

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred and First Legislature

OF THE

STATE OF MAINE

VOLUME II

MAY 10 - JUNE 22, 1963

and

SPECIAL SESSION

JAN. 6 - JAN. 17, 1964

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, May 28, 1963

Senate called to order by the President.

Prayer by the Rev. Walter Hartley of Fairfield.

On motion by Mr. Boardman of Washington, the Journal of yesterday was read and approved.

Communication

STATE OF MAINE
HOUSE OF REPRESENTATIVES
Office of the Clerk
Augusta

May 23, 1963

Hon. Chester T. Winslow
Secretary of the Senate
101st Legislature

Sir:

The Speaker has appointed the following Committee of Conference on the Disagreeing Actions of the two branches of the Legislature on:

Bill, "An Act to Appropriate Moneys for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1964 and June 30, 1965." (S. P. 549) (L. D. 1481)

Messrs: OBERG of Bridgton
SAHAGIAN of Belgrade
GIROUX of Brunswick

Respectfully,

HARVEY R. PEASE
Clerk of the House

HRP sr

Which was read and ordered placed on file.

Orders

On motion by Mr. Edmunds of Aroostook,

ORDERED, the House concurring, that the Legislative Research Committee examine the actions of the National Congress with respect to federal appropriations made available under the McIntire-Stennis Act, particularly with respect to federal matching funds for the State of Maine should the same become available for projects concerning forest research programs, including but not limited to capital construction projects, and further that the decisions reached by the Legisla-

tive Research Committee be communicated to the Governor and Council for such action as they may take to implement such recommendation, by use of the Contingent Fund. (S. P. 612)

Which was read and passed.
Sent down for concurrence.

On motion by Mr. Wyman of Washington

WHEREAS, Mr. Carleton Willey, who was born and brought up in Cherryfield, Maine, entered upon a Major League baseball career, completing five years with the Milwaukee Braves, and is now playing for this sixth year in the Major Leagues with the New York Mets; and

WHEREAS, he has made an excellent pitching record with the Mets during the current baseball season; and

WHEREAS, during the past six years he has been the only representative from Maine playing in the Major Leagues; and

WHEREAS, his fine character, exemplified in his devotion to family and sportsmanship, provide outstanding qualities to serve as an example for Maine youth; now, therefore, be it

ORDERED, the House concurring, that the Legislature of the State of Maine extend congratulations to Mr. Carleton Willey and his family for his achievement, with best wishes for his continued success; and be it further

ORDERED, that attested copies of this joint order be immediately transmitted by the Secretary of the Senate to Mr. Carleton Willey and to the Manager of the New York Mets. (S. P. 613)

Mr. WYMAN of Washington: Mr. President, I would like to say that during this past session we have honored Queens representing various industries and various other people throughout the State and out of the State, and now Washington County has the only major league baseball player which Maine has had for some years, and I do think we should take note of the fact, and therefore I present this order and move its passage.

Which Order was read and passed.

Committee Reports — House**Leave to Withdraw**

The Committee on Education on Bill, "An Act Relating to Tuition and Conveyance to Other than Public Schools in Another State." (H. P. 631) (L. D. 887) reported that the same should be granted Leave to Withdraw.

The Committee on Towns and Counties on Bill, "An Act Increasing Salary of Deputy Register of Deeds of Cumberland County." (H. P. 704) (L. D. 960) reported that the same should be granted Leave to Withdraw — Covered by other legislation.

The same Committee on Bill, "An Act Increasing Salaries of Sheriff, Register of Deeds and Register of Probate of Kennebec County." (H. P. 619) (L. D. 854) reported that the same should be granted Leave to Withdraw — Covered by other legislation.

The same Committee on Bill, "An Act Increasing Salary of Judge of Probate of York County." (H. P. 852) (L. D. 1239) reported that the same should be granted Leave to Withdraw — Covered by other legislation.

The same Committee on Bill, "An Act Increasing Salaries of Certain County Officials of Franklin County." (H. P. 617) (L. D. 852) reported that the same should be granted Leave to Withdraw — Covered by other legislation.

The same Committee on Bill, "An Act Increasing Salaries of Clerk of Courts, Sheriff and County Treasurer of Washington County." (H. P. 615) (L. D. 850) reported that the same should be granted Leave to Withdraw — Covered by other legislation.

