

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*Ninety-Ninth Legislature*

OF THE

STATE OF MAINE

VOLUME II

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and  
SPECIAL SESSION  
1960

DAILY KENNEBEC JOURNAL  
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## HOUSE

Tuesday, January 26, 1960

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

Prayer by the Rev. Mr. Victor Musk of Augusta.

The journal of yesterday was read and approved.

### Paper from the Senate

From the Senate: The following Order:

ORDERED, the House concurring, that the desk, chair, table and personal files of the late CLINTON A. CLAUSON, used by him as Governor of Maine, be presented to MRS. CLINTON A. CLAUSON as a gift from the 99th Legislature and delivered to her home under supervision of the Superintendent of Buildings (S. P. 544)

Came from the Senate read and passed.

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

### Senate Reports of Committees Ought to Pass

Report of the Committee on Judiciary reporting "Ought to pass" on Bill "An Act Authorizing Town of Franklin to Receive Legacy for Water System" (S. P. 526) (L. D. 1433)

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

In the House, the Report was read and accepted in concurrence and the Bill read twice.

The SPEAKER: The Chair recognizes the gentleman from Bowdoinham, Mr. Curtis.

Mr. CURTIS: Mr. Speaker and Ladies and Gentlemen: I have an amendment to this bill, House Amendment "A", and I move its adoption and I would like to speak thereto.

The SPEAKER: The gentleman from Bowdoinham, Mr. Curtis, offers House Amendment "A" to this bill and moves its adoption. The Clerk will read House Amendment "A".

House Amendment "A" was read by the Assistant Clerk as follows:

HOUSE AMENDMENT "A" to S. P. 526, L. D. 1433, Bill, "An Act Authorizing Town of Franklin to Receive Legacy for Water System."

Amend said Bill in the title by adding after the word "System" the words 'and Authorizing the Bowdoinham Water District to Supply Water to Adjacent Towns'

Further amend said Bill by inserting at the beginning of the first line after the enacting clause the abbreviation and figure 'Sec. 1.'

Further amend said Bill by inserting before the Emergency Clause 2 new sections to read as follows:

"Sec. 2. P. & S. L., 1957, c. 121, §1, amended. The first sentence of section 1 of chapter 121 of the private and special laws of 1957 to read as follows:

'That area included within the Town of Bowdoinham, and the inhabitants within that area, are hereby created a body politic and corporate by the name of "Bowdoinham Water District" for the purposes of supplying the inhabitants of said district and the inhabitants of any adjacent town in Sagadahoc County with pure water for domestic, sanitary, agricultural, commercial, industrial and all lawful municipal purposes.'

Sec. 3. P. & S. L., 1957, c. 121, §8, amended. Section 8 of chapter 121 of the private and special laws of 1957 is amended to read as follows:

'Sec. 8. District and town authorized to make contracts. Said district, through its trustees, is authorized to contract with persons and corporations, including the Town of Bowdoinham and any adjacent town in Sagadahoc County, and said Town of Bowdoinham and any adjacent town in Sagadahoc County are authorized to contract with it, for the supply of water for municipal purposes.'

The SPEAKER: The Chair recognizes the same gentleman.

Mr. CURTIS: Mr. Speaker and Ladies and Gentlemen: In offering this amendment to this bill I am offering it for the people of Bowdoinham and Bowdoin. I want you to consider it from their point of view and leave me out of it entirely. I am not asking to get off the hook by presenting this bill, I

am not asking you to consider me in any way, shape or manner, but I want you to consider what this is about.

Now in Bowdoin, this is a small town, less than 250,000 taxable property to have a tax rate of 165, and yet they are the true citizens of the State of Maine like all of our small communities, in fact all of us, we hope. In the last few years they have been so interested in their school system that they have by suppers and beano games and one thing and another, raised a large sum of money, and last year they borrowed enough to build a schoolhouse costing \$88,000.

I am just quoting you this to let you know what kind of people they are, the same kind of people with those you are here to represent. Now it was necessary to get proper water for the town of Bowdoinham that we go down there and take this spring from this farmer, and then we find out after we have taken it that the Public Utilities required us to buy a certain area to protect that water because it is so good it does not have to be chlorinated. Now unless we have a legal right we cannot sell this water to this man, we have already taken it from him, and yet we cannot let him have the water because of this technicality in the law. Now with the enactment of this we can sell him the water, we can let the other people where the mains go down through their area, we can let them have water; there are fire hydrants there, and we can protect the particular area because Bowdoinham and Bowdoin do have the same fire department, but we can't use water down there to protect their property unless we have the permission of this Legislature.

So you see this is a vital issue. Now I have thought about the germaneness of this, so I looked it up in the dictionary, the word "germane." The word "germane" means closely related thereto. Now in this bill the town of Franklin wants to receive a legacy, something to help them, in my amendment the town of Bowdoin wants to receive help from the town of Bowdoinham. So I say they are closely related and it is germane,

and I move that this be accepted and when the vote is taken I ask that it be taken by division.

The SPEAKER: The Chair recognizes the gentleman from Friendship, Mr. Winchenpaw.

Mr. WINCHENPAW: Mr. Speaker, since I was one of those that argued in favor of the cloture rule and since I did my part in trying to enforce the cloture rule, I would request a ruling through the Chair whether this amendment is germane to the bill to which it is being attached.

The SPEAKER: The gentleman from Friendship, Mr. Winchenpaw, has raised a question of germaneness of the amendment submitted by the gentleman from Bowdoinham, Mr. Curtis, and has requested a ruling from the Chair.

In ruling on the germaneness of an amendment the Chair feels that it must divorce the question of the merits of the proposal from the technical question of germaneness. In the opinion of the Chair, an amendment to be germane must have a definite bearing on the main body or content of the bill to which it is sought to be attached. A similar subject is in the opinion of the Chair not sufficient.

The bill that is now before us is a bill relating to the authority of the Town of Franklin to receive a legacy for a water system. In the opinion of the Chair the amendment submitted by the gentleman from Bowdoinham has no bearing whatsoever on the Town of Franklin on its authority to receive a legacy or on the legacy itself.

And for these reasons the Chair regretfully must rule the amendment not germane and out of order.

The Chair recognizes the gentleman from Bangor, Mr. Stanley.

Mr. STANLEY: Mr. Speaker, on a ruling of germaneness it is possible for the House to overrule?

The SPEAKER: The Chair meant to inform the gentleman from Bowdoinham that he has the right to appeal to the House over the ruling of the Chair. If the gentleman so desires he may ask for such an appeal.

Mr. CURTIS: Mr. Speaker, in my recent talk I asked that I not be put on the spot, that I want to

take myself out of this, and this is a serious thing for me to ask, not to stand by this Speaker. I am content to stand by him. (Applause)

**THE SPEAKER:** The Chair thanks the gentleman from Bowdoinham.

The Chair recognizes the gentleman from Cumberland, Mr. Call.

**MR. CALL:** Mr. Speaker and Ladies and Gentlemen: I will be as brief as possible. The other day an amendment was attached to my school bill of Chelsea with my consent, and this House accepted it, I just want to refresh the memory of the House.

**THE SPEAKER:** The Chair is fully cognizant of that fact. If anyone in the House is wondering why the Chair did not raise any question of germaneness at that particular time the answer is simply that no one raised the question and this Chair has always adopted the policy that it would not initiate the question itself.

Thereupon, the Bill was assigned for third reading tomorrow.

Report of the Committee on Judiciary reporting "Ought to pass" on Bill "An Act relating to Appeals from Decisions of the Joint Board in Highway Condemnation Proceedings" (S. P. 527) (L. D. 1434)

Report of the Committee on Retirements and Pensions reporting same on Resolve Providing for Decrease in Retirement Benefit for Helen D. Perry of Rockland (S. P. 535) (L. D. 1442)

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

In the House, Reports were read and accepted in concurrence, the Bill read twice, Resolve read once, and tomorrow assigned.

#### **Ought to Pass with Committee Amendment**

Report of the Committee on Legal Affairs on Bill "An Act relating to Revenues, Eminent Domain and Termination of Lewiston Parking District" (S. P. 529) (L. D. 1436) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

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

In the House, the Report was read and accepted in concurrence and the Bill read twice.

