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POSTSCRIPTS

School Bus Prediction

In the Spring, 1959 issue of THE CATHOLIC LAWYER, George E. Reed, associate director of the legal department of the National Catholic Welfare Conference, pointed out that action by state legislatures affords the best way to insure bus transportation for parochial school children.

In that article,¹ Mr. Reed discussed the case of *Squires v. City of Augusta*, then pending on appeal to the Supreme Court of Maine. The Superior Court had upheld the validity of a city ordinance of Augusta granting bus transportation to non-public school children, but at the time of the article, Mr. Reed anticipated the decision of May 26, which finally held that the city ordinance was not valid without enabling legislation by state lawmakers.²

Mr. Reed wrote that eighteen states have such legislation: Alaska, California, Connecticut, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, and West Virginia. Of these, he cites Kentucky's law as a model for those states intending to draft legislation to provide transportation for all state pupils

without discrimination. A possible weakness to such legislation is that the use of money appropriated for school purposes may be limited by statute to the maintenance and support of public schools solely. The Kentucky Legislature avoids this problem by providing that the money appropriated pursuant to such legislation shall be deposited in and disbursed from a general fund rather than from a school fund.³

In his article, Mr. Reed rebutted the argument that such legislation violates the doctrine of the separation of Church and State by a re-analysis of *Everson v. Board of Educ.*⁴ In that case the United States Supreme Court held that the First Amendment is not violated by providing transportation for both parochial and public school pupils alike. The Court drew an analogy between such legislation and the policeman at a busy intersection who protects children going to and from parochial school.⁵

The recent Maine decision emphasizes and confirms Mr. Reed's conclusion that there must be a state law framed within the bounds of the state constitution in order to grant validity to a city ordinance or a school board ruling granting rides to all school children.

¹ Reed, *The School Bus Challenge*, 5 CATHOLIC LAWYER 99, 101 (Spring 1959).

² The Register, June 14, 1959, p. 1, col. 2.

³ Reed, *supra* note 1 at 102-03.

⁴ 330 U.S. 1, 18 (1947).

⁵ Reed, *supra* note 1 at 100.