The same Committee on Bill, "An Act Increasing Salaries of Judge and Recorder of Town of Lincoln Municipal Court." (H. P. 706) (L. D. 962) reported that the same should be granted Leave to Withdraw — Covered by other legislation.

The same Committee on Bill, "An Act Increasing Salary of Sheriff of Aroostook County." (H. P. 795) (L. D. 1148) reported that the same should be granted Leave to With-

draw — Covered by other legislation.

The same Committee on Bill, "An Act Increasing Salary of Clerk of Courts of Kennebec County." (H. P. 618) (L. D. 853) reported that the same should be granted Leave to Withdraw — Covered by other legislation.

The same Committee on Bill, "An Act Increasing Salaries of Clerk of Courts, Register of Deeds and Treasurer of Sagadahoc County." (H. P. 699) (L. D. 955) reported that the same should be granted Leave to Withdraw — Covered by other legislation.

The same Committee on Bill, "An Act Increasing Salaries of County Officials of Knox County." (H. P. 701) (L. D. 957) reported that the same should be granted Leave to Withdraw — Covered by other legislation.

The same Committee on Bill, "An Act Increasing Salaries of Clerk of Courts and Judge of Probate of Somerset County." (H. P. 703) (L. D. 959) reported that the same should be granted Leave to Withdraw — Covered by other legislation.

Which reports were read and accepted in concurrence.

Ought to Pass

The Committee on Appropriations and Financial Affairs on Bill, "An Act Appropriating Funds to Aid in Dredging Carver's Harbor, Town of Vinalhaven." (H. P. 319) (L. D. 446) reported that the same Ought to pass.

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

Ought to Pass — As Amended

The Committee on Judiciary on Bill, "An Act Revising the Administrative Code." (H. P. 922) (L. D. 1356) reported that the same Ought to pass as amended by Committee Amendment "A" (L. D. 1572)

Which report was read and accepted, the bill read once, Committee Amendment A read and adopted, and on motion by Mr. Campbell of Kennebec, the bill tabled by the

same Senator pending assignment for second rearing.

Majority — Ought to Pass
Minority — Ought Not to Pass

The Majority of the Committee on Appropriations and Financial Affairs on Resolve, Providing Funds for Public Landing at Islesford, Hancock County. (H. P. 177) (L. D. 246) reported that the same Ought to pass.

(Signed)

Senators:

PORTEOUS of Cumberland

Representatives:

SMITH of Falmouth
 BRAGDON of Perham
 PIERCE of Bucksport
 JALBERT of Lewiston
 EDWARDS of Raymond

The Minority of the same Committee on the same subject matter reported that the same Ought not to pass.

(Signed)

Senators:

EDMUNDS of Aroostook
 CAMPBELL of Kennebec

Representatives:

HUMPHREY of Augusta
 MINSKY of Bangor

Comes from the House, the Majority Ought to Pass report accepted and the Resolve passed to be engrossed.

In the Senate, on motion by Mr. Porteous of Cumberland, the Ought to Pass Majority Report was read and accepted in concurrence, the bill read once and tomorrow assigned for second reading.

Report "A" — Ought to Pass
Report "B" — Ought Not to Pass

Five members of the Committee on Highways on Bill, "An Act Relating to Weight of Commercial Vehicles." (H. P. 866) (L. D. 1253) reported that the same Ought to pass.

(Signed)

Representatives:

ROSS of Brownville
 CARTER of Etna
 CROCKETT of Freeport
 NADEAU of Biddeford
 DENBOW of Lubeç

Five members of the same Committee on the same subject matter

reported that the same Ought not to pass.

(Signed)

Senators:

COLE of Waldo
 BROWN of Hancock
 FERGUSON of Oxford

Representatives:

TURNER of Auburn
 DRAKE of Bath

Comes from the House Report "A" Ought to pass accepted and the Bill passed to be engrossed, as amended by House Amendment "A" (H-373)

In the Senate:

Mr. COLE of Waldo: Mr. President and members of the Senate: Each of us has, in his lifetime, and on possibly more than one occasion, felt himself inadequate to fully meet the situation in which he finds himself. I have such a feeling today.

I have done considerable research over the last ten years in regard to legislation concerning trucks, and I hope that you will bear with me because the research I have done is quite lengthy, but I will be as brief as I can in trying to get over my report.