Committee Amendment "A" was read by the Assistant Clerk as follows:

**COMMITTEE AMENDMENT "A"** to S. P. 529, L. D. 1436, Bill, "An Act Relating to Revenues, Eminent Domain and Termination of Lewiston Parking District."

Amend said Bill by striking out the title and inserting in place thereof the following title: 'An Act Relating to Revenues and Eminent Domain of Lewiston Parking District.'

Further amend said Bill by striking out the emergency clause at the end and inserting in place thereof the following referendum:

**'Emergency clause; referendum; effective date.** In view of the emergency cited in the preamble, this act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the City of Lewiston at the next regular city election after the approval of this act.

The city clerk shall prepare the required ballots, on which he shall reduce the subject matter of this act to the following question:

"Shall the Act Relating to Revenues and Eminent Domain of Lewiston Parking District, passed by the First Special Session of the 99th Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same.

This act shall take effect for all the purposes hereof immediately upon its acceptance by a majority vote of the legal voters voting at said election; provided that the total number of votes cast for and against the acceptance of this act at said election equalled or exceeded 20 per cent of the total vote for all candidates for Governor in said city at the next preceding gubernatorial election.

The result of such election shall be declared by the municipal officers of the City of Lewiston and

due certificate thereof shall be filed by the city clerk with the Secretary of State.

Committee Amendment "A" was adopted in concurrence and the Bill assigned for third reading tomorrow.

### Orders

On motion of Mr. Wade of Auburn, it was

ORDERED, that flowers be sent to the Clerk of the House at the Augusta General Hospital, together with the best wishes of the members of the House for a very speedy recovery and a hope that he will be able to return to his duties shortly.

On motion of the gentlewoman from Falmouth, Mrs. Smith, House Rule 25 was suspended for the remainder of today's session in order to permit smoking.

### House Reports of Committees Ought to Pass in New Draft New Draft Printed

Mr. Brown from the Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating Moneys to Maine Port Authority for Dock Facilities at Long Island Plantation" (H. P. 1013) (L. D. 1424) reported same in a new draft (H. P. 1027) (L. D. 1448) under title of "An Act Appropriating Moneys to Maine Port Authority for a Survey at Long Island Plantation" and that it "Ought to pass"

Report was read and accepted, the New Draft read twice and tomorrow assigned.

### Ought to Pass Printed Bills

Mrs. Smith from the Committee on Appropriations and Financial Affairs reported "Ought to pass" on Bill "An Act Appropriating Additional Funds for Certain Construction at Portland Municipal Airport" (H. P. 1013) (L. D. 1426)

Mr. Ervin from the Committee on Education reported same on Bill "An Act to Reconstitute School Administrative District No. 3" (H. P. 1020) (L. D. 1421)

Reports were read and accepted, the Bills read twice and tomorrow assigned.

Mrs. Hanson from the Committee on Education reported "Ought to pass" on Bill "An Act to Reconstitute School Administrative District No. 2" (H. P. 1011) (L. D. 1420)

Report was read and accepted.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Members of the House: You are probably aware that there is presently before this Legislature a bill to authorize the withdrawal of the Town of Perham from School Administrative District number two. This validation act affects that same district. I had earlier thought that the Legislature might be in a better position to determine what disposition they wish to make of this validating act after they had considered what they wish to do with the other bill, the bill to allow the withdrawal of Perham, but in the interest of time and after considering the matter at some length, I realize that I can ask possibly for any amendment that I might wish to this consolidating act when it comes up for third reading. For that reason, I have decided not to ask to have this matter tabled at this time.

Thereupon, the Bill was given its two several readings and tomorrow assigned.

Mr. Berman from the Committee on Judiciary reported "Ought to pass" on Bill "An Act relating to Juvenile Offenders in Certain Motor Vehicle Violations" (H. P. 1016) (L. D. 1445)

Report was read and accepted, the Bill read twice and tomorrow assigned.

The SPEAKER: At this time the Chair would recognize the presence in the gallery of the House of a group of seventh and eighth grade students from Minot Consolidated School, accompanied by their instructor, Mr. A. R. Hemond.

On behalf of the House, the Chair extends to you ladies and gentlemen a most cordial welcome and we hope you will enjoy your visit with us today. (Applause)

### **Ought to Pass with Committee Amendment**

Mr. Bragdon from the Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating Moneys to Maine Port Authority for Ferry Service" (H. P. 1014) (L. D. 1425) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was read and accepted and the Bill read twice.

Committee Amendment "A" was read by the Assistant Clerk as follows:

**COMMITTEE AMENDMENT "A"**  
to H. P. 1014, L. D. 1425, Bill,  
"An Act Appropriating Moneys to  
Maine Port Authority for Ferry  
Service."

Amend said Bill by striking out the figures "\$293,113.56" in the 17th line and inserting in place thereof the following figures \$253,113.00'

Committee Amendment "A" was adopted and the Bill assigned for third reading tomorrow.

### **Divided Report**

Majority Report of the Committee on Judiciary reporting "Ought to pass" on Bill "An Act relating to Municipal Police Power to Transport School Children to other than Public Schools" (H. P. 1022) (L. D. 1447)

Report was signed by the following members:

Messrs. WOODCOCK of Penobscot  
LESSARD of Androscoggin  
— of the Senate.

Messrs. EARLES of South Portland  
BEANE of Augusta  
COX of Dexter  
BERMAN of Auburn  
CARON of Biddeford  
KNIGHT of Rockland  
— of the House.

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

Report was signed by the following members:

Mr. WEEKS of Cumberland  
— of the Senate.  
Mr. EMMONS of Kennebunk  
— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Earles.

Mr. EARLES: Mr. Speaker, I would move the acceptance of the Majority Report relative to the bill L. D. 1447 and would like to speak to the motion.

The SPEAKER: The gentleman may proceed.

Mr. EARLES: Mr. Speaker and Ladies and Gentlemen: I do not have any prepared speech as such. I think that it is probably very obvious that we all have been considering this subject matter and searching within ourselves as to how we will approach it and as to how we will vote. I think there has been unintentionally undoubtedly some misinformation, there has been some clouding of the basic issue. I found that apparently there were some who wondered whether or not actually I was an active sponsor of this particular bill. And I think for that and for a couple of other questions that first I should perhaps establish my own relationship with this bill.

I didn't go seeking the sponsorship of it, I was asked if I would and I had spent quite a bit of time looking over the decisions that were involved. I read collateral material both favoring the concept of transportation being supplied to non-public, non-profit school children, and although it may be presumed that because of my religious affiliation that I would perhaps automatically be a proponent of this bill, because in large measure apparently it involved the transportation of parochial school children, such is not the case. One very simple reason is that this is not a matter of, shall we say, faith and morals of church dogma or anything of that sort. It is a matter of legislative policy and every person, whatever his persuasion is, is a free agent to make his own decision. And I think there are at least some that perhaps will agree that at least on some occasions I liked to be a free agent and made up my own mind.

We had—for those of you who were not at the hearing, I think that the legislators present, actually the committee, and the people that expressed their several opin-

ions for and against, are to be complimented, because it could have become a little warm if there hadn't been restraint. And I know from service with you people that you will endeavor to be clear headed and mature in your judgment. As a matter of fact, I think if every citizen in the State could be required to spend a couple of weeks in the Legislature he would have more respect for the members of the Legislature. I am saying that as a matter of sincerity, I am not trying to butter you up.

As I say, I came to the conclusion gradually because may I say I come from a plural background. I think all I need say is that one ancestor, seventh or eighth generation, had a flock down in Mequoit Bay colony, down in Brunswick, apparently — maybe I have inherited it, he was a little independent, apparently his sermonizing didn't quite meet with some of his parishioners and although they hung him by picture in the church down in the square in Brunswick, he returned to England although his son and subsequent blood relatives remained here.

