee Amendment A

Which reports were severally read and accepted and the bills read once. Committee Amendments A were read and adopted, and under suspension of the rules, were read a second time and passed to be engrossed. Sent down for concurrence.

On motion by Mr. Lessard of Androscoggin, the Senate voted to take from the table bill, "An Act Creating a Planning and Zoning Board for the City of Lewiston" (S. P. 651) (L. D. 1665) tabled by that Senator earlier in today's session pending consideration of the committee report.

Mr. BOUCHER of Androscoggin: Mr. President, a compromise bill, or a redraft of this bill and a similar bill in the House was consented to by both parties, so I am willing to accept this report.

On motion by Mr. Boucher of Androscoggin, the "Ought not to pass as covered by other legislation" report of the committee was accepted.

Sent down for concurrence.

On motion by Mr. Lessard of Androscoggin, the Senate voted to take from the table bill, "An Act Relating to Directional Signs at the Falmouth Spur" (S. P. 654) (L. D. 1658) tabled by that Senator earlier in today's session pending consideration of the committee report (that the same be referred to the next legislature.)

On motion by Mr. Boucher of Androscoggin, the bill was retabled pending consideration of the committee report and was especially as-

signed for later in today's session.

The PRESIDENT: The Chair would note that the answers to the questions requested in the advisory opinion relating to the Sinclair Bill arrived up here about 9:15 and are now in the process of reproduction. The Chair suggests that before the bill is taken from the table the Senate may wish briefly to see that before acting on the first tabled and unassigned matter.

On motion by Mr. Low of Knox, recessed to the sound of the gong.

After Recess

The Senate was called to order by the President.

On motion by Mr. Sinclair of Somerset, the Senate voted to take from the table bill, "An Act Relating to Educational Aid and to Clarify the Procedure of the Reorganization of School Administrative Units." (S. P. 658) (L. D. 1637) tabled by that Senator earlier in today's session pending consideration of the report.

Mr. SINCLAIR of Somerset: Mr. President and members of the Senate, I am sure you all have on your desks the opinion of the justices of the Supreme Judicial Court, and I hope you have had an opportunity to read the decision over.

As you will see from the report, the bill as presented, L. D. 1637, does not violate any of the principles of the Constitution.

I would like to take this opportunity to point out that the special joint committee made some changes in the bill. I think you are familiar with those changes. The bill in its present form is much more operative than the original bill was, the bill that was accepted by the legislature and signed by the Governor at the last session. There are a few things that have been changed and I would like to point out one or two of them.

In the matter of community school districts, a group of communities can combine together to form a community school district. There are seven in all in the State of Maine, one is primarily a community school district, the others include secondary school districts.

This group of school districts felt that they were entitled to some consideration inasmuch as they took what they thought was a forward step when they created the community school district. Some of them can not qualify under the original bill inasmuch as they could not get the 300 secondary school pupils. It was the feeling of the joint committee studying this bill that they were entitled to consideration, and in this bill it does give the commission the authority to approve a community school district as an administrative district provided they meet all the other qualifications.

The principal changes in the bill involve the setting up of machinery and the mechanics for the creation of the larger administrative districts.

I am not a lawyer, but I worked very closely with Roger Putnam of the Attorney General's Department, who spent a great deal of time on this matter. He felt that the provisions and the form for creating the district conformed to the general statutes, municipal law and so forth. We have also had the opinion from the Court.

Mr. President, I move that the report of the committee be accepted.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Somerset, Senator Sinclair, that the Senate accept the ought to pass if amended report of the committee.

Mrs. SILSBY of Hancock: Mr. President and members of the Senate, I am not in opposition to this bill in some parts. As a matter of fact I support some parts of this bill. I have every consideration for the teachers, and the boys and girls who attend the schools. There isn't anyone who has any more respect for the teacher and the pupil than I have. My only purpose in discussing this bill at this time is because maybe I am thinking wrong but maybe I have some suggestions that might be helpful to the legislature in making this bill more equitable, more applicable to the circumstances and the geographical setup of this state.

I would have liked very much to have gone down before the Committee on Education yesterday and made my discourse there but either

er fortunately or unfortunately for the committee and for other citizens of the state, I had a lot of work that I felt demanded my attention in the Judiciary Committee. I felt it is only fair to the people of the state whom I represent, that I give you my feelings before this bill is accepted, to the end that maybe some amendments could be added.

Now there are certain principles of law and these principles have come down through the ages and they are principles and rules of law that have been applied in many circumstances and I think that I ought to call your attention to some of these principles and rules of the law to the end that perhaps we could make this bill more workable. There are also certain Constitutional rights that we have as citizens and I think perhaps I might mention some of those also. This bill contains, or the original bill contained, — and I think the number of the original bill was 1478 — fifty two pages. The amendments to this bill that we have before us contains thirty pages. I say to each and every one of you that I have had great difficulty in my humble capacity to put the bill together. I can't do it. I can't read into the bill 1478, the amendments to the bill we have before us which is 1637. I don't understand it. I can't apply it. I have asked some questions and some of my questions have been answered by some authority and my answer that I have received was this: "The point is well taken, but we have got to start." Why should we start. We are here in session. Why should we detour these matters that we know are not applicable to the geographic setup of the state. Aren't we here for this purpose, to work out the very best bill that we can possibly work out with all of us thinking together, each and everyone of us offering or making some contribution. I for one, with my experiences in life find that in complicated matters there are always some who can make contributions and with the benefit of contributions, I try to rearrange things accordingly and that is the reason I am standing here on my feet laying the foundation for what

I expect to say and if I can make some contribution then my efforts have not been in vain. I do not want to leave this legislature, even though it may take a few more days than we want, to go back home and say to my constituents, "Yes, your point is well taken but we did not have time to work it out." So much for that.

