

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and First  
Legislature*

OF THE

STATE OF MAINE

1963

DAILY KENNEBEC JOURNAL  
AUGUSTA, MAINE

**SENATE**

Wednesday, April 24, 1963

Senate called to order by the President.

Prayer by the Rev. Joseph I. Craig of Augusta.

On motion by Mr. Hinds of Cumberland, the Journal of yesterday was read and approved.

**House Papers**

**Non-concurrent matters**

Bill, "An Act to Authorize the Municipalities of Detroit, Etna, Plymouth and Stetson to Form a School Administrative District." (H. P. 435) (L. D. 640)

In House, March 29, passed to be engrossed as amended by House Amendment A (H-125)

In Senate, April 19, passed to be engrossed as amended by Committee Amendment A (H-94), and as amended by Senate Amendment A (S-169) in Non-concurrence.

Comes from the House, that body having insisted and asked for a Committee of Conference.

In the Senate, on motion by Mr. Hichborn of Somerset, the Senate voted to insist and to join in the Committee of Conference. The President appointed as Senate conferees, Senators: Hichborn of Piscataquis, Whittaker of Penobscot and Brooks of Cumberland.

The PRESIDENT: The Chair would like to recognize in the Senate gallery today 38 pupils. They are 7th and 8th grade students of the Warren Grade School. They are accompanied by their Principal, Vernon Jordan, and their teachers and parents.

You people are most welcome here in the Senate today. We hope that you find this occasion enjoyable and educational. I would like to introduce to you the Senator who represents your area, the good Senator from Knox, Senator Stilphen. (Applause)

Bill, "An Act to Incorporate the Calais Water District." (S. P. 165) (L. D. 441)

In Senate, April 17, passed to be engrossed as amended by Committee Amendment A (S-146)

Comes from the House, passed to be engrossed as amended by Committee Amendment A (S-146) and by House Amendment A (H-278) in Non-concurrence.

In the Senate, on motion by Mr. Boardman of Washington, House Amendment A was read, and the Senate then voted to recede and concur.

**Committee Reports — House**

**Leave to Withdraw**

The Committee on Taxation on Bill, "An Act Decreasing the Excise Tax on Malt Liquor." (H. P. 670) (L. D. 926) reported that the same should be granted Leave to Withdraw.

The same Committee on Bill, "An Act Exempting the Grange from Property Taxes." (H. P. 696) (L. D. 952) reported that the same should be granted Leave to Withdraw.

The same Committee on Bill, "An Act Relating to Taxation of Household Furniture." (H. P. 841) (L. D. 1228) reported that the same should be granted Leave to Withdraw.

The same Committee on Bill, "An Act Relating to Sales Tax on Farm Machinery and Equipment." (H. P. 843) (L. D. 1230) report that the same Ought not to pass.

The same Committee on Bill, "An Act Relating to Rate of Distribution of Pari Mutuel Pools and Unclaimed Tickets of Horse Racing." (H. P. 891) (L. D. 1413) reported that the same Ought not to pass.

Which reports were read and accepted in concurrence.

**Ought to Pass**

The Committee on Education on Bill, "An Act to Authorize the Municipalities of Ashland, Garfield Plantation and Portage Lake to Suspend the Operation of Ashland Community School District and Reorganize as a School Administrative District." (H. P. 1036) (L. D. 1504) reported that the same Ought to pass.

Which report was read and accepted in concurrence, the Bill read once and tomorrow assigned for second reading.

**Ought to Pass — New Draft — Same title**

The Committee on Municipal Affairs on Bill, "An Act Relating to Elections in the City of Biddeford." (H. P. 122) (L. D. 166) reported that the same Ought to pass in New Draft, under Same Title, (H. P. 1060) (L. D. 1526)

**Ought to Pass — 2nd New Draft — New title**

The same Committee on recommended Bill, "An Act Increasing Number of Superintending School Committee of Town of Baileyville." (H. P. 986) (L. D. 1428) reported that the same Ought to pass in 2nd New Draft, under title of "An Act Relating to Superintending School Committee of Town of Baileyville," (H. P. 1061) (L. D. 1527)

**Ought to Pass — New Draft — New Title**

The Committee on Public Utilities on recommended Bill, "An Act Creating a Sewer District in the Town of Berwick." (H. P. 497) (L. D. 699) reported that the same Ought to pass in New Draft under New Title "An Act to Incorporate the Berwick Sewer District." (H. P. 1059) (L. D. 1528)

Which reports were read and accepted in concurrence, the Bills, in New Draft, read once and tomorrow assigned for second reading.

**Ought to Pass — New Draft — Same Title**

The Committee on Election Laws on Bill, "An Act Relating to Election Recounts." (H. P. 902) (L. D. 1310) reported that the same Ought to pass in New Draft, under Same Title (H. P. 1058) (L. D. 1523)

Comes from the House passed to be engrossed, as amended by House Amendment A (H-279)

In the Senate, the report was read and accepted, the bill read once, House Amendment A read and adopted in concurrence, and the bill tomorrow assigned for second reading.