So some of the objections that have been raised I have been acquainted with. I recognize them and appreciate the concern that is shown by the opponents to this matter. And so now, bearing in mind that I did not speak actively in proponenty of the bill in the hearing because I felt that other parties should have the time, bearing in mind that we put a time limit of an hour for and against and then a half an hour in rebuttal, that if you will grant me the courtesy of chatting with you, I hope somewhat briefly, I will appreciate it, because I think that this is a subject matter which we would like to determine — maybe I am assuming incorrectly, but if I sense the atmosphere, it is something we want to decide today, deliberately, but nevertheless make a decision today. We knew that it was coming, the mayors of several communities called upon our previous governor and urged him to have the special session. We knew it was coming, we are here, and to me this is the day for decision, and believe me whatever the decision

is I think you know I will accept it gracefully.

Now, what is the proposition that is proposed here? The act that we have under consideration authorizes the various municipalities, under their police power which involves health and safety matters of the citizenry, it permits the several municipalities, if in their judgment and there is sufficient interest, to provide for transportation for non-profit schools, so-called private schools. And as I understand there are other schools in the State than those that are maintained by a church so to speak. It is not an educational project or proposition because actually the matter of transportation, as obviously can be seen, is something that conveys a person to the point where he is starting his education or continuing his education.

Perhaps I am inclined to simplify this because as a lawyer, I have read the decision — the so-called Squire's decision which gave rise to this, and I think you are reasonably well acquainted with it, so I will not go into that detail, but the Court in its decision in the writing by Judge Tapley said that the case resolved itself into a single basic legal issue. In that case did the counsel of Augusta have the authority to enact the ordinance, and the Court held they didn't, and why, because the Court reasoned that the municipality could not imply that they had police power, in this case, to transport, in view of the fact that the Legislature had not specifically made that grant within the police power.

The Court went on to say after deciding against the City of Augusta on the basis aforementioned, bearing in mind perhaps those of us who are lawyers here would understand it more forcibly, that as a rule Courts almost as if they had had military experience and learn not to volunteer too often, generally don't volunteer, they don't go beyond determining or resolving the particular question. Bear in mind in this particular instance they resolved that question, and then they went on to say in the language of the decision, we are satisfied that a properly worded enabling act authorizing munic-



ipalities to expend money for the transportation of children to private schools not operated for profit, if one were in fact enacted by the Legislature, would meet constitutional requirements, and in so doing we recognize that the decision of the Supreme Court of the United States in the so-called *Everson* case, the *New Jersey* case, is the law of the land, and that the provisions of the *Maine Constitution* relating to the expenditure of public monies for public purposes and to the separation of church and state carry no more stringent prohibitions than the First and Fourteenth Amendments to the Federal Constitution.

I could mention the line of cases that has indicated in addition to this quite forcibly that to provide for a municipality to provide money so that non-public school children may have bus transportation is not utilizing public funds for a private purpose, because the institution as such does not benefit. The child is the beneficiary, and he as the beneficiary also involves the state, because the health and welfare of the child is also a consideration of the state, and therefore it is beneficial in a sense to the state, just as some of the other types of legislation that although individuals are recipients, because it involves health and various types of aid, it does in fact benefit the state.

Now one other thing, I wouldn't be other than candid if I didn't mention the fact that this *Everson* case was a five to four decision, and some people have said, well, five to four, it doesn't really resolve the question, but the *Maine Supreme Court* has enunciated, just as I mentioned, that the *Everson* case is the law of the land.

I ran across, and I didn't plan on running across it, but several weeks ago I picked up a life of *Robert Jackson* entitled "*The American Advocate*." He was the Judge who wrote the minority opinion in the *Everson* case. He writes very well, very cogently and very simply, and in his biography on page 300 I ran into this interesting observation on the matter actually of split decisions, dissents, and so that I won't be misquoting, I jot-

ted this down. He says "The fact is that of the dissents that have been written in the history of the Court, only a trifling proportion have later become law. The same is true of the dissenting opinions of individual justices. In judicial thinking as elsewhere two good heads will average better results than one, and time more often vindicates majority opinions than minority opinions." Then in a book that he wrote, he said this: "The true test of a judge is his influence in leading, not opposing his court."

There are doubtlessly things that I have failed to cover, but you have been very patient and I appreciate it. The only thing that I might mention further at this time in postscript is that I hope the problem is resolved here. If it is resolved here and the municipalities can have the opportunity to make up their own minds, it's certainly in the tradition of local economy, of home rule so to speak. Also bear in mind that in a vast majority of communities the testing of the request for this type of transportation would not occur. We currently have as I understand, twenty-five communities, one has ceased it. The others are sort of hanging on by their teeth because they asked for consideration of this subject matter. If the legislation is turned down, of course it will create a problem in those several communities, and if human nature is what I think it is, it is quite possible if this is not resolved affirmatively today, that people will make inquiry of those running for office irrespective of what party they are. So it seems to me again on a practical vein that it is not only proper for the local authorities to make the determination, they know their intimate problems especially in an instance like this better than we do. We have the legal approval of the Courts to pass this type of legislation, and maybe it is because I am a lawyer, but I am not inclined to shall we say thumb my nose at the Supreme Court. Thank you very much for your time.

**THE SPEAKER:** The question before the House is the motion of the gentleman from South Portland, Mr. Earles, that the Majority

"Ought to pass" Report be accepted.

The Chair recognizes the gentleman from Augusta, Mr. Barnett.

Mr. BARNETT: Mr. Speaker and Ladies and Gentlemen of the House: I am not going to debate this issue this morning, but I have always endeavored to stand on my feet and express my vote on a major issue. I shall be very brief and to the point as to why I feel that I should oppose this bill.

I have no intentions of discussing the principles involved in the bill this morning; therefore, my few remarks are solely as to how I feel passage of this bill would affect the City of Augusta that I represent.

I do not profess to know the circumstances of Waterville, Biddeford, Lewiston or any of the other towns. However, three years ago when this issue was brought before the city government of Augusta, I was President of the Board of Aldermen, and I had to live with this. It split our fair city wide open. The bitterness and animosity was worse than anything recorded in the history of our city. In some instances it pitted brother against brother, father against son. The businessmen and the merchants along the main street felt the results of these wounds. To date, there has been nothing stated at the hearing or by either side on this issue as far as I am concerned personally that leads me to believe that such will not occur in Augusta again if this bill is passed.

I firmly believe that before an ordinance can be passed through our local city government which might incur a local referendum, and that before funds could be appropriated in our budget, that the tension and bitterness and animosity will occur again, and it will cause wounds in our city that will take many years to heal.

This, I do not want to see, and it is primarily for this reason that I oppose this measure. If this bill does pass, I sincerely hope that my reasoning is proven wrong, and that the day will never come when I can say "I told you so." Thank you.

The SPEAKER: The Chair recognizes the gentlewoman from Presque Isle, Mrs. Christie.

Mrs. CHRISTIE: Mr. Speaker and Members of the House: I would like to give a few reasons why I am opposed to this bill. First, as I have heard from people in my own community, they have all, those who have contacted me, opposed the bill. Those in adjoining communities who have contacted me oppose it. I feel that they have justification for their feelings. One long-time legislator said, I think we had better leave it as it is, that is a former legislator.

Second, in my opinion, and that of many others, it would be a vicious thing in the localities setting one faction against another where there has up to now been harmony and friendliness.

To justify my belief as to this, let me mention some things which have come to my attention. One, is the situation in France, — a long way from Maine you say, yes, but human nature is much the same whether in France or in the United States of America. I would like to quote from the January 11, U. S. News and World Report, and I quote "A 'school war' suddenly has flared in France. Under a law just passed, public aid for church schools is authorized on a large scale. It can provide for parochial school teachers, books for their students, free bus service, bargain lunches, etc.

"The debate over this law has revived a conflict that dates back to the French Revolution of 1789. The discord was quieted for half a century by a 1905 law legally separating church and state. Now trouble is boiling up again.

"Mass meetings, street demonstrations, school strikes, etc., etc.

"Now that the law is voted, threats of passive resistance are being heard. Opponents of state aid are threatening to fight its implementation at every step. Former Premier Guy Mollet and his Socialist Party have threatened the parochial schools that the next time anti-clerical parties get a majority in Parliament they will nationalize all Catholic schools that have accepted state aid.