The constitutional aspects of this bill have been taken care of and I have no quarrel with that. I am glad that we have the opinion of the Supreme Judicial Court. That is a step in the right direction but the Supreme Judicial Court has not passed upon the legal aspects. They have passed only upon the constitutional aspects. They cannot adjudicate the conflicts of law until such time as some municipality or the district in itself has gone ahead on the assumption that they have interpreted the bill correctly and then they are told they might not be legally bound because of lack of authority, and the Court through the proper mechanics has the right to adjudicate the legal question.

Now, since the conception or the organization of this state, it is a rule of law that municipalities can do nothing more than what the constitution and the law of the state says they may do. That cannot be denied. You and I as citizens can do anything that the statutes and the Constitution do not say we cannot do. Now, applying that for just a moment, isn't it important to the municipalities of this state and to the citizens of this state and to the taxpayers of this state and to the children attending the schools that the municipalities have the authority to do what we want this bill to do? I say to you, from my examination of this bill, it does not give them that authority. It is not there. I am not criticising. I think that the persons who put together the intent and objectives of this bill have done a splendid job and I concur, and I think the person who had the legal aspects of this has done a good job for the time he had to do it in. I know from experience as I have worked with my undertakings in my profession, it is easy for me to overlook some little minor principle because I was

thinking too deeply and if I had had the opportunity or privilege of working on this bill, I will admit that no doubt I would have seen the obvious and I would welcome anyone in this Senate to stand up and point out to me some of the points I had missed. So much for that.

In regard to delegating authority that cannot be delegated. There is an exception. We can in some instances delegate authority with certain limitations, and I am speaking of municipal law. There is another principle we are all very well aware of that in order to delegate authority with limitations you must have authorization and you must have appropriation. If you have got authorization without appropriation you have no authority. If anyone of you people give me a particular matter to perform for you, that demands the dollar and you do not give me the appropriation, I cannot do it, and by the same token, if you give me the appropriation and not the authorization I cannot do it. And in this bill there are places where we have authorization without appropriation and vice versa.

Now with those matters in mind and with those principles let's examine the bill just briefly. I am not going to tire you out, you have listened to me too many years and too many times. I will speak briefly.

I just want to call your attention to just a few facts and hope I might excite your enthusiasm to consider them. Again in municipal law and in our mercantile corporation law we as individuals are entitled to our day in court. We are entitled to the opportunity to be heard especially when our property and our dollar is involved. Whether it is a tax dollar or not is immaterial. We have a right to be heard. I could not sue any one of you unless I gave you a proper summons, a proper notice so that you would have the opportunity to be heard. Those are elementary principles and must be considered.

Now I turn to Page 15 of document 1637 and down about half way in Section 111 L "also before March 1st of each year the school directors shall hold a district bud-

get meeting." Now I call your attention to that particular sentence. Some time before March first, the district is going to have a budget meeting and you and I as taxpayers, what kind of a notice are we going to receive? Who is going to give us any information? I go back to the principle again. This district meeting has attached to it a tax dollar. It has our property involved. Now Section 111 S. Let's turn to the bottom of Page 18, Section 111 S. "District Budget Meetings." Now notice the language, "When it is necessary to hold a district meeting to approve the operating school budget the school directors shall be authorized to call such meeting as follows". That is not the budget meeting. That is a special meeting and they spell out the terms. The obvious is sometimes overlooked but if this bill had had after the words on page 15, Section 111 L "also before March 1st of each year the school directors shall hold a district budget meeting with notices hereinafter provided", I would have no quarrel but I do quarrel with that point and I would have liked to have gone down with my good friend Senator Seth Low yesterday and voiced my objections as I said before.

Now again, as you read the bill you will find, there are certain things you will find, that they can do by special meeting but they cannot do it at an annual meeting because the bill does not say so and this is a quasi municipal corporation which means that it is partly private and partly sovereign. It seems to me that those inconsistencies should be taken care of so that we, if you please, will not be criticized for not performing and taking care of the obvious.

Now there are other parts of the bill that indicate very strongly certain inequities. Well, if we know of these inequities, at least we can anticipate the challenge and make an effort to correct them. But I simply say there is nothing I can do about it. I admit it, I am not going to do anything about it. I am not going to play that kind of baseball; I can't do it.

Now there are certain penalties, and there are many other matters. I will cite you a few in particular.

I think you will find in the bill — I do not find the place at the moment but I am sure it is there—that after the administrative district is formed that certain conveyances will be made by the municipality to the district. How is the municipality going to convey and give legal title to any of its real property without a vote of the inhabitants? That has been the law since kingdom come. It has been specifically spelled out and any lawyer that practices law or has had opportunity to advise municipalities is just as familiar with Munson vs Tripp as I am. It is the rule that prevails. They must have authority, because we as citizens have never delegated it — and thank God we never can. We have the right to be heard and say whether the officials of our municipality can sell our property which we have a vested right in as citizens of our town. Find that in this bill! Shouldn't it be there? I ask you. What is a bonding house going to say when they are presented with this bill and money has got to be borrowed? There is no question in my mind that certain monies have got to be borrowed. There is no question in my mind but what there have got to be certain obligations and bond issues. That is our job and no one else's. It is up to us.

Now I could go on. I am not happy with my position. I have been called a wrecker. I am not trying to wreck, I am trying to construct and give our boys and girls and our teachers the money. The money that is available I want them to have, every dollar of it, but I want to be sure they can get it.