**Majority — Ought Not to Pass  
Minority — Ought to Pass**

The Majority of the Committee on Municipal Affairs on Bill, "An Act to Divide the Town of Enfield, Penobscot County into Two Municipal-

ities, one to be Designated as Enfield and the Other as West Enfield." (H. P. 558) (L. D. 773) reported that the same Ought not to pass.

(Signed)

Senators:

CRAM of Cumberland  
JACQUES of Androscoggin  
CYR of Aroostook

Representatives:

CHOATE of Windsor  
WELLMAN of Bangor  
DUDLEY of Enfield  
KILROY of Portland

The Minority of the same Committee on the same subject matter, reported that the same Ought to pass.

(Signed)

Representatives:

HARDY of Hope  
LINCOLN of Bethel  
MacGREGOR of Eastport

Comes from the House, Majority Ought not to pass report read and accepted.

In the Senate, on motion by Mrs. Harrington of Penobscot, the bill was tabled pending acceptance of either report.

The PRESIDENT: The Chair is very happy to welcome to the Senate Chamber today 24 students from the Smithfield Central School. This is in Somerset County. Their teacher is Mrs. Louise Houlton.

You are most welcome here today. You see the Senate of the State of Maine of the 101st Legislature now in action in this same old building which has been here for 136 years. The building remains but the faces in this room change and, believe it or not, a few years ago some of the people in this room seated in these two curved chair positions were once sitting where you are, observing the proceedings. You may be mystified by these proceedings, as sometimes we are, but we hope that your interest will continue and that you will realize that it is not beyond the realm of possibility that you some day may be sitting here yourself.

May I introduce to you the Senators from your County: Senator Johnson and Senator Stitham. (Applause)

The Chair in behalf of the Senate of this State is very happy to recognize the Lincoln County Women's Republican Club in the Senate at this time with their President Mrs. Barbara Grover.

I would like to introduce to you the Senator from your County, the good Senator Sproul. (Applause)

**Committee Reports — Senate  
Conference Committee Report**

The Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill, "An Act Relating to Registration of Motor Vehicles Required to be Registered in Another State by Maine Residents." (S. P. 345) (L. D. 1010) reported that the House should recede and concur with the Senate.

Which report was read and accepted.

Sent down for concurrence.

**Leave to Withdraw**

Mr. Pike from the Committee on Towns and Counties on Bill, "An Act Appropriating Money for School Building for Hope Training School in Rumford." (S. P. 219) (L. D. 528) reported that the same should be granted Leave to Withdraw — Covered by Other Legislation.

Mr. Boisvert from the Committee on Retirements and Pensions on Bill, "An Act Providing for Tax Sheltered Annuities for Employees of School Administrative Units." (S. P. 456) (L. D. 1283) reported that the same Ought not to pass.

Which reports were read and accepted.

Sent down for concurrence.

**Ought to Pass — New Draft — Same Title**

Mr. Johnson from the Committee on Transportation on Bill, "An Act Relating to Redistribution of Axle Loads on Commercial Vehicles." (S. P. 206) (L. D. 516) reported that the same Ought to pass in New Draft under Same title. (S. P. 577)

Which report was read and accepted, the bill read once and tomorrow assigned for second reading.

**Majority — Ought Not to Pass  
Minority — Ought to Pass**

The Majority of the Committee on Retirements and Pensions on Re-committed Bill, "An Act Relating to Application of Federal Social Security to Teachers." (S. P. 67) (L. D. 117) reported that the same Ought not to pass.

(Signed)

Senators:

SPROUL of Lincoln  
ATHERTON of Penobscot  
BOISVERT of Androscoggin

Representatives:

LINCOLN of Bethel  
HENDRICKS of Portland

The Minority of the same Committee on the same subject matter reported that the same Ought to pass.

(Signed)

Representatives:

WOOD of Brooks  
GUSTAFSON  
of South Portland  
PRINCE of Oakfield

On motion by Mr. Whittaker of Penobscot, the bill was tabled pending acceptance of either report and was especially assigned for Wednesday, May 1.

**Second Readers**

**House**

Bill, "An Act Repealing Law Relating to Use of Prior Convictions in Suspension of Motor Vehicle Licenses for Driving Under the Influence." (H. P. 738) (L. D. 1067)

Bill, "An Act Relating to Statute of Limitations for Actions Against Tax Collectors." (H. P. 868) (L. D. 1255)

Bill, "An Act Authorizing County Commissioners for York County to Make a Loan for Courthouse Addition." (H. P. 1053) (L. D. 1520)

Which were read a second time and passed to be engrossed in concurrence.

**House — As Amended**

Bill, "An Act Relating to the Educational Foundation Program Allowances." (H. P. 862) (L. D. 1249)

(Read a second time and on motion by Mr. Brooks of Cumberland, tabled pending passage to be engrossed.)