"As a result, the 'school war' as it is known here, has replaced the Algerian War as France's most explosive issue." Perhaps you wouldn't agree with that for in the last few days we have heard a lot about the Algerian War, but now let us come nearer home.

Connecticut has just enacted a law similar to the one we are facing today. As a result, the town of Newton, Connecticut, voted to provide such bus transportation for a parochial school. The vote was 1,243 to 1,218. You will notice there was a difference of only twenty-five votes between the two sides. The local option decision did not settle the thing. Immediately after the vote in Newton, there was organized the Citizens for the Connecticut Constitution. This group has gone to court asking for a legal decision on the constitutionality of the law. This is still hanging in the Supreme Court of Errors of Connecticut, unless it has been settled very recently.

Another interesting occurrence is that of the Burlington, Vermont case where the South Burlington School District has gotten into difficulty by using public funds to pay tuition to parochial schools, so this matter has gone to the Supreme Court. So far we have gotten along very well in Maine. There has been friendliness and harmony in the communities. Don't we want to keep it that way?

The SPEAKER: The Chair recognizes the gentleman from Bridgton, Mr. Haughn.

Mr. HAUGHN: Mr. Speaker, Ladies and Gentlemen of the House: I too rise in opposition to this bill with all due respect to the sincerity and honesty as has been shown here by my colleague here from South Portland, the gentleman Mr. Earles. I cannot qualify to go into the legal aspects such as he did because of his legal mind, but I will dwell on the facts concerning the area which I represent.

We are concerned with this bill due to the fact that we have six private academies located in our area. This bill, although it contains a few words, does cover a broad scope, and there are questions in my mind which have not been an-

swered, and I presume that if this bill should pass this body there will certainly be a tremendous amount of amendments due to the fact that it does not contain how far they will have to transport to schools within the areas concerned; it does not bring out the fact that in our own area right now we do not pay for the public school transportation to secondary students, they pay their own, and those towns in any area which do not have high schools do send them to a private academy in my own area or surrounding areas, which the tuition is paid for, and I will admit these localities do now have on their books, as I understand, an enabling act to allow the cost of transportation if the town so desires and vote for public school children in secondary schools.

They have not seen fit to do so in most of the rural areas of northern Cumberland County, and they have paid their own. I myself transported my own daughter for four years to high school, a distance of ten miles round trip a day at my own expense. We have them coming from other towns and pay to my own high school under contract the tuition education but they do not pay for their transportation costs, that is borne by the individual parents or families, so those are questions which are not in this particular bill spelled out.

Then we are involved as to whether or not this bill contains state subsidies, and I believe if they want private privileges then they should pay privately and when the vote is taken I do request a division, Mr. Speaker.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Lowery.

Mr. LOWERY: Mr. Speaker and Members of the House: Speaking as a representative of the Town of Brunswick, one of the communities affected by this bill, I wish to call your attention to the fact that we have for many years transported the pupils to our parochial schools. This we have done largely because we feel, as a community, that we owe this small measure of recognition for the valuable contribution that the local parishes have made

to our educational system. Transportation is furnished these pupils only on the established routes of the public school buses and there is no deviation from these routes. Also, if a child lives within walking distance of a public school, he is not transported to a parochial school. Schedules are maintained on the days and hours established for the public schools. No transportation is furnished when the parochial school sessions do not coincide with those of the public schools. I believe that I speak for a majority of the people of the Town of Brunswick who find this system to be a happy arrangement.

If I may speak personally, I am a Protestant, I have two children in the public school system of Brunswick and I am a taxpayer. The cost of transportation of these children adds a very few cents to my tax dollar, and I feel that it is well worth it.

We feel that we have a fair and sensible solution to a problem which exists and, in fairness to all, we believe that we should be allowed to continue legally. I therefore request that you give your full support to the passage of this bill. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Carthage, Mr. Hutchinson.

Mr. HUTCHINSON: Mr. Speaker and fellow House Members: I want to be recognized as opposing the passage of this bill. I imagine that I find myself in the same situation as regards approval or disapproval of this measure as does nearly every member of this House. The unprecedented number of letters, phone and personal calls that nearly every one of us has had from our constituents, practically one hundred per cent in opposition, constitute a mandate that we oppose its passage. Our title is "representative" and the assumption is that we represent the people whose vote sent us down here.

There isn't even any connotation in the title that we are to do otherwise. Apparently the stated aims of this bill, together with the implications inherent in it, have aroused in the people many of the same emotions and steadfastness of purpose that are so much the his-

tory of the founding and growth of this nation. I hope that we will listen to the voice of the people whom we are privileged and pledged to represent, and oppose the passage of this measure.

The SPEAKER: The Chair recognizes the gentleman from Bowdoinham, Mr. Curtis.

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen: I hesitate to prolong this debate, but as some seem to think that this issue would affect principally only those citizens who live in the larger municipalities and perhaps, moneywise, this is true, but I am persuaded that there is much more involved in this issue than money. Examine with me if you will briefly our whole educational system. Public education is costing the municipalities of Maine ten to twenty per cent more than all the other costs of municipal services, and yet some over twenty-two percent of our children do not attend the public schools but private schools. When so large a number of our citizens pay their share of taxes to support the public schools and then pay private schools to educate their children, it appears that one of two situations exist. Either our public schools are lacking some of the essentials in education desired by those students and their parents or for personal reasons the parents wish to send their children to private schools. I maintain this after careful unbiased examination and research and visiting these private schools, that they are doing a tremendous job of training our future citizens in the fundamentals of life and good citizenship and education in general. Because of this it has been a serious decision for me to make, how to vote on this issue.

I have been privileged to read an article written by Judge Daly who is a student and recognized authority of constitutional theory and history and a devout catholic layman, and I wish to quote from part of it, I quote: "Friendly conversations on religion and government with persons not of my Catholic faith have impressed me with the widespread belief among Americans who are not Catholics that Catholic Americans do not deeply appreciate and cherish the

American separation of church and state. They doubt the commitment of American Catholics to our first constitutional amendment forbidding laws respecting an establishment of religion or prohibiting its free exercise.

"These brother Americans always surprise and gladden me. They surprise me by their violence in my defense; vehemently may they disagree with my judgment but more vehemently will they fight, even die, to protect me in my Catholicism! They gladden me as kindred spirits who have, more emphatically than I, expressed my Catholic conviction on the problem of God and Caesar.

"Catholicism intends the universal and complete identification of every man with Christ. In civil government I cannot conceive a more complete or exact duplication of Christ's limitation of Caesar to the things that are Caesar's than the prohibition inscribed in the First Amendment against laws respecting an establishment of religion or forbidding the free exercise thereof. So meticulous is its exactitude against Caesar that Caesar cannot even compel the rendition to God of things that are God's, lest in so doing he encroach upon God's spiritual realm. Caesar's writs simply do not run to the things that are God's. They may guard the boundaries of God's spiritual domain but they cannot enter. What enactment other than the First Amendment could be so complete an imitation of Christ in His injunction 'Render to Caesar the things that are Caesar's' and to God the things that are God's.

"The church and state are, in their respective spheres, complete societies. The purpose of the one is not of itself a means to the purpose of the other and the activity of either is not directly subject to the jurisdiction of the other. Each has within itself the means of realizing its purpose. While it is true that members and citizens of each are subject to the jurisdiction of the other, such concurrent jurisdiction does not destroy the separateness of each society. A truly religious man is a nobler patriot by reason of his religion and a true

patriot is a more religious man by reason of his patriotism."

I believe that private schools operated by the churches of Maine whether they be of the Catholic faith, the Seventh Day Adventist faith, the Baptist or Methodist faith or whatever faith or other religion, would have much more to lose than to gain by the enactment of this legislation. Therefore, in behalf of the private schools, I am opposed to the enactment of this bill.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Stanley.

Mr. STANLEY: Mr. Speaker, Ladies and Gentlemen: I think it is a wonderful thing and something that we all should cherish, the fact that Bill Earles and I are roommates and we are opposing each other on this issue. We just have a door between us. We have not discussed this at anytime during our times together. I appreciate and have a great deal of respect for the explanation which the gentleman from South Portland, Mr. Earles, has given us.