One thing more and I will sit down. We have had numerous hearings. My good friend, the Senator from Knox, Senator Low and I have had a great many heated arguments over my defense of rural areas. I was born and reared in one, I am proud to say. Can you blame me for defending them? Someone has got to fight for them, and there has to be some rule in this bill somewhere for them, because they are strictly victims of circumstances.

We all know, each and everyone of us, we cannot deny it, we know

that we have got certain areas that cannot benefit under this bill. We know that they are not so financially situated as to be able to raise the necessary money. We know that we have towns with such a valuation and with a small group of children that they are going to be in the 18 per cent bracket. That is a technical matter in the bill. But we also know practically that they are the most needy of all. What have we done about it?

We have said, "You can have your bite of this additional subsidy money for the first year but you cannot have it the second year unless you can meet the foundation program, and we know they cannot meet it. Is that fair? Is that equitable? I say to you, "No, it is not," and that it is up to us to make it equitable. It is our duty to do so. It is a very solemn duty. The rich can always look out for themselves as to dollar value but the poor cannot; and it is the unfortunate that we have to hold our hand out to.

Now that can be corrected. I have a limited education, but I am sure that I could work that out. I know it will be said that there is a price tag on it. There is. There is a price tag on the whole bill. But they are taxpayers, they are citizens, they have a right to their part and they should not be penalized above all for not being able to meet it; and the penalty is, as I read the bill, that in your second year you can only have half of your increase. It does not seem to me that it would be very difficult to say in substance, "Qualify the circumstances," and permit them to carry on. We cannot forget them and we must not. They are few, but they are victims of circumstances, persons that you and I every day of our life, every morning practically when we open our mail, we find demands for contributions, and yet they are victims of circumstances. We have got some municipalities in each and every one of our sixteen counties that are in the same circumstances. We say to them, "It is a special session, we haven't got time to look at it.

I hope that in my remarks I have not demonstrated too high a degree of ignorance, that I won't be labeled a sentimentalist. There are many

things more I would like to say but I have troubled you long enough. I haven't any motion to make, I haven't any amendment to offer. I hope that perhaps some of the points and the objections I have raised may be worthy of consideration to the extent that perhaps certain amendments can be made to the bill. There are others. Time is not of the essence. If I have made any contribution I am thankful; if I have made none, I am sincere.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Somerset, Senator Sinclair, that the Senate accept the "Ought to pass if amended" report of the committee.

Mr. BUTLER of Franklin: Mr. President and members of the Senate; It was my pleasant fortune to serve on the committee which attempted to redraft this bill. At the hearings which we held I do not feel that the committee itself had the opportunity — I know I did not — of bringing out certain things to which we objected. If those things were objected to they were still overruled.

I call to your attention one point which is introducing a new philosophy into our way of life, and that is at the top of Page 16 where we are coming into a budget. At the present time if the town does not approve the school budget the voters work out something, and yet in this bill the school district authority are presenting a budget and if the people in that district do not want the budget as presented and are unable to agree upon a budget it is then provided, automatically and against anything we have ever had before in our form of government, that the budget which has been presented and drawn up by the school district authority shall be the budget. That is definitely introducing a philosophy different from what we have ever had before. It could be stated that it was expedient, that it was necessary to have a budget for the schools to continue to operate, and yet since 1820 we have gone along. Here we in this legislature are saying that the budget that is drawn up, the budget that is presented to us is the budget; we are telling the people that is so. This is a philosophy which I think

is leading us further down the road to socialism and to a point further than we have heretofore trod.

When we come to the mechanics of calling our meetings, I feel too that there is ambiguity. There is reference to other sections of the law which must be adhered to in order to comply; there are phases which indicate that certain things must be done regardless of whether it is the law or is not the law, and that is introducing a new philosophy. And so, while the intent is good, I do feel that there are hidden things which in themselves will cause trouble and which will necessitate clarification before this bill is in working form.

I thank you for your attention. I too have no amendment to offer, but I am disturbed by the bill in its present form.

Mr. SINCLAIR of Somerset: Mr. President and members of the Senate: I rise merely for clarification and discussion of some of the things that have been said.

I have a great deal of respect for the position taken by the Senator from Hancock, Senator Silsby, and also the Senator from Franklin, Senator Butler. There are one or two things I think should be said at this time because later on I may forget them or they may be last.

The Senator from Franklin, Senator Butler, spoke about the meetings that the joint committee had. I will be the first to agree with him when I say there was a great deal of work to be done at these committee meetings. We had a tremendous job in going over the rules and regulations for setting up the administrative district and having it in good operating order. Of course objections were raised, and they were overruled, as the good Senator has said. We had a very good group and I thought we discussed things very thoroughly. They definitely did leave with me as Chairman of the Committee the authority to work out with Mr. Putnam of the Attorney General's Department certain details. I will take the responsibility for that.

As I said before, I am not a lawyer and I may be at a disadvantage here in trying to answer the eminent lawyers from Hancock County and

Franklin County, but I will say that every detail in this bill I have gone over with Roger Putnam. The committee gave me that authority rather than having another meeting. The issue seemed to be of a minor detail which involved the law and working out various details of setting up the district to conform to the municipal law and so forth. I did work those out with the Attorney General's Department.

In reference to the budget that the Senator from Franklin, Senator Butler, has referred to, beginning on the bottom of Page 16, I would like to read about the middle of the paragraph, Page 15, Section III-L, which says, "Also before March 1st of each year, the school directors shall hold a district budget meeting. At this meeting the budget shall be thoroughly explained and the voters of the district shall be given an opportunity to be heard. A budget must be approved by the voters of the district at the district budget meeting."