Bill, "An Act Relating to Suspension of Registration of Motor Vehicles Driven by Certain Persons When Arrested." (H. P. 914) (L. D. 1321)

Bill, "An Act Relating to Order of Divorce Concerning Minor Children." (H. P. 917) (L. D. 1351)

Which were read a second time and passed to be engrossed, as amended, in concurrence.

#### Enactors

**The Committee on Engrossed Bills reported as truly and strictly engrossed the following Bills and Resolve:**

Bill, "An Act to Provide for a Legislative Conference Prior to the Convening of the 102nd Legislature." (H. P. 411) (L. D. 564)

(On motion by Mr. Edmunds of Aroostook, placed on the Special Appropriations Table pending passage to be enacted.)

Bill, "An Act Relating to Penalty for Furnishing Liquor to Minors and Others." (H. P. 463) (L. D. 667)

Bill, "An Act Relating to Number of Names Required on Petitions for Nomination to Public Office in City of Biddeford." (H. P. 547) (L. D. 763)

Bill, "An Act Providing for the Driver License Compact." (H. P. 464) (L. D. 668)

Bill, "An Act Relating to Registration Fee for Semi-trailers." (H. P. 886) (L. D. 1271)

Bill, "An Act Relating to Optometric Services Under Aid to the Blind and Non-profit Hospital Organizations Laws." (H. P. 904) (L. D. 1312)

(On motion by Mr. Brown of Hancock, tabled pending passage to be enacted.)

Bill, "An Act to Extend the Character of the Eliot Water District." (H. P. 998) (L. D. 1446)

Bill, "An Act Prohibiting Throwing of Substances or Missiles at Any Public or Private Transportation Conveyance." (H. P. 1046) (L. D. 1516)

Resolve, Authorizing a Review of Maine Highway User Tax Study. (H. P. 369) (L. D. 542)

Which Bills were passed to be enacted and the Resolve finally passed.

#### Emergency

Bill, "An Act Appropriating Funds to the Unorganized Territory Capital Working Fund." (H. P. 961) (L. D. 1400)

On motion by Mr. Edmunds of Aroostook, placed on the Special Appropriations Table pending passage to be enacted.

#### Orders of the Day

The President laid before the Senate the first tabled and today assigned item (S. P. 476) (L. D. 1328) Senate Report, Ought Not to Pass from the Committee on Judiciary on Bill, "An Act Relating to Chemical Tests in Fatal Motor Vehicle Collisions"; tabled on April 16 by Senator Whittaker of Penobscot pending acceptance of the report; and on further motion by the same Senator, the bill was retabled and especially assigned for later in today's session.

The President laid before the Senate the 2nd tabled and today assigned item (S. P. 462) (L. D. 1289) Bill, "An Act Relating to Salaries Fixed by Governor and Council"; tabled on April 18 by Senator Johnson of Somerset pending consideration; and on motion by Mr. Hinds of Cumberland, the bill was retabled and especially assigned for later in today's session.

The President laid before the Senate the 3rd tabled and today assigned item (S. P. 137) (L. D. 414) Resolve Appropriating Moneys for Stocking Baxter State Park with Caribou"; tabled on April 18 by Senator Christie of Aroostook pending motion by Senator Stilphen of Knox to indefinitely postpone Committee Amendment A; and Senator Christie yielded to Senator Stilphen of Knox.

There being no objection, Senator Stilphen of Knox was granted permission to withdraw his motion for the indefinite postponement of Committee Amendment A; and on further motion by the same Senator, Committee Amendment A was adopted and the bill was tomorrow assigned for second reading.

The PRESIDENT: The Chair, in behalf of the Senate of Maine, is happy again to welcome some pu-

pils to this chamber. These are 100 pupils from the 7th and 8th grades of Chebeague and Cumberland Schools, accompanied by their teachers: their Principal, Reginald Dews, and teachers Thomas Joyce, Carolyn Tirroni and Gladys Berkeley. They are the guests of Representative Prince of Harpswell and the Senator from Cumberland, Senator Cram.

May I introduce the other senators from your county: Senator Brooks, Senator Hinds, and Senator Porteous who is absent today.

We are happy to have you here. (Applause)

The President laid before the Senate the 4th tabled and today assigned item (H. P. 521) (L. D. 738) House Report, Ought Not to Pass, from the Committee on Appropriations and Financial Affairs on "Resolve, to Provide Funds for Matching Funds for Training in Machine Design at the Maine Vocational Technical Institute"; tabled on April 18 by Senator Hinds of Cumberland pending acceptance of the report; and on motion by Mr. Brooks of Cumberland, the resolve was retabled and especially assigned for later in today's session.