I think about the only thing that we have to decide here is as to whether we want this bill to go through, and if we do, what will the effects be. To me, the one big issue is the health, safety and welfare of our people. If we want to keep the health of our people, in the first place I think probably they would be healthier if they walked to school as we have a devil of a time getting them to take physical education. Even the President has advised us that we should do something to have better physical fitness throughout our country for our children.

As far as safety is concerned, we have some 190,000 public school students going to our schools, some 25,000 who go to private schools, and of that number roughly 100,000 are transported, so there are 125,000 of them left over who are not transported, so their safety is at stake as much as the ones that we are speaking of today.

As for the welfare of our students, I think that we live in a country where we have religious freedom and it is one of the things that has made us strong. In order

to keep our country strong — or we must keep our country strong if we are to continue our religious freedoms. We spend a great deal of money trying to oppose our greatest enemy, the Russians, who have a Godless faith we will say, and at the same time we are trying to separate our people here. I think this bill if it was passed, would tend to separate our people more and more. We have seen in this Legislature as we have seen since the Sinclair Bill was passed that even in our public schools we are having difficulty keeping the people together trying to build better schools, at least it is my opinion that they are better schools. I don't think that we should do anything that is going to separate our people any more and make us weaker, while at the same time we are spending a great deal of money to make ourselves strong against the Russian force.

The gentleman from South Portland, Mr. Earles, gave a very good explanation of the case. He did, however, relax a bit I would say on just what this bill would do. He told us about the Squire's case and I too have read that, and not being an attorney probably don't understand it the way he does, but my own impression of it was that they were asked to decide three questions. The Court was to decide is the ordinance and appropriation of June 17, 1957 illegal; is it not authorized by either the statutes of the State of Maine or the Augusta City Charter; that the ordinance and order is in violation of the Constitution of the State of Maine, and that the ordinance and order is in violation of the Constitution of the United States. In that decision they went on to say this, that it is agreed between the parties that the Legislature has not either by charter or statute, given the City of Augusta by express terms the authority to pass any ordinance providing for the transportation of pupils to or from public schools. They went on to the Everson case which is different from this case in that they already had an enabling act, so it was declared constitutional, and that is why the court said we are satisfied that a properly worded enabling act authorizing munic-

ipalities to expend funds for the transportation of children to private schools, they just went on to explain the difference. They didn't go out of their way or beyond what they were supposed to do.

In my opinion, the Court went out of its way in that we have a dissenting opinion, a minority opinion, and then another opinion, and in the third opinion, I quote: "I write this opinion with genuine sorrow for the thousands of young innocent boys and girls who, as a result of the majority opinion will be denied the safety of transportation to schools which they attend. From any impending result I absolve myself of responsibility." The Court was going a little beyond itself then, in my opinion.

I think of these schools that they are talking about, the students who will not be transported now, have not been transported by the private schools themselves. I think the only thing that we have to resolve here is, — are we really interested in the health, safety and welfare of our people? If we are, let's not try to split our peoples apart and to cause a great deal of damage here when we are trying so desperately to keep our country strong on other sides of the world.

The SPEAKER: The Chair recognizes the gentleman from Easton, Mr. Perry.

Mr. PERRY: Mr. Speaker, I have had so many messages from my constituents that I felt I should get on my feet and say something about it. They were all opposed to the passage of this bill and none were in favor of it, and there is one question that comes to my mind. We have validated several school districts here or we are about to, and if some of those towns in the districts would vote one way and some in another, what would happen then? I can't see how it could be taken care of.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Lane.

Mr. LANE: Mr. Speaker and Members of the House: I am a great believer in home rule, I am not a Christian, I believe in Moses and I believe in the Ten Commandments, and I believe in justice for all the kids. In the first place, the

bill orders nothing, it just permits the majority of the people in a town or city, a city like Waterville, to furnish transportation to private parochial schools. Ladies and Gentlemen, bear this in mind. If we pass this bill or if we don't pass this bill, we are still going to have parochial schools in the State of Maine. We, the citizens in Waterville, have a problem. Right next to my house on the corner the bus picks up all the children that go to public schools, and the children that go to different schools they have to walk to school. My good friend from Bangor just made a statement, if you pass the bill, we are going to have trouble in the State of Maine. Ladies and Gentlemen, we are going to have trouble if we don't pass the bill. The children are not to blame because the parents want to send them to a private school. They have got nothing to say about it. What is going to happen if the same children will be told by their parents, by the people, the taxpayers, because you go to a different school you are not entitled to transportation. What are they teaching them in those schools? They are teaching them a little religion, and what's wrong with that? Believe you me, if all we legislators would learn something more about the Ten Commandments, I think we would have less trouble in the Legislatures of the State of Maine. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Rollins.

Mr. ROLLINS: Mr. Speaker and Members of the House: I am injecting myself into this because I have stood on this Floor many times. I have seen many things that were being done, like this is being done by many — by twenty-four of our cities and towns, that were illegal, and we have passed legislation to legalize it. That is all we are doing here. The towns are doing it now. There is no trouble, there is no trouble anywhere, and my friend, Mr. Stanley from Bangor, speaks of the splitting of us up with the Sinclair Law. There is no question about it. You know how I stand on the Sinclair Law. I voted against it originally and I

am just as much against it today, and I claim it is unconstitutional for the simple reason that they say that they would take the towns out if they voted by a two-thirds vote, but the Federal Constitution and the Maine Constitution both say that we cannot — the Legislature cannot pass a law to break a contract. I'll tell you more about that when we get into the Liberty deal by and by.

Ladies and Gentlemen, I have stood here many times on this Floor and fought for home rule, and I believe in home rule. I am coming back to Perham and Liberty and Brooks again, and that is home rule. This thing, this Sinclair Bill is a regular — well, it's just like Russia, they are driving it down your throat, and here this thing here is nothing but legalizing what our citizens have been doing, and they speak of all the letters they have had. Not one single person in my city has approached me on this bill one way or the other. And for home rule as I stand, I am supporting this bill.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. Emmons.

Mr. EMMONS: Mr. Speaker, Ladies and Gentlemen of the House: I realize that you are ready for the question. Because I am somewhat singled out since I am the lone member of the House signing this minority opinion, I think that I perhaps should make some statement, although it is not necessarily intended as an argument. Because this is serious and I usually speak off the cuff as you know, I don't wish to do quite that this time.

This present bill may conform to the law of the land, but I would remind you as the gentleman from South Portland did, that the Everson case decided in the United States Supreme Court, and on which the proponents of this bill, I think, largely base their legal arguments, was decided as a five to four decision. I agree that that does make it the law of the land. My opinion is that this is not a good policy, and the arguments that I might have are to some extent the same arguments as were presented by those four Justices, Jackson, Frankfurter, Bur-

ton and Rutledge, in their dissenting opinion. I certainly am strongly in favor of the First and Fourteenth Amendments to the Constitution of the United States, and I think that this question is part and parcel of the question of separation of church and state as those dissenting opinions set forth.

Because a practice has grown up over a period of years does not mean that it is necessarily a good practice. It can be discontinued. To my mind, the policy that this bill would establish, is in the long run a dangerous policy, and also to my mind, may be quite as dangerous to the proponents as to the opponents.

I feel that churches should stand on their own, whether they be Protestant, Catholic, Jewish, Mohammedan, or others, and that the members can and should support their churches.

There is one more point on this bill which perhaps — which has not come into this discussion particularly, and perhaps the gentleman from South Portland may answer later, I don't know. This bill has been said on several occasions to be constitutional, but no court has ruled on it. To my mind, it is discriminatory in that it does exclude transportation for pupils carried to private schools that are operated for a profit. The proponents argue that transportation does not help or hinder a school. That same thing applies to the matter of private schools, transportation to private schools paid for by the public would help the parents, would protect the children and would not help the school. That particular point, if and when this question is raised, could to my mind, be declared unconstitutional.

Again, Ladies and Gentlemen, this is a policy that seems doubtful to me. I do not support it, and I hope that this bill will be finally defeated. Thank you.

The SPEAKER: Is the House ready for the question? The Chair recognizes the gentleman from Augusta, Mr. Beane.