I would like to stop there and say we gave considerable thought to that so as to forego any opportunity that someone might have of tabling the budget that was presented and, by devious means, continue the tabling of the proposed budget to a point beyond April 1st or beyond the point where assessments could be made by the various communities. So we put that statement in there: "A budget must be approved by the voters of the district at the district budget meeting." It did not say the budget had to be approved. You do the same thing with your school committees today. The school committee presents a budget to the town meeting; the inhabitants of the town have the right to raise, lower or accept that particular budget. The same thing would apply here, but we felt the budget must be approved.

We go on further and say; "At the district budget meeting, only those items dealing with the expenses necessary to operate the School Administrative District shall be subject to change by the voters. If a budget for the operation of the Administrative School District is not approved prior to April 1st in any given year, the budget as submitted by the school directors for opera-

tional expenses shall be automatically considered the budget approved for operational expenses in the ensuing year."

Now the schools must be operated, and if the inhabitants can not approve a budget then the budget as presented becomes the accepted budget. Now there is forewarning given. I cannot visualize any troup of responsible citizens or representatives not approving a budget for the operation of the schools.

Now in regard to the setting-up of the district, I will grant that it may be confusing to many of us because of the number of meetings that have to be called, but we must think in terms of an administrative district which does involve a number of communities. We do not want to take away the right of the individual, or the right of those communities in any shape or manner, but it is necessary to call certain meetings, town meetings, district meetings, meetings of the school directors, superintending school committees and so forth, in making this transition. And here again I will plead guilty, because I felt I had faith in the member of the Attorney General's Department who was drawing up these forms for the creation of the district, that he knew the references in regard to municipal law and so forth; I felt that he was adequately trained, and I am sure that he gave a great deal of work and thought to it.

I respect very much the remarks that were made by the Senator from Hancock, Senator Silsby. I discussed this bill with him at times and I can appreciate his position. I do feel, however, that we come back to this legislature year after year—we are back in special session—and I notice many amendments are offered for clarification of bills that were previously passed. The same thing can happen here. I am just as sure as can be that this particular document is not going to solve everybody's problems. It is impossible to even list or consider the number of situations that are going to arise throughout the State. But there is nothing in this bill that is making it bad for those communities that are in a position or could very quickly be in a posi-

tion to form an administrative district. If there is some reason why a group of communities can not form a district as of this particular minute, I see no reason why amendments can not be made later. Believe me, I do not want to rush this thing through and prevent anyone from having the opportunity of thoroughly understanding it or offering amendments and so forth. But there are many communities in certain areas that are ready to go now, and it will be a great advantage to them, I am sure, because they have already indicated their interest in creating this district. There are some communities that cannot qualify and there are groups of communities that cannot qualify now, but perhaps they can qualify later. I think it is too early to say it is impossible to create a district in a particular area. It may take some education, it may take some further understanding, but this cannot be done overnight. I do not think it is possible to write a bill where you can stop here and start the next morning with a completely new system. It is going to take time.

I think there are many, many advantages for the poorer communities in this bill.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Somerset, Senator Sinclair, that the Senate accept the "Ought to pass if amended" report of the committee.

Mr. SILSBY of Hancock: Mr. President, may I make a parliamentary inquiry?

The PRESIDENT: The Senator may.

Mr. SILSBY: Mr. President, would a motion to recommit have precedence over the motion to accept the committee report?

The PRESIDENT: The Chair would note as a personal opinion that the Senator from Somerset, Senator Sinclair, would extend to the Senator from Hancock, Senator Silsby, the courtesy of asking consent to withdraw his motion. Is there objection to the Senator's request? The Senator from Somerset, Senator Sinclair, has withdrawn his motion and a motion to recommit is in order.

Mr. SILSBY: Mr. President and members of the Senate: I feel it only fair to myself and perhaps to the committee. I have no purpose of delay, but if through my remarks I have made any helpful suggestions, which I admit should have been made yesterday, it could be that some of the objections could be ironed out in committee, and thereby we would accept our challenge to do the job that we are here to do.

Mr. President, I move that the matter be recommitted to the Committee on Education.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Hancock, Senator Silsby, that the bill and accompanying papers be recommitted to the Committee on Education. The Chair will note that the motion is debatable.

Mr. FARLEY of York: Mr. President and members of the Senate: I am going to vote against the motion of the Senator from Hancock, Senator Silsby.

After listening to the Senator from Hancock, Senator Silsby and the Senator from Franklin, Senator Butler, you may realize that this bill has created a lot of trouble in the last few months in York County, but none of the questions which have been brought up by both Senators have been raised in the York County delegation, who are opposing some portions of the bill. Previously everybody seemed to be for the Sinclair Bill — "but." I didn't get much of an opportunity to find out what the "but" really was.

I want to say to this Senate that I do not know of anybody from the Governor down to the President of the Senate, Senator Low and Senator Sinclair—when I had occasion all last winter to be a member of the "hush-hush" committee, as we were called—but who gave of their honesty and sincerity to help the educational system of the State of Maine. I was proud of them. Being a graduate of the public schools, I wish to say that it was one of the best educations I ever received in my life, as I only went as far as the ninth grade. These men should be commended for what they are attempting to do.