The President laid before the Senate the 5th tabled and today assigned item (H. P. 1022) (L. D. 1478) Bill, "An Act Clarifying the Inland Fish and Game Laws"; tabled on April 18 by Senator Stitham of Somerset pending passage to be enacted; and on further motion by that Senator, the rules were suspended and the Senate voted to reconsider its former action whereby the bill was passed to be engrossed. The same Senator presented Senate Amendment D and moved its adoption and further moved that the bill be laid upon the table pending his motion to adopt Senate Amendment D and that the bill be especially assigned for tomorrow.

The motion to table and so assign prevailed.

The President laid before the Senate the 6th tabled and today assigned item (H. P. 865) (L. D. 1252) Bill, "An Act Relating to License Fee for Boarding Homes"; tabled on April 19 by Senator Edmunds

of Aroostook pending passage to be engrossed.

Mr. BROOKS of Cumberland: Mr. President, this item was tabled by Senator Edmunds of Aroostook at the request of the Budget Office. The Budget Office has now cleared it and I move the pending question.

Thereupon, the bill was passed to be engrossed.

The President laid before the Senate the 7th tabled and today assigned item (H. P. 906) (L. D. 1314) Bill, "An Act Providing for the New England Health Services and Facilities Compact"; tabled on April 19 by Senator Edmunds of Aroostook pending passage to be engrossed.

Mr. BROOKS of Cumberland: Mr. President, the same circumstances as stated on the previous bill apply to this item and therefore, I move the pending question.

Thereupon, the bill was passed to be engrossed.

On motion by Mr. Campbell of Kennebec, the Senate voted to take from the table the 1st tabled and unassigned item (S. P. 62) (L. D. 112) Senate Report, Ought to Pass from the Committee on Judiciary on Bill, "An Act Relating to the Admission of Attorneys to the Bar of the State of Maine"; tabled on February 12 by Senator Campbell of Kennebec pending acceptance of the report; and on further motion by the same Senator, the report was accepted, the bill read once and tomorrow assigned for second reading.

On motion by Mr. Johnson of Somerset, the Senate voted to take from the table the 15th tabled and unassigned item (H. P. 657) (L. D. 913) House Report, Ought to Pass from the Committee on Legal Affairs on Bill, "An Act Relating to Eligibility of Trustees, Executors and Administrators as Directors of Trust Companies"; tabled by that Senator on March 14 pending acceptance of the report; and the same Senator presented Senate Amendment A and moved its adoption.

Thereupon, the ought to pass report of the Committee was accepted, the bill read once, Senate

Amendment A read and adopted and the bill was tomorrow assigned for second reading.

The PRESIDENT: The Chair is happy to welcome in the Senate Chamber the State Business and Professional Women's Club with their President Mrs. Mona Harris.

You are certainly welcome here. You have observed a typical Senate debate on one of our fifteen hundred problems. You ladies are generally aware of the problems which this State has in the field of education, in the field of finance, and in the field of seeking some means to increase our tax base.

Lest you think that all of these problems are new at this time to the state, I would call to your attention that the first Governor of Maine was a fellow by the name of William King. He served in 1820 and his campaign platform was to bring more industry into Maine.

You are indeed welcome here and we are happy to have you. (Applause)

The President laid before the Senate (S. P. 476) (L. D. 1328) (Item 1) Senate Report, Ought not to pass from the Committee on Judiciary on Bill, "An Act Relating to Chemical Tests in Fatal Motor Vehicle Collisions" tabled earlier in today's session by Senator Whittaker of Penobscot pending acceptance of the report.

Mr. WHITTAKER of Penobscot: Mr. President, I move that the Senate substitute the bill L. D. 1328 for the report, and I should like to speak to the motion.

The PRESIDENT: The Senator may proceed.

Mr. WHITTAKER: Mr. President and members of the Senate: The bill now under consideration is sponsored by the Maine Highway Safety Committee and is one attempt to take positive action concerning the increase in traffic fatalities and injuries. It is legislation primarily for statistical purposes in order to determine the facts concerning many alleged reports regarding the presence of alcohol as a cause for fatal accidents and accidents causing injuries.

Under the provisions of the bill, Roman numeral II, Paragraph D,

the statement is made: "The results of any chemical test or tests made under this section or the fact that any such chemical test or tests has been made shall not be admissible in evidence in any proceeding of any kind except with the permission of the person upon whom the test or tests have been made or the permission of the personal representative of such person if such person is dead."

As I say, this is primarily for statistical purposes so that those who are concerned with reducing the number of fatalities and injuries may have facts upon which to base their recommendations.

At this time we hear many reports as to the percentage of persons involved in such accidents who have been driving under the influence of liquor. These estimates range all the way from 25 per cent up to 75 per cent.

This is an attempt to find the truth in this matter so that we may act wisely in seeking legislation to prevent the increase in motor vehicle accidents. In this connection, I call to your attention the most recent report nationwide. In 1962 traffic deaths reached a new high of 41,000, and it is estimated that more than a million and a half Americans were disabled from injuries in motor vehicle accidents.