Mr. BEANE: Mr. Speaker and Ladies and Gentlemen of the House:

I feel I must rise on this question and explain my position as a signer of the Majority Report. After

listening to the gentleman from Belfast, I am not sure that my three years of law school and a few years of experience in practicing law as well as that of the majority of the Committee and the Maine Supreme Court and the United States Supreme Court have all been wasted, and perhaps we should—it appears we don't know anything about constitutional law and perhaps the gentleman from Belfast should be the new Supreme Court. I am just jesting of course. But seriously, I have searched my conscience and I know all the members of the Committee have searched their consciences very thoroughly on this. I think we all feel — I think everyone in the House feels this is an issue that should be decided here as was pointed out the other day, and everyone should vote according to his own conscience. I think both parties have made very exemplary action in not taking any party stand on this.

As far as the legality of this enabling act, I feel according to the best of my experience and knowledge as an attorney and treating this as analytically as I could, I tried to rule out all political and religious considerations which I don't feel are a part of the question before us, and not an issue. The only question is the legality of an enabling act such as this. I feel there is no question. The Maine Court has said it and the United States Supreme Court has said that such an enabling act would be constitutional. I will note that in argument in the hearing the other day — I don't know that it was deliberate, I won't say it was, there was an implication in sort of a legal brief that was given to us that there have been two later Supreme Court decisions since the United States Court acted reversing them. The citations are given, there is an implication in that that the United States Supreme Court has since been reversed. It has not. Those were decisions of the State Supreme Courts of Washington and Missouri. It isn't said in there whether they were passing on their own constitution which may not be worded the same as ours, I am not sure, or whether they were passing on the United States Constitution, and if they were,



they could not overrule the United States Supreme Court.

Now I have heard a great deal of argument that if we should pass this enabling act it would bring strife to our Maine towns. I too am from the City of Augusta which has passed on this. I note my colleague's remarks — I congratulate him. I am a member of the Augusta City Government now, but I wasn't at the time that this thing came before the Augusta City Government, before the Augusta case went to the Supreme Court. My colleague was then President of the Board of Aldermen. I congratulate him for being instrumental in handling a very ticklish situation at that time, trying to so handle it that the court would be in a position to make a decision in the hopes that a difficult situation that had been building up over several years would be peacefully resolved. Now we have had here in Augusta quite a bit of strife. The vast majority of the people on both sides of the question have been very levelheaded and wanted a bill to work out some sort of an equitable solution that would benefit everybody. There were a few extremists on both sides of the question that tried to inflame prejudice and stir up trouble. Now I concede that it is possible that could happen in other towns if this were passed, and it very likely will happen if it isn't passed, but the main point of this enabling act as drawn is that it would authorize municipalities to take whatever action they want. There will be a number of towns in the State of Maine the question will not have any importance in, probably won't even arise.

I would just like to emphasize that the bill as drawn does not forced it on any town — I don't think the Maine Legislature should force problems of one town on another town. Now if this enabling act were passed, each town in its own right would have the authority to do what it wished to do to meet its own local situation. I feel rather than stirring up controversy this would tend in the end to eliminate controversy. No town is required to do anything under this act, and a town that doesn't want transportation, until the town takes action,

it isn't even before them. In your town government if you have an article in your warrant appropriating money for bus transportation your vote at the town meeting is equivalent to a referendum, and each town should be able to work their own answer that way.

I have heard the argument that this is a question of separation of church and state. I don't believe it. I think some of you know my own religious background, that probably I am opposed to some leaders and laymen of that background that would raise that question, but I don't feel that is in issue at all. I am sworn both as a legislator and an attorney to defend both the Maine Constitution and the United States Constitution, and I firmly believe that under neither of them is this act in violation on the question of separation of church and state. I believe — I will challenge anybody in this House to say that they more strongly than I do believe in separation of church and state, yet I don't believe that is properly before us here.

As a practical matter the cost of school construction in some of the towns, the cost of paying for bus transportation has been raised. I don't like the way it was demonstrated in my own town, but I know we had the situation there of if some of the private schools were not able to continue because of the difficulty of transportation of pupils, those pupils would be thrust on the town and have to become part of the school system and we would have to build new schools that we couldn't build.

I do feel myself, as has been pointed out, that this is a valid exercise of the police power of the state under the Maine Constitution which is for the purpose of protecting everyone in their health, safety and welfare, and the children certainly aren't interested in religious questions, and I think with increasing traffic problems we have, the protection of those children regardless of what school they go to or anything else of that background is the prime consideration, whoever they are.

I don't think there is much more I can add that hasn't been adequately said. I just hope that everyone

will vote without emotional considerations. Analyze this thing carefully. I know you will. I know the people of Maine expect it of us. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Lowery.

Mr. LOWERY: Mr. Speaker, I would request a roll call.

The SPEAKER: Is the House ready for the question? A roll call has been requested. The question before the House — the Chair recognizes the gentleman from Waterville, Mr. Coyne.

Mr. COYNE: Mr. Speaker and Members of the House: Coming from Waterville where all of our youngsters have ridden shoulder to shoulder to the various schools to which they are attending, for many years, I rise now to ask this legislative body to continue to grant Waterville self-determination, give them the privilege of deciding for themselves whether these little youngsters shall ride shoulder to shoulder in preparation for future life where they go forth to do battle, whether it be war or whether it be industry, and it would be a great pleasure to me to see them continue to do so to the end of their lives.

The SPEAKER: Is the House now ready for the question? The question before the House is the motion of the gentleman from South Portland, Mr. Earles, that the House accept the Majority "Ought to pass" Report. A roll call has been requested.

For the Chair to order a roll call, the Chair must have an expression of a desire for a roll call on the part of one-fifth of the members. Will those who favor a roll call, please rise and remain standing until the monitors have made and returned the count.

A sufficient number arose.

The SPEAKER: Obviously more than one-fifth having arisen, a roll call is ordered. The House may be at ease while the Sergeant-at-Arms distributes the roll call sheets.

#### House at Ease

Called to order by the Speaker.

The SPEAKER: The Chair will restate the question. The question before the House is the motion of the gentleman from South Portland, Mr. Earles, that the House accept Majority "Ought to pass" Report on Bill "An Act relating to Municipal Police Power to Transport School Children to other than Public Schools", House Paper 1022, Legislative Document 1447. If you favor the acceptance of the "Ought to pass" Report, when your name is called you will say "yes", if you oppose the acceptance of the "Ought to pass" Report, when your name is called you will say "no". The Clerk will call the roll.

#### ROLL CALL

YEA — Bacon, Baxter, Beane, Berman, Briggs, Brown, Bangor; Call, Caron, Clark, Cormier, Cote, Couture, Cox, Coyne, Cyr, Augusta; Cyr, Fort Kent; Davis, Calais; Desmarais, Dostie, Doyle, Dudley, Dufour, Dumais, Earles, Edmunds, Edwards, Raymond; Ervin, Gallant, Harrington, Healy, Jacques, Jallbert, Johnson, Karkos, Kellam, Kilroy, Kinch, Knight, Lacharite, Lancaster, Lane, Lantagne, Lebel, Lemelin, Letourneau, Lowery, Mathews, Maxwell, Mayo, Miller, Moore, Nadeau, Perry, Hampden; Pert, Pike, Pitts, Prue, Reed, Rollins, Rowe, Madawaska; Russell, Sirois, Smith, Exeter; Tardiff, Trumbull, Walls, Warren, Whiting, Whitney.

NAY — Baker, Barnett, Boone, Bragdon, Brown, Cape Elizabeth; Brown, Ellsworth; Cahill, Carter, Carville, Caswell, Chapman, Gardiner; Chapman, Norway; Choate, Christie, Cousins, Crockett, Curtis, Danes, Davis, Westbrook; Dean, Dennett, Dennison, Dodge, Dumaine, Dunn, Edgerly, Edwards, Stockton Springs; Emmons, Good, Graves, Hancock, Hanson, Bradford; Hanson, Lebanon; Hardy, Harris, Haughn, Heald, Hendsbee, Hichborn, Hilton, Hinds, Hobbs, Hodgkins, Hughes, Hutchinson, Jewell, Jewett, Kennedy, Knapp, Lindsay, Linnell, Maddox, Mathieson, Morse, Parsons, Perry, Easton; Philbrick, Rankin, Rowe, Limerick; Sanborn, Saunders, Shepard, Smith, Falmouth; Stanley, Treworgy, Turner, Varney, Wade, Walsh, Walter,

Weston, Wheaton, Whitman, Williams, Winchenpaw, Young.