There is no law that you can make perfect, and there are a great

many laws some people like to wink at and pass by. These men should be given credit. Everybody in the State of Maine seems to be behind the Sinclair bill, but I think we are getting away from one part of it. Senator Sinclair simply fostered a bill without the appropriation of \$25,000 to survey the school system of the State of Maine under the Jacobs' report, and he took the bill from there and he has carried the ball. He has been called a Communist, and the Lord knows what he has not been called. I think he has done a wonderful job and I know he has given a lot of time and energy in trying to do something for education in the State of Maine.

Now to get back to York County. A situation arises in the town of Sanford where they do not like the high quota of 700 and they want to drop it down. They do not have 700 resident students in the town of Sanford but they have over 700 transients, from Waterboro and so forth; but they do not want to come in on the 200 non-resident students. They want to get into the category where they can get a bonus to build a school. As I understand the Sinclair bill, it is not going to change the whole educational set-up of the State of Maine but I think it is a start. I do not think they are right in the town of Sanford in attempting to secure a bonus when it really should go to the small towns. If you are going to give them a bonus where are you going to get the money? We had the courage of our convictions to vote to increase the sales tax by one cent, and I feel that we should have that same leadership.

In Saco we have the same situation. The City of Saco does not have a high school but it has Thornton Academy, a fine school, and the community pays for the pupils out of their appropriation, for each child that goes to that school. We have another one, I was told day before yesterday, in South Berwick, Berwick Academy, where they find themselves in the position of paying. If Sanford really wanted to, they could tie up with Alfred or Waterboro or some other place, but they really do not want to do it.

As I said, loyalty may be the price you have to pay, but none of these questions have been brought up here by Senator Butler or Senator Silsby. At no time have they appeared on the surface in York County except in their trying to get away from that high figure of 700 so they can get a bonus for building a school.

On the motion to recommit, I am going to vote against the Senator from Hancock, Senator Silsby.

Mr. HILLMAN of Penobscot: Mr. President and members of the Senate: It has been very interesting for me this morning to sit here and listen to this discussion. When the bill was introduced last winter it was a revolutionary measure, one which required much study, which study was given to it, and we are here in special session to do just that. I do not think we have amendments that can be attached to the bill to improve it and do a better job. I think we had better take a few hours if necessary and give it further study. I will support the motion made by the Senator from Hancock, Senator Silsby, because I think we should give that consideration to improve the bill.

On motion by Mr. Low of Knox, recessed until 1:30 P. M.

After Recess

The PRESIDENT: The question before the Senate is on the motion of the Senator from Hancock, Senator Silsby, that Legislative Document 1637 Bill, An Act Relating to Educational Aid and to Clarify the Procedure of the Reorganization of School Administrative Units, be recommitted to the Committee on Education.

Mr. LOW of Knox: Mr. President and members of the Senate: In order to sell any bonds, whether they be State, municipal or even corporate bonds, it is necessary to have an opinion, a legal opinion, stating that those bonds were legally issued, and there has grown up a group of firms who specialize in writing such opinions. Naturally they have to be extremely careful that their opinions are correct.

The whole of the present Sinclair Bill was referred to a firm called Mitchell, Pershing in New York City, who are specialists in that work, and we have received from them an absolute clear light to go ahead and sell bonds under that bill. They are counsel for the School Building Authority and they have done a great deal of that kind of work. I think this bill can be improved sometime, but I think it is going to be very difficult to improve it at the present time. I believe that we can improve it only as we use the law and find out from experience what should be done. I believe that referring this bill back to the Education Committee will result in confusion and very little good. I therefore move, Mr. President, that the motion to recommit the bill be indefinitely postponed.

The PRESIDENT: The Senator from Knox, Senator Low, asks the permission of the Senate to withdraw his motion. The question before the Senate is on the motion of the Senator from Hancock, Senator Silsby that the bill be recommitted. The Senator from Knox, Senator Low, may wish to state his position on that motion.

Thereupon, a division of the Senate was had.

Six having voted in the affirmative and 23 opposed, the motion to recommit the bill did not prevail.

The PRESIDENT: The question now before the Senate is on the motion of the Senator from Somerset, Senator Sinclair that the ought to pass if amended report of the committee be accepted.

A viva voce vote being doubted by the Chair

A division of the Senate was had.

26 having voted in the affirmative and 3 opposed, the motion prevailed, the ought to pass as amended report was accepted and the bill read once; Committee Amendment A was read and adopted, and under suspension of the rules, the bill was given a second reading and passed to be engrossed.

Sent down for concurrence.

Communication

Out of Order
STATE OF MAINE
SUPREME JUDICIAL COURT
AUGUSTA

Robert B. Williamson
Chief Justice

January 15, 1958

Honorable Chester T. Winslow
Secretary of the Senate
State House
Augusta, Maine

Dear Mr. Winslow:

There is enclosed the Answer of the Justices to the Questions of January 13, 1958, relative to "An Act Relating to Educational Aid and to Clarify the Procedure of the Reorganization of School Administrative Units." (L. D. 1637)

Respectfully yours,

(Signed) ROBERT B. WILLIAMSON
Enclosure:

As stated.

Which Communication was read and ordered placed on file.

Order

Mr. Dow of Lincoln presented the following Order:

ORDERED, the House concurring, that a joint select committee, two (2) on the part of the Senate and three (3) on the part of the House, be appointed by the respective presiding officers to study problems related to methods and costs of distribution of automotive fuel and heating oils and the pricing thereof in the State of Maine.

This committee shall report by bill, resolve or otherwise such findings and recommendations as they may desire to make to the next regular session of the Legislature.

The committee so appointed may be reimbursed for actual expenses and expenses so reimbursed shall be charged to legislative expense. The amount of expense reimbursement shall not exceed the sum of \$250.00.