I believe it is high time that we in the State of Maine began to take some positive action in this important field. This is a beginning. It is an attempt only to collect statistics so that we may act wisely in the years ahead to reduce this unnecessary slaughter and disabling on our highways. I therefore urge that my motion may be supported.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Penobscot, Senator Whittaker, that we substitute the bill for the report.

Mr. FARRIS of Kennebec: Mr. President and members of the Senate: The Judiciary Committee explored the possibilities of a favorable result in highway from the passage of this bill, and we came to unanimous conclusion that the bill would not solve any problems but actually would create more problems than we do have today in the administration of the courts,



particularly in the prosecution of cases.

Now what this bill in effect does is that it creates a limited implied consent; that is if an officer arrives upon the scene of an accident and there has been a fatality he may use his discretion as to whether or not the driver shall be compelled to submit to a blood test. Now of course if the person is conscious he may refuse to take a blood test, and in that event he will lose his license for a period of one year. Of course if the person is unconscious he has no choice and the blood is taken and used for statistical purposes.

Now one of the major objections on the part of the committee was that at the time, we do have a provision in the law for the taking of blood tests. It is a voluntary proposition, the right of the individual: if he wants to take a blood test he may; if he does not want to he need not take it, and the fact he did not take a blood test cannot be used in court as evidence against him.

The law jealously, and rightly, we feel, does protect the individual from being compelled to do anything in the matter of blood test or to have the fact he did not take that blood test become a matter for the jury to consider. As a practical matter, in the conduct of the trial of a case if this blood test is mentioned, or the fact a blood test was not taken is mentioned, then that is grounds for a mistrial and the state must continue that case until the next term of court, and many times this does occur after the trial has been going on for as much as a day or two, so you have then lost that amount of time and the state must go to the expense and the individual must go to the expense of having a new trial at the next term of court.

Now it would appear that if this bill should be enacted we would have a great deal of difficulty in the practical administration during the trial of a case, for this reason: We will assume that an officer arrives on the scene of an accident, he observes there is a fatality and he detects an odor of liquor on the breath of the driver of one of the vehicles, so he orders this

driver — he says to him, "Now you have got to take a blood test," and the operator says "Well, I don't know as I want a blood test." "Well, you have got to take a blood test." "What happens if I don't take a blood test?" "You will lose your license for a period of one year." "Well, I guess I will take a blood test, and I guess I might as well have one for myself." So he does take the blood test and he has one taken for himself, and the State properly can use the blood test that he has voluntarily taken, presumably. But can you imagine what would happen during the trial of this case when the State attempted to introduce this blood test that was taken voluntarily to prove a prima facie case of driving under the influence? In other words, if a blood test showed the presence of alcohol by weight in the blood stream in excess of .15 per cent it is prima facie evidence, so immediately this respondent is going to say, "Well, I didn't want that blood test." "What do you mean, you didn't want that blood test?" "The officer told me that if I didn't take a blood test I would lose my license for a year." "Well, the officer was talking about the other blood test, the statistical blood test."

I think you can see from this the great amount of confusion that would arise, and in many, many instances you would undoubtedly have a mistrial.

Now in regard to this particular bill there are several questions, as it is drafted. You will note in the first paragraph of the bill it says that the blood test shall be administered upon any pedestrian of lawful driving age. Of course that is strictly for statistical purposes. What is "of lawful driving age" in the State of Maine — fifteen or seventeen? It all depends on whether you have had driver education or not. There is no provision in this bill as to where this blood test is to go, who is to receive the blood test and who is to keep it for statistical purposes. And when you boil it all down, just what will be accomplished after you gather these statistics?

We know, for example, that in 1962 there were 62 fatalities where drinking was involved. Now of

course we do not know to what extent it was involved. But certainly the only result that could come from analysis of statistics would be we should have a law that it is a crime to take a drink and drive an automobile, and I do not feel that we need statistics to make that decision. I think we are perfectly capable right now of making such a decision, and if such a bill was submitted we could then debate the merits of whether we should make it a crime for anyone to have even one drink and then drive an automobile. We certainly know that it should not be done.

Now another problem of this bill is that there is no provision for a hearing. This would be a mandatory revocation of a license just upon the word of an officer that this man refused to take a blood test. He would have no opportunity to come in and be heard before his license was taken away from him.

It was for those reasons that the Committee on Judiciary, even though we certainly are sympathetic with the problem and we certainly appreciate the wonderful work which our Maine Highway Safety Committee has been performing — but we do not feel as a legal matter or as a practical matter that this particular measure will serve any useful purpose, but, as I previously said, will actually cause a great deal of confusion and do more harm than good. But I might point out that yesterday the Judiciary Committee did report from its committee a bill which would reduce the .15 to .10 of alcohol by weight whereby you establish a prima facie case — Senator Johnson's bill — and we went one step further in committee and we have reduced it on the lower end so that anyone who has 7-100ths per cent under that as the law exists is presumed not to be under the influence, we reduced that to 5-100th's per cent, and he must be under 5-100th's per cent in the future, if we enact this, before he can be presumed not to be under the influence. I point that out so that you do realize that blood tests and alcohol in relation to driving is not being glossed over lightly by the Judiciary Committee and we feel that this particular bill to which I have just

alluded is the greatest step forward that could ever be taken in the State of Maine.