ABSENT — Hendricks, Monroe, Plante, Porell, Storm.

Yes 69; No 76; Absent 5.

The SPEAKER: Sixty-nine having voted in the affirmative and seventy-six having voted in the negative, with five absentees, the motion does not prevail.

Thereupon, on motion of Mr. Emmons of Kennebunk, the Minority "Ought not to pass" Report was accepted and sent up for concurrence.

On motion of Mr. Wade of Auburn,

Recessed until two o'clock this afternoon.

**After Recess  
2:00 P.M.**

The House was called to order by the Speaker.

The SPEAKER: The House is proceeding under Bills and Resolves reported by the Committee on Bills in the Third Reading and on their passage to be engrossed.

**Passed to Be Engrossed**

Bill "An Act to Reconstitute School Administrative District No. 9" (S. P. 523) (L. D. 1430)

Bill "An Act to Reconstitute School Administrative District No. 5" (S. P. 524) (L. D. 1431)

Bill "An Act to Ratify and Make Valid the Incorporation of the Wiscasset School District" (S. P. 532) (L. D. 1439)

Bill "An Act Increasing the Indebtedness of the Town of Palmyra School District" (S. P. 533) (L. D. 1440)

Were reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed and sent to the Senate.

Bill "An Act Imposing a Tax on the Unorganized Territory within the Maine Forestry District for Spruce Budworm Control" (H. P. 1002) (L. D. 1411)

Was reported by the Committee on Bills in the Third Reading and read the third time.

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Edwards.

Mr. EDWARDS: Mr. Speaker, I offer House Amendment "A" and move its adoption.

The SPEAKER: The gentleman from Stockton Springs, Mr. Edwards, offers House Amendment "A" to L. D. 1411 and moves its adoption. The Clerk will read House Amendment "A".

House Amendment "A" was read by the Assistant Clerk as follows:

HOUSE AMENDMENT "A" to H. P. 1002, L. D. 1411, Bill, "An Act Imposing a Tax on the Unorganized Territory Within the Maine Forestry District for Spruce Budworm Control."

Amend said Bill in the 5th line after the enacting clause by striking out the underlined word and figures "year 1960" and inserting in place thereof the underlined words and figures "years 1960 and 1961"

The SPEAKER: Does the gentleman wish to speak to his motion?

Mr. EDWARDS: Mr. Speaker, my object in offering this is trying to replace \$65,625 back into the General Fund, which is going to be used out of the General Funds of the State for this spruce budworm control.

The SPEAKER: The question before the House is the adoption of House Amendment "A".

The Chair recognizes the gentleman from Bangor, Mr. Cousins.

Mr. COUSINS: Mr. Speaker, I see clearly what the gentleman from Stockton Springs is trying to do and disagree with it most heartily. The program as outlined has had the approval of the State people, the landowners and the Federal Government. True, it is a matching program, some \$65,600 comes from the State, \$65,600 comes from the landowners, and forty-three thousand some dollars will come from the Federal Government. It is set up under that program and I think it is extremely unfair at this time for us to try to extend the tax for one year in order to repay to the General Fund the amount that is intended to be taken from it. It is a matching program, this is a natural resource. It is for the good of the State as well as everybody else that this spruce budworm program be adopted.

This is a pest, an infection in our forest which can and does threaten

our entire forest resource. The State has an obligation in the matter, it is not only for the landowners' benefits and for the people working for the paper mills and for the people in the pulp and paper industry throughout the State, but it is for the entire State of Maine. I think it very properly is divided three ways, with the landowners paying an amount equal to what the State is paying and the Federal Government paying a little less, and I hope that this amendment is not adopted.

The SPEAKER: The question before the House is the motion of the gentleman from Stockton Springs, Mr. Edwards, that the House adopt House Amendment "A". Will those who favor the adoption of House Amendment "A" please say aye; those opposed, no.

A viva voce vote being taken, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed without amendment and sent to the Senate.

Resolve Appropriating Moneys for Spruce Budworm Control (H. P. 989) (L. D. 1398)

Was reported by the Committee on Bills in the Third Reading and read the second time.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Desmarais.

Mr. DESMARAIS: Mr. Speaker and Members of the House: I would request permission to table this bill here because I believe that it is unconstitutional, and I would like a ruling from the Supreme Court on this bill and I will state my reason why if you want me to.

The SPEAKER: The gentleman may not debate a tabling motion. The Chair must also remind the gentleman that the bill, or any bill, that is tabled during this session is automatically tabled for one day only.

The question before the House is the motion of the gentleman from Sanford, Mr. Desmarais, that this Resolve be tabled and specially assigned for tomorrow. Will those who favor the tabling motion please say aye; those opposed, no.

A viva voce vote being taken, the motion to table did not prevail.

The SPEAKER: For what purpose does the gentleman rise?

Mr. DESMARAIS: Mr. Speaker, I want to move for the indefinite postponement of the bill, and then can I speak on it?

The SPEAKER: The gentleman from Sanford, Mr. Desmarais, moves that this Resolve be indefinitely postponed. The gentleman may speak to his motion.

Mr. DESMARAIS: Mr. Speaker and Members of the House: I was in the Attorney General's office yesterday afternoon on a problem identical to this one here. We have a group of businessmen in our town that has contributed money to build a speculated building. They can only raise \$100,000, but the building would cost \$150,000. They have asked me if it would be possible for the town of Sanford to vote to use tax money to pay their share of the town for this speculative building.

The Attorney General has informed me that regardless of for what nature, if this is for private use your tax money cannot be spent. From what I understand this bill here, this property, this land, is privately owned, every part of it, and we are going to use tax money of the State to pay for budworm control.

I am in favor of budworm control, I am in favor of doing good for the whole State regardless of what. But if it should be unconstitutional, from what I understand some other things were unconstitutional here, I don't believe that we should allow a measure like this to get by us. And that is the reason why I wanted to get a ruling from the Supreme Court. I asked the Attorney General for a ruling on this; he would not make a public ruling on it, he said, it is for the good of the State. I said, is it unconstitutional, I said is that what the law says that you cannot spend your tax money for private use? He says, that's right. Well I says, in other words you will not issue a public statement to me, the only place I can go to would be the Supreme Court, and that is where we would have to go in order to get a ruling on this bill here, and I believe that it is unconstitutional to

spend your tax money for private purposes.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Philbrick.

Mr. PHILBRICK: Mr. Speaker, spruce budworm does not confine itself to private property, it doesn't stop at the borderline. Baxter State Park is owned by the State of Maine and includes some one hundred thousand acres or so of land, and in addition to that there are quite a number of townships scattered here and there about the State which are owned by the State, and the Federal Government of course has an interest in Acadia National Park. So spruce budworm is not just a personal matter but a matter which involves all of us.

The SPEAKER: Is the House ready for the question? The question before the House is the motion of the gentleman from Sanford, Mr. Desmarais, that this Resolve be indefinitely postponed. Will those who favor the motion to indefinitely postpone please say aye; those opposed, no.

A viva voce vote being taken, the motion to indefinitely postpone did not prevail.

Thereupon, the Resolve was passed to be engrossed and sent to the Senate.

Resolve in favor of the Town of Danforth for School Construction Aid (H. P. 990) (L. D. 1399)

Was reported by the Committee on Bills in the Third Reading, read the second time, passed to be engrossed and sent to the Senate.

#### Passed to Be Enacted

An Act relating to Ferry Service for North Haven, Vinalhaven, Islesboro, Swan's Island and Long Island Plantation (H. P. 996) (L. D. 1405)

An Act to Create the Houlton Sewer District (H. P. 1017) (L. D. 1446)

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

#### Orders of the Day

The SPEAKER: Under Orders of the Day, the Chair lays before the

House item number one, House Order Relative to Department of Education to prepare tabulation of subsidy increases tabled on January 25 by the gentlewoman from Rumford, Miss Cormier, pending passage of the Order; and the Chair recognizes that gentlewoman.