On motion by Mr. Low of Knox, tabled pending passage and especially assigned for later in today's session.

On motion by Mr. Low of Knox
Recessed to the sound of the gong.

After Recess

The Senate was called to order by the President.

Ought to Pass

The Committee on Appropriations and Financial Affairs on Bill, "An Act Providing for the Construction of an Addition to the Central Heating Plant at the University of Maine." (H. P. 1129) (L. D. 1642) reported that the same Ought to pass.

The same Committee on Bill, "An Act to Allocate Moneys to Effectuate Salary Plan for Liquor Commission Employees." (H. P. 1128) (L. D. 1641) reported that the same Ought to pass.

The same Committee on Bill, "An Act Appropriating Additional Funds for Relocating Facilities in Federal-Aid Interstate Highway Projects." (H. P. 1143) (L. D. 1643) reported that the same Ought to pass.

The Committee on Judiciary on Bill, "An Act to Ratify and Confirm the Incorporation of Free Library Association of Kennebunk, of Kennebunk in the County of York." (H. P. 1139) (L. D. 1653) reported that the same Ought to pass.

The same Committee on Bill, "An Act to Ratify and Make Valid the Incorporation of the Hebrew Synagogue Society of Portland, to Change its Name to Congregation Shaarey Tphiloh and for Other Purposes." (H. P. 1138) (L. D. 1652) reported that the same Ought to pass.

The same Committee on Bill, "An Act Increasing Payments to Andros-coggin County Law Library." (H. P. 1145) (L. D. 1670) reported that the same Ought to pass.

The Committee on Legal Affairs on Bill, "An Act to Set Off Part of Town of Benedicta to Town of Sherman." (H. P. 1134) (L. D. 1648) reported that the same Ought to pass.

The Committee on Public Utilities on Bill, "An Act Relating to Sources of Supply and Purposes of Yarmouth Water District." (H. P. 1141) (L. D. 1638) reported that the same Ought to pass.

The Committee on State Government on Bill, "An Act Relating to Representation in Legislative District for Town of West Paris." (H. P. 1136) (L. D. 1650) reported that the same Ought to pass.

The Committee on Towns and Counties on Bill, "An Act Creating a Five Member Superintending School Committee in the Town of Scarborough." (H. P. 1137) (L. D. 1651) reported that the same Ought to pass.

Ought to Pass in New Draft

The Committee on Judiciary on Bill, "An Act Relating to Loans to Minors for Higher Education." (H. P. 1131) (L. D. 1645) reported same in New Draft, (H. P. 1146) (L. D. 1671) under the same title and that it Ought to Pass.

The Committee on Legal Affairs on Bill, "An Act Relating to Planning Board for City of Lewiston," (H. P. 1135) (L. D. 1649) reported same in New Draft (H. P. 1147) (L. D. 1672) under the same title, and that it Ought to Pass.

Come from the House, reports accepted and bills in New Draft passed to be engrossed.

Which reports were read and accepted in concurrence, the bills in New Draft read once and under suspension of the rules, read a second time and passed to be engrossed in concurrence.

The PRESIDENT: The Chair at this time notes the presence in the Senate Chamber of a distinguished former member of this Body, a former Senator who contributed a great deal toward good government in the State of Maine, a legislative leader respected by all of us associated with him. The Chair would ask the Sergeant-at-arms to escort to the rostrum the Honorable R. Leon Williams of Clifton.

This was done amidst the applause of the Senate, the members rising.

Ought to Pass — As Amended

The Committee on Appropriations and Financial Affairs on Bill, "An Act Appropriating Moneys for Office of Director of Legislative Research," (H. P. 1132) (L. D. 1646) reported that the same Ought to Pass as Amended by Committee Amendment A (Filing No. 637)

The same Committee on Bill, "An Act Clarifying Administrative Procedure for Ferry Service for North Haven, Vinalhaven, Islesboro and Swan's Island," (H. P. 1127) (L. D.

1640) reported that the same Ought to Pass as Amended by Committee Amendment A (Filing No. 638)

The Committee on Highways on "Resolve Directing a Study Relating to a Bridge to Chebeague Island," (H. P. 1140) (L. D. 1654) reported that the same Ought to Pass as Amended by Committee Amendment A (Filing No. 634)

The Committee on Judiciary on Bill, "An Act Reimbursing Municipalities for Travel by Police Officers and Constables in Criminal Processes," (H. P. 1142) (L. D. 1655) reported that the same Ought to Pass as amended by Committee Amendment A (Filing No. 635)

Which reports were read and accepted in concurrence, Committee Amendments A were read and adopted in concurrence, and under suspension of the rules, the bills were given their two several readings and passed to be engrossed in concurrence.

Report A — OTP Report B — ONTP

Five members of the Committee on Appropriations and Financial Affairs on "Resolve Providing for Legislative Hearing Rooms, Senate Offices and Executive Offices," (H. P. 1130) (L. D. 1644) reported (Report A) that the same Ought to Pass.

(Signed)

Senators:

DAVIS of Cumberland
SINCLAIR of Somerset

Representatives:

EDWARDS of Raymond
DUQUETTE of Biddeford
WOOD of Webster

Five members of the same Committee on the same subject matter, reported (Report B) that the resolve Ought Not to Pass.

(Signed)

Senator:

LESSARD of Androscoggin

Representatives:

BEAN of Winterport
BRAGDON of Perham
DAVIS of Calais
STANLEY of Bangor

Comes from the House, Indefinitely Postponed.

In the Senate, on motion by Mr. Sinclair of Somerset, the resolve

and accompanying papers were indefinitely postponed in concurrence.