For several sessions of the Legislature I have been a member of the Highway Committee and I am presently serving as Chairman of that Committee. My primary interest has been centered in our highways. Since we have highways only for the purpose of providing transportation, I am also of necessity, equally interested in transportation. Transportation of both people and merchandise. Since transportation creates traffic and traffic creates safety hazards, I am also vitally interested, and concerned, as we all are, with highway safety. Further, I have in mind, as I stand here, the tremendous cost of building and maintaining our highways and the high per capita cost imposed upon our less-than-one-million citizens in providing and maintaining those highways over our large geographical area. I also have in mind our current Federal-State road program and the necessity we are under to comply with the Federal regulations in order to be eligible to receive Federal funds which make the present program possible.

Having all these things, and more, in mind, I do feel inadequate to call your attention to all of the problems created by and inherent in this piece of legislation now under consideration. These problems, possibly by design, are not apparent on the face of the printed bill. However, they are there, they are real and they are serious. As I proceed I shall try to deal with them properly and as fairly as I know how, and to place them in a perspective which I believe you would not have from listening only to the proponents of this measure.

This is almost solely a "big truck" bill. I know of no special interest group which has come more often to the legislature, made more demands upon us, and been more generously rewarded, than this group. Let me review for you their demands over the past ten years, and the legislation we have passed for them. Before making that review let me call to your attention, and impress as indelibly as possible upon your minds, that the gross weight for trucks, the maximum allowed to the biggest truck, was, in 1953, fifty thousand pounds.

In 1953, as you can see for yourselves by looking under the heading of motor carriers and motor vehicles in the Register of Bills and Resolves for that session, eight bills dealing specifically with trucks were introduced, and four, or fifty per cent received passage. One of those not passed at that session was an act relative to the width of motor vehicles and trailers, a subject upon which I am particularly sensitive at the moment and of which I will speak more fully later. And, further in conjunction with that, there was passed, at that session, an act relating to Fastening of Logs and Tubular Products Carried by Motor Vehicles.

In 1955 twenty-three bills were introduced and ten received passage. Among those not receiving passage was one relative to the length of certain motor vehicles and loads thereon, another one relating to Axle Weight Limits, another relating to Overweight of Motor Vehicles and another one relating to Weight of Commercial Vehicles. I mention these things which did not receive

passage only to call your attention to the fact that persistence over a period of time has resulted in enactment, at later sessions, of these various propositions.

The most important accomplishment of the trucking interests in 1955 was the passage of a bill which became Chapter 366 of the Public Laws of 1955. This piece of legislation, which is still on our books today, and is of the utmost importance in our consideration of our present L. D. 1253, created, in effect, an exemption or a weight tolerance of two thousand pounds over and above the supposed maximum weight allowance for trucks. This exemption was created by the devious means of tampering with the penalty provision of our law to provide a fine and costs of court to be imposed "when the gross weight is in excess of the limits" prescribed by law "provided such excess is intentional and is less than 2,000 pounds." In other words, unless it can be proved — unless the arresting officer can prove that some one wilfully and wrongfully piled on weight with the specific intent to violate the law — no conviction can be had for the first two thousand pounds of overweight. No trucker will admit that this creates a tolerance or an exemption, but I ask those of you who are really disinterested: what is it, if it is not an exemption or not a tolerance? The net actual result of this legislation was to increase the then allowable gross weight from fifty to fifty-two thousand pounds.

In 1957, of twelve bills introduced, nine received passage. At this session, however, by far the most important business for trucks was the successful, concerted and heavy opposition to, and the defeat, of a bill to establish a highway use tax.

Of next importance in 1957 was the passage of a bill, which became Chapter 309 of the Public Laws of 1957, and which increased the gross weight to sixty thousand pounds. Again, the tolerance which was obtained in 1955, applied to this new maximum weight to make the actual weight, before effective prosecution could be had for any overweight, a total of sixty-two thousand pounds.

It was also at this 1957 session, as some of us well remember, that the truck interests told us if they could have this additional five tons they never again would ask for another pound, and that, in part was true, for they never again did ask, never again, that is, until 1961.

1959 was a quiet year for truck legislation. Twelve bills were introduced. Some of these were intended for the regulation of trucks and were defeated. Of the total introduced only two received passage. The number of bills passed at this session however is not indicative of the tolerance of