Whereupon, on motion of Miss Cormier, the Order received passage.

The SPEAKER: The Chair now lays before the House item number two under tabled and today assigned matters, Bill "An Act relating to Identification Numbers and Disposition of Fines under Boating Law," Senate Paper 525, Legislative Document 1432, tabled on January 25 by the gentleman from Cumberland, Mr. Call, pending adoption of House Amendment "A"; and the Chair recognizes that gentleman.

Mr. CALL: Mr. Speaker and Ladies and Gentlemen of the House: I now move the indefinite postponement of House Amendment "A" to Senate Paper 525, L. D. 1432, and I wish to speak to the motion.

The SPEAKER: The gentleman moves the indefinite postponement of House Amendment "A". The gentleman may proceed.

Mr. CALL: Ladies and Gentlemen: Relative to this special session, this came up the last regular session, and we threshed out this law in relation to identification numbers and disposition of fines under boat laws. This amendment wishes to strike out certain parts of that law and insert so that the State would provide number plates, after you get your license and paid your fee to put on your number on your boat. I had a great many people come to me and I have talked with a lot of other boat owners, and from the department heads I get a figure of approximately a rough guess of around \$15,000 that it would cost the department to provide these plates, and the way we have got the law written up, you can take and buy your own numerals three inches high or you can paint it on the boat. This seems to meet everybody's satisfaction and that is why I ask for the indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Briggs.

Mr. BRIGGS: Mr. Speaker, I urge the passage of this amendment. I am going to speak very briefly. I attended the hearing on this bill and the only reason license plates are not wanted as stated by Mr. Call is because they will cost eighty-eight cents per set. Now when we passed this bill in the last session, we agreed that each registrant will pay two dollars for registering his boat. That was to pay for these license plates. Now they do not wish to spend eighty-eight cents for a set of plates, they claim it will cost eighty-eight cents, and they are going to get two dollars back. Also there is going to be considerable income from the fines from the violators. That they probably didn't figure on, but there are going to be fines. There is a fine of fifty dollars if a boat is found unregistered.

By not using plates we are defeating the purpose of this bill, namely safety for the citizens of the state by being able to easily identify violators. The same hot-rodders, drunks and reckless drivers, who are a menace and responsible for the passage of the original bill, are going to be allowed to paint on numbers for identification because it may cost us eighty-eight cents for a set.

Now we have only got a hundred and seventeen wardens in the entire state to police this law, and there are thirty-nine thousand boats, these are the figures that I got from the outboard motor club in the State of Maine, thirty-nine thousand boats with about one hundred and seventy wardens. Now these same wardens have got to police thousands and thousands and thousands of fishermen. If a warden gets out on a lake and sits down in a boat and he sees two or three hundred boats go by in the next hour or two and they have got an official plate on, he knows that that boat was registered. He is positive it was registered because the man has a set of official plates. Now, if he sees these boats going back and forth on the lake with painted-on numbers, how does he know they are registered unless he stops the

boat and asks for the man's registration papers? We haven't got enough wardens to do this.

There was some objection—probably another reason why they didn't want plates the fact that some people objected to screwing on a set of plates onto a boat. Now I have got two boats, aluminum boats, I know that I can put these plates on all right, and I also checked with the department and they can get an adhesive-backed plate for the same eighty-five cents that will stick to the boat that will require no holes to be drilled, and will do the trick.

Now remember, we are only paying two dollars for three years to register these boats, we are not issuing plates each year, and the eighty-eight cents also will cover the plates for the three years. Now incidentally, there is something being overlooked in this bill here today, and that is the dealers, the boat dealers. We have got hundreds of them in the State of Maine. In the original bill, through an amendment of mine, we allowed these dealers three sets of plates the same as automobile dealers are allowed. They have quite a number of different models of boats. They take these boats up on the lakes and they demonstrate these boats. Sometimes they leave them with the prospective customer for weeks. What is going to happen, are they going to have to paint numbers on all these boats, all these different boats they take out to be demonstrated? If they had a set of plates that went along, that would solve the problem for the boat dealers. You are going to run into trouble here with your dealers if we don't have any plates.

I am merely presenting this amendment as a safety feature which I believe we should keep in the original bill, would make it easier for the Fish and Game department, would make it much, much easier for the wardens to be able to tell if the boats were registered or not. Therefore, I urge and I hope that the motion of Mr. Call, the gentleman from Cumberland, does not prevail.

The SPEAKER: The Chair recognizes the gentleman from Readfield, Mr. Dumaine.

Mr. DUMAINE: Mr. Speaker and Members of the House: I also had the opportunity and pleasure of sitting in on this particular public hearing. I also had the opportunity after the hearing to talk again with those persons who for years have had the opportunity to know the difference between plates and painted numbers, those persons living along the shores and on the ocean.

The trouble they feel that may arise with the attached plates rather than the painted figure would be the combination of color schemes that would obliterate those numerals of the plates. Where we are talking now a proposition of a three-year period on attaching the numerals, I believe we should listen to those persons who have had this experience, and I do hope that the motion of the gentleman from Cumberland, Mr. Call, does prevail.

The SPEAKER: The Chair recognizes the gentlewoman from Yarmouth, Mrs. Knapp.

Mrs. KNAPP: Mr. Speaker, I am very much in favor of not having this amendment. I am a boat owner, and I know there are lots of people that have nice boats and the contour of the bow will not take these plates.

Another thing, the man that sells the boat or lets you have it to try out for a week will have a number on that boat a good deal like the temporary registration numbers for the cars. I beg to differ with the representative when he says that these boats would only be policed by game wardens. Any police officer will have the same duty as a game warden. I am very much opposed to the amendment.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Call.

Mr. CALL: I request a division, Mr. Speaker.

The SPEAKER: A division has been requested. The question before the House is the motion of the gentleman from Cumberland, Mr. Call, that House Amendment "A" to Bill "An Act relating to Identification Numbers and Disposition of Fines under Boating Law," Senate Paper 525, Legislative Document 1432, be indefinitely postponed.

Will those who favor the indefinite postponement of this amendment,

please rise and remain standing until the monitors have made and returned the count.

A division of the House was had.

Eighty-four having voted in the affirmative and twenty-six having voted in the negative, the motion did prevail.

Thereupon, the Bill was passed to be engrossed and sent to the Senate.

The SPEAKER: The Chair now lays before the House the third tabled and today assigned matter, House Joint Order relative to amending Joint Rules to add Rule 19B, re filing recommendations by departments, House Paper 1025, tabled on January 25 by the gentleman from Bowdoinham, Mr. Curtis, pending the motion of the gentleman from Southport, Mr. Rankin, to indefinitely postpone the order. A division has been requested by the gentleman from Rockland, Mr. Knight.

The pending question is the motion of the gentleman from Southport, Mr. Rankin, that this order be indefinitely postponed. Is the House ready for the question?

Will those who favor the indefinite postponement of this order please rise and remain standing until the monitors have made and returned the count.

A division of the House was had.

Twenty-three having voted in the affirmative and seventy-eight having voted in the negative, the motion did not prevail.

Thereupon, a viva voce vote being taken, the Order received passage and was sent up for concurrence.

The SPEAKER: The Chair now lays before the House item number four, House Joint Order relative to amending Joint Rules to add Rule 19C regarding cloture, House Paper 1025, tabled on January 25 by the gentleman from Raymond, Mr. Edwards, pending passage.

The pending question is on the passage of this Order.

The Chair recognizes the gentleman from Raymond, Mr. Edwards.

Mr. EDWARDS: Mr. Speaker and Members of the House: Due to the action that has just been taken I move that this Order have passage.

The SPEAKER: The gentleman from Raymond, Mr. Edwards, moves that this order receive passage. Will those who favor the passage of this order please say aye; those opposed, no.

A viva voce vote being taken, the Order received passage and was sent up for concurrence.

The SPEAKER: The House is Day. The Clerk will read some notices that are in her possession.

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On motion of Mr. Wade of Auburn,

Adjourned until ten o'clock tomorrow morning.