Additional House Paper:

The Committee on Highways on bill, "An Act Relating to Priority of Construction on Interstate Highway System." (H. P. 1126) (L. D. 1639) reported that the same ought not to pass.

Mr. ROGERSON of Aroostook: Mr. President and members of the Senate: Following the action of the other branch this morning, the sponsor of this measure moved that the unanimous "Ought not to pass" report of the committee be accepted. Since that time I have conferred with a number of the proponents of this measure in this branch and it appears to us that nothing constructive can be accomplished by presenting again the arguments which all of us have heard repeatedly. I feel we should take our cue from the wishes of the sponsor and concur in the action of the other body.

Mr. PARKER of Piscataquis: Mr. President, I think it is needless at this time to even discuss this bill. We have had plenty of opportunity in the last year to know everything that is in it. The only motion I am going to make is that the committee report be accepted, and I ask for a division for the record.

Mr. REED of Aroostook: Mr. President and members of the Senate: I am sure that all of you are well aware of my position in this matter, but, concurring with my good friend and colleague, Senator Rogerson of Aroostook, I likewise feel that no useful purpose will be served by our debating once again the merits of the bill. I therefore concur with the present motion.

Mr. ROGERSON of Aroostook: Mr. President, I had failed to recall that this morning the Senator from Washington, Senator Brown, was called away because of illness. Before he left he asked me if I would pair with him in voting on this measure. I now ask permission to be excused since I am paired.

The Senator from Aroostook, Senator Rogerson was excused from voting.

Thereupon, a division of the Senate was had.

23 having voted in the affirmative and 4 opposed, the motion to accept the ought not to pass report of the committee in concurrence prevailed.

The Committee on Legal Affairs on Bill, "An Act Permitting Town of Madawaska to Raise Money for Nursing Home," (H. P. 1133) (L. D. 1647) reported that the same be referred to the next legislature.

Comes from the House, bill substituted for the report and passed to be engrossed as amended by House Amendment A.

In the Senate:

Mr. MARTIN of Kennebec: Mr. President and members of the Senate: You probably know by now that this matter is slightly controversial. It seems to me the question is not whether or not we shall allow the town of Madawaska to have a nursing home, but the real question involved is whether or not the State will allow or permit municipalities in general to run nursing homes. This being the question, I will point out to the members of the Senate that this bill, like the rest of the bills before us, really had very little public advertising. As a matter of fact, I do not think this bill was listed for hearing in the State paper. I would point out what an impact it would have if all the municipalities could have nursing homes. And so, this being the question, should we not refer this, as the committee did, to the next regular session of the Legislature, have a new bill, perhaps in company with this, advertise it in the ordinary way we do business and have hearings so that the public at large may come and voice their objections.

Therefore, Mr. President, I would move that the committee report, which was unanimous, to refer it to the next legislature, be accepted.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Martin, that the Senate do accept the committee report that the bill be referred to the next legislature.

Mr. BRIGGS of Aroostook: Mr. President, I rise to propose the question of whether or not the bill was advertised for hearing in a state-

wide newspaper. I raise that question and ask anyone to answer it who is able to do so.

The PRESIDENT: The Senate has heard the question and any Senator who wishes may answer.

Mr. BRIGGS of Aroostook: Mr. President I oppose the question to the Senator from Kennebec, Senator Martin, as to whether or not it was advertised statewide.

The PRESIDENT: The Chair will state that the Senator from Kennebec, Senator Martin, presumably has heard the question.

Mr. MARTIN of Kennebec: Mr. President, in answer to the Senator from Aroostook Senator Briggs, I will say that to the best of my knowledge it was not advertised in the Daily Kennebec Journal which I think is called the State newspaper. I may be wrong and I would like to be corrected if I am.

The PRESIDENT: The Chair is extremely hesitant in making a comment on such a question as that, but the Chair believes that he was substantially responsible for such advertising as it was possible to give to special session bills under the conditions when no one, certainly not the Chair, knew until the cloture order was passed Monday night what bills were to be heard on Tuesday. The Chair did, after the cloture order was passed, take the list of bills up to the press room with the hope that at least the major bills would have coverage in at least some of the newspapers.

The Chair did not scan each of the daily papers to determine whether or not all of the major and minor bills were mentioned. The Chair can state that if the intent is to determine whether or not there was the usual paid advertisement the answer is in the negative. No paid advertisements were sent out, nor could they have been sent out until after the cloture order was passed.

Mr. BRIGGS: Mr. President, I ask unanimous consent to address the Senate briefly for a third time.

The PRESIDENT: The Senator does not need unanimous consent if his comments relate to L. D. 1647, the Madawaska bill.

Mr. BRIGGS: They do, Mr. President.

The PRESIDENT: The Senator may proceed without unanimous consent.

Mr. BRIGGS: Mr. President and Members of the Senate: The question that has been raised is perhaps a rather serious question but it seems to me that it is not as serious as it may seem on the surface inasmuch as this apparently is a frailty of the process of having special legislative sessions. I can recall, and I am sure most of you can, previous issues which could have been thought of as rather controversial in regard to which no widespread public announcement was made. I am sure of that fact because I have taken part in a spirited discussion of some of those issues. I did not feel perhaps that they had been as fully advertised as they are during the regular session when there was a paid advertisement which the President has alluded to. However, I do feel that, from my knowledge at least, that this item was accepted as one of the various presumably non-controversial items. I was apprised of it and noticed it in the State newspaper which I am most accustomed to read, and I think there was as much opportunity for persons to be apprised of this question as there has been of any other questions that came before this special session or the previous special session.