In conclusion, I might also point out that a bill such as the one here proposed is not in existence in any state in the union, and I think I can see the reasons. They are the ones I have mentioned: it just is not particularly a good bill, even though the idea is good.

Mr. STITHAM of Somerset: Mr. President and members of the Senate: There are two objections, as raised by the Senator from Kennebec, Senator Farris, the remedy for which was presented to the Judiciary Committee: one being the place for the report to be submitted, and I had an amendment prepared by Mr. Slosberg and presented to the committee, in which the report was to go to the State Police, who already have set up a statistical department, and, as the Senator has said, all reports are confidential and cannot be released except with the permission of the one upon whom the test has been taken or his legal representatives.

As far as the court procedure goes, I believe I have had some experience in trying drunken driving cases. I have carefully gone over this measure and I can see no difficulty in the course of a trial if this should be adopted. The law is very plain. You cannot mention, as the Senator said, the fact that a blood test has been taken. I further have confidence in the State Police and in our Sheriff's departments in these cases, that they can adequately take care of the instructions in case of fatal accidents and will see that the persons involved are properly instructed on their rights so that there will be no confusion. For the very reason that the Senator from Kennebec, Senator Farris, has stated, that they propose to reduce the presumed amounts in blood tests — for that very reason, we need this information for statistical purposes in considering the legislation which he is proposing. In other words, on the fatal accidents if we had, say for the last year, accurate records showing how much alcohol that each operator had at the time of a fatal accident we would then know whether the .15 per cent presumed is sufficient for

our purpose or whether it should be reduced to .10. Those are the things we want to know. It is important to us. This bill as it is reported out, without the amendment that has been submitted to the committee, I grant you the bill is not as it should be, but I do not think it should be discarded merely because the committee did not see fit to propose the amendments which would cure the defects. For that reason, I would support the motion of Senator Whittaker to substitute the bill for the report, and I can assure the Senate that the amendments will be presented to clarify some of the objections that have been made by the good Senator from Kennebec, Senator Farris.

Mr. COLE of Waldo: Mr. President and members of the Senate: I would like to convey to the Senate the thinking of the Highway Safety Committee in presenting this type of legislation. As you all know, the fatality rate in the State of Maine was going up by leaps and bounds during mid-year of last year and the press and the general public was demanding that something be done by the Highway Safety Committee and by the courts to try to help prevent the so-called slaughter on our highways. As a result, a sub-committee was appointed, and I happened to be one of those along with Senator Lessard and Mr. Snowdon. We concluded that a strictly implied consent bill would not have a chance in the Judiciary Committee. However we felt that this watered-down, so-called, bill might be received with favorable comment.

It is true what the Senator from Somerset, Senator Stitham, has said, that there are no records available as to the cause of these fatalities, and the Highway Safety Committee feels that we certainly should do something along this line to make records available. I certainly will go along with the motion of the Senator from Penobscot, Senator Whittaker.

Mr. CAMPBELL of Kennebec: Mr. President, as a signer of the "Ought not to pass" report I want to say a few words. I have no burning desire to convince this Senate one way or the other. It does seem to

me, however, that the test by weight of alcohol is a scientific fact, it is something that a pathologist and a technician establishes, and it is nothing that we are ever going to learn by simply compiling statistics after an accident has happened.

Now this idea that the respondent or the driver is going to be properly briefed is not going to work out in practice, because no matter how competent our state troopers are this is something that can be administered as well by local and town police, and I honestly believe that the prejudice which my brother from Kennebec, Senator Farris, has mentioned will result from this type of administration. I therefore move the indefinite postponement of the bill and ask that the vote be taken by a division.

Mr. WHITTAKER of Penobscot: Mr. President and members of the Senate: I rise to oppose the motion of the Senator from Kennebec, Senator Campbell, for indefinite postponement. May I make two or three other comments as a result of the debate.

I should point out that this bill was sponsored by the Maine Highway Safety Committee and I understand it was considered by legal counsel at the time the bill was presented. I am sure there may be some difficulties involved here in the administration of the bill, but nevertheless it did have the benefit of legal counsel before it was presented. Furthermore, I have asked the Attorney General's office to look over this bill and I have a report from them in which they suggest just one amendment, which I shall be happy to offer at the second reading of this bill if my original motion is supported.

I note in the statements made by members of the Judiciary Committee a desire to protect the rights of the driver involved in a fatal accident who may be driving under the influence of liquor. I appeal to this Senate to consider also the rights of the non-drinking driver who takes his life in his hand when he goes on the highways of our state and other states.

So far as the argument is concerned that there is no other state which has such legislation on its

books, may I suggest that this is a national problem and that here is one opportunity for the State of Maine to take some leadership in this matter.

Mr. CAMPBELL of Kennebec: Mr. President, I would like to ask the Senator from Penobscot, Senator Whittaker, through the Chair a question.

I would like to know whether or not the Attorney General expressed an opinion that the bill as presented to the Judiciary Committee was in his opinion unconstitutional.

The PRESIDENT: The Senator from Kennebec, Senator Campbell, poses a question through the Chair to the Senator from Penobscot, Senator Whittaker, who may answer if he chooses.

Mr. WHITTAKER of Penobscot: Mr. President and members of the Senate: I have a statement signed by George C. West, Deputy Attorney General, in which he says: "I cannot state positively that this act is constitutional. I am inclined to the position that it is with one exception." And he suggests an amendment which would take care of that exception.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Campbell, that the bill and report be indefinitely postponed. A division has been requested.

A division of the Senate was had.

Eighteen having voted in the affirmative and ten opposed, the motion prevailed and the bill and report were indefinitely postponed.

Sent down for concurrence.

The President laid before the Senate (S. P. 462) (L. D. 1289) (Item 2) Bill, "An Act Relating to Salaries Fixed by Governor and Council"; tabled earlier in today's session by Senator Johnson of Somerset pending consideration; and that Senator moved that the Senate recede and concur with the House.

The PRESIDENT: The motion before the Senate is the motion of the Senator from Somerset, Senator Johnson, that the Senate recede and concur. The status of the bill in the Senate is that it has had its two readings, and then was indefinitely postponed. The other Body passed it to be engrossed, so a mo-

tion to recede and concur would in effect pass the bill to be engrossed in the Senate.

Mr. WHITTAKER of Penobscot: Mr. President and members of the Senate, you will recall the former debate on this particular bill which came through the State Government Committee. The intent of the bill is to turn over to the legislature the control of all salaries, some of which, approximately half of which, are under the control of the Governor and Council. We agreed to indefinitely postpone this bill presumably because we felt that the legislature should not take control of all salaries. You will recall that there is an order before us which would establish a study of this whole problem during the next biennium and it is my feeling together with some other members of the State Government Committee — it was a divided report — that we should leave this situation as it is at the present time until this study has been completed. I therefore hope without pursuing the matter further that the motion to recede and concur may be defeated, and I request a division.

Mr. JOHNSON of Somerset: Mr. President, ladies and gentlemen of the Senate, I again did some lobbying on this bill and I thought maybe I could filibuster this thing through here for about four hours and a half and as each one of you nodded I'd know that I had your vote and when I got to seventeen I'd quit and we'd have the vote. However, I would be remiss if I did not stand up here for the action taken in the other body. They had quite a debate on this particular bill and I have a few remarks I would like to read. It won't take the four and a half hours I spoke about. I get nowhere when I lobby.

"This session has found us in a rather peculiar position. When the 100th legislature adjourned, they adjourned without making any increases in the salaries of the department heads. It was clearly the intent of that legislature that the status quo should remain. However in the interim between the adjourning of the 100th legislature and the convening of this legislature not one increase, but several increases in salaries were made by the Governor

and Council, leaving the legislature in an untenable position. As the law stands, the duty of increasing the salaries of department heads is a divided authority. I don't believe it was originally intended to be this way, but somewhere along the line, the legislature surrendered to the Governor and Council their prerogative of establishing salaries. Consequently we find that the legislature has under its jurisdiction the salaries of part of the department heads, and the Governor and Council the others.

"We come in here at the start of this legislature and find that salaries have been increased by the Governor and Council, one portion of the department heads. If we don't do anything for the others, we find ourselves creating dissension and lowering morale. How are we going to keep ahead of this thing? This bill is merely to keep the situation as it is and when this legislature adjourns and we have set certain salaries, we want to go home and be sure that the salaries of the other department heads as set by the Governor and Council remain the same. I think this bill is a good bill, and a step in the right direction."

I would feel that this report is probably the best step that we have taken. However I thought of putting an amendment on the bill because one of the previous objections was that the Commissioner of DED might have to be replaced at a salary of \$25,000 to \$30,000 to get a good man. However, I think that if this amendment were put in it would defeat the purpose of the bill which is to bring back to the legislative branch, the branch that is elected by all of the people, the power that they should have which has been encroached upon over the years. I would hope that the motion I have made does prevail.

Mr. HINDS of Cumberland: Mr. President, ladies and gentlemen of the Senate, I know everybody must be surprised at me standing up on this bill again but I have backed up Senator Johnson on this bill all the way. Just a few brief remarks I would like to make before we vote. Number 1 is the fact that I feel that we as legislators have to

raise the money. I do feel that we should have a say as to how it is spent. I know I was embarrassed this last time when I was a member of the 100th session and we refused all department head raises and later on when I went home the Governor and Council granted most every department head that came under them a sizeable increase. I have checked with a couple of the Councillors and asked what they thought of this bill and they said they had no feeling one way or the other. One of them expressed the desire that he were in the Senate so that he could vote for it. So I hope that Senator Johnson's motion did prevail.