I am not, perhaps, as well versed on the question as I would like to be. I am sorry that I did not attend the hearing on the matter. However, I do feel that it is a question which has received a lot of thought in the town of Madawaska and I feel that they are anxious to have this authorization and go forward with it. I have discussed it with some of the authorities of the State government who would be most concerned with the matter and I am given the opinion that they do not oppose the bill. Therefore I would like to be recorded as in favor of the bill, and I hopefully look forward to whatever widespread support the folks of Madawaska may receive. Thank you.

Mr. LESSARD of Androscoggin: Mr. President, I understand that there is a dire need for this type of home in that area. Those are facts

I understand from people who are sponsors of this bill. I also understand this is merely permissive legislation whereby the people of Madawaska will vote at some future time on whether or not they will raise certain funds which will be matched with federal funds in order to provide this facility for them. There is some opposition perhaps among private owners of nursing homes. However, if there is such a dire need and there are no private institutions there surely the poor unfortunate people in that area should have some kind of a facility to take care of people.

I know these nursing homes do a very fine job and there is need for them, and if this area is without one and here is a town that should have one, surely it must be acceptable throughout the country because federal funds have been made available for such institutions. I think we should allow the people of Madawaska to decide for themselves whether they want this type of facility for their old and sick people in the community, therefore I oppose the motion of my good friend, the Senator from Kennebec, Senator Martin.

Mr. MARTIN of Kennebec: Mr. President, may I say very briefly that I do not wish to have any votes influenced by whether or not this bill was advertised. I would like to state that if you vote for this bill today for the town of Madawaska then by implication you are voting for the future perhaps, that all towns may engage in municipal nursing homes. For that reason, I feel that if the advertisement were made it would be misleading to the public because the question would not be properly phrased. I hope when the vote is taken that the Senate will support the committee in its desire to have the whole problem studied at the next regular session of the legislature.

Mr. BOUCHER of Androscoggin: Mr. President and members of the Senate, I can realize the objections of the committee because this would be creating a precedent whereby other cities and towns might bring in similar legislation to the next legislature, but as has been stated here I understand that there is a

dire need up there in Madawaska. We are permitting under this bill—and it is only permissive—that they may build a nursing home, a non-profit nursing home. I don't know personally what their needs are up there except what I have been told, but I do know that in Lewiston and Auburn, in Androscoggin County we have need of nursing homes; a dire need. The rates charged by individual nursing homes can't be met by most people. And there is a waiting list now at the old age home, the Marcotte Home in Lewiston of over 100 names; people are waiting for people to die so they can get into the home. I can well sympathize with Madawaska if they are in that condition.

I don't want to go into this in great detail but I do want to make this remark to impress you as to how serious this thing is. In Androscoggin County the rates as I understand it in the nursing homes are from \$25 to \$50 a week. That is the lowest prices. The Marcotte home charges \$15 a week and you can realize that a man earning an average pay of \$100 a week can't very well pay \$50 a week to take care of his old mother or his old father in a nursing home. I have had people come to my house and beg me to see the nuns at the Marcotte Home to try to get their relatives in there. They too are crowded. They have a waiting list of 100. They can't afford to enlarge because their rates are so low. I believe the day may come when the city of Lewiston will have a nursing home. There has been talk about it in years past of doing away with our city farm and turning it into a nursing home. I hope that the motion of Senator Martin of Kennebec does not prevail.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Martin, that the bill be referred to the next legislature.

Mr. BRIGGS of Aroostook: Mr. President, I ask for a division.

A division of the Senate was had.

Twelve having voted in the affirmative and sixteen opposed, the motion did not prevail.

Thereupon, on motion by Mr. Briggs of Aroostook, the bill was

substituted for the report in concurrence, and read once; House Amendment A was read and adopted, and under suspension of the rules, the bill was read a second time and passed to be engrossed in concurrence.

The PRESIDENT: It appears that all of the senate papers acted upon this morning in this Body have been acted upon in concurrence in the House and are back here having been passed to be engrossed in concurrence. That being the case, there could be substantial merit in sending all bills to the engrossing department forthwith but, if any member feels that any one of these bills should have further amendments before going to the engrossing department, in other words, reconsider engrossing and amend the bill—they should not go to the engrossing department.

Is there objection to the Senate Staff transmitting senate papers on which the two branches are in concurrence, to the engrossing department forthwith.

Mr. SILSBY of Hancock: Mr. President, I may be out of order but to believe that there may be an amendment prepared, not by me, but by another person interested in this higher education bill. I could find out in a few moments if that is actually so.

The PRESIDENT: Does any Senator know of any other possible amendments to these bills?

If not, with the exception of the higher education bill, the Senate staff may send the bills forthwith to the engrossing department.

At Ease

The PRESIDENT: The Chair would note that there appear to be but two items of business that the Senate may wish to consider this legislative day. The first one is a petition which has been reproduced and is on your desks. The second one is the Senate action on the Sinclair bill, if the House action is in non-concurrence with respect to engrossing. The Chair has been told by members of the House that the vote on that matter will be taken within ten minutes.

Senate Paper Out of Order

Petition of Paul N. Dwyer seeking the right to bring Civil Suit against the State of Maine. (S. P. 667)

Which was referred to the Committee on Judiciary.

Sent down for concurrence.

The PRESIDENT: The Senator from Somerset has called the attention of the Chair to the fact that the House has passed to be engrossed in concurrence, the Sinclair Bill.

On motion by Mr. Low of Knox
Adjourned until tomorrow morning at ten o'clock.