Mr. LOVELL of York: Mr. President and members of the Senate, as a member of the Committee on State Government, I would be remiss in not going along with the way I signed this report. I think we are curbing the Governor and Council a great deal in not giving them particular authority and if we take more authority away from them it will get to a point where the Governor will have very little to say in regard to the running of the various departments. I think the Governor and Council have the intelligence and integrity to increase wages of department heads that they have under their jurisdiction if they deem it necessary and particularly in the Department of Economic Department with conditions as they are in the State of Maine. Certainly the Governor should have the power to pay an adequate wage to get an adequate man to fill this position. I certainly feel that the studies that Senator Whittaker of Penobscot has mentioned, the studies coming up, can well decide this and I think the Committee on State Government felt the same way, that we were not in a position to judge all the salaries, possibly we should be covered by the legislature but to get the proper man to head a department, the salary at times may need to be varied. The increase as I understand it by the Governor was only last November and the Jacobs Plan which we put in two years ago for employees certainly was by consent of the legislature and it seems feasible to me that most of the heads of our

departments are much underpaid as compared to comparable states to Maine, and I think we should definitely go along with Senator Whittaker as Chairman of the Committee on State Government, and I hope that the motion of the good Senator from Somerset, Senator Johnson, does not prevail.

Mr. PIKE of Oxford: Mr. President and fellow Senators, I have been hoping all this session that in some way I could vote along with Senator Lovell of York and here is the occasion where I am going to do it. I am right behind Senator Whittaker of Penobscot all the way.

Mr. BROOKS of Cumberland: Mr. President, I rise in opposition to the motion of the Senator from Somerset, Senator Johnson and would hope that his motion would be defeated.

It seems to me that we have an organization of government here in Maine, a Council and a Governor who do have responsibilities and in certain areas of salaries that we have been discussing this morning, it is right that they should have these responsibilities. It is difficult to replace department heads these days with some of the salaries that have been set. I think it is only good business and proper that we should leave in their hands some leeway that they have now in order that they may choose on our behalf the very best material available. As I said in the beginning, I do hope that this body will oppose the motion of the Senator from Somerset, Senator Johnson, to recede and concur.

Mr. PHILBRICK of Penobscot: Mr. President, I rise in support of the motion of Senator Johnson of Somerset. I feel that either the Governor and Council should establish the salary rates for all people involved in State Government or that the legislature should set all salaries being paid. Inasmuch as it is the legislature's responsibility to appropriate the funds for the running of government I feel that that authority belongs in the hands of the legislature.

Mr. JOHNSON of Somerset: Mr. President, the good Senator from Cumberland, Senator Brooks said that it was difficult to replace department heads these days. I hon-

estly do not know of any one case where a department head quit because the salary wasn't high enough. I'd like also to say this. We have three branches of government: the Judicial, the Executive and the Legislative and it seems to me — and you will observe in our national government and other places the legislative bodies have been giving away some of the powers that were inherent under the Constitution. The encroachment of these powers has been very gradual and once you give them away as we see here today, it is awfully hard to get them back.

Mr. REED of Sagadahoc: Mr. President and members of the Senate, again I am in betwixt and between because I feel that both sides have an argument. I am wondering if it might not be possible to let the Governor and Council set salaries but to let them know that the next convening legislature would have to approve those salaries. In other words there would be control over the salaries. I do feel that Senator Lovell made a point that at times it is feasible and sound, and they probably should have the power, the Governor and Council to arrange salaries. They need this authority. We meet only every other year and when you have a change in department heads we would not want to lose a good man because of salary but I think we should let them know that the legislature does control it. There again, I move to support Senator Johnson's motion but at the same time I feel that this might be a more workable solution.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Somerset, Senator Johnson, that the Senate recede and concur.

A division of the Senate was had. Fourteen having voted in the affirmative and sixteen opposed, the motion did not prevail.

Thereupon, on motion by Mr. Brooks of Cumberland, the Senate voted to adhere to its former action whereby the bill was indefinitely postponed.

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The President laid before the Senate (H. P. 521) (L. D. 738) (Item 4) House Report, Ought Not to Pass

from the Committee on Appropriations and Financial Affairs on Resolve to Provide Funds for Matching Funds for Training in Machine Technical Institute"; tabled earlier in today's session by Mr. Brooks of Cumberland pending acceptance of the report; and on motion by

Mr. Hinds of Cumberland, the bill was retabled and especially assigned for tomorrow.

On motion by Mr. Brooks of Cumberland

Adjourned until tomorrow morning at ten o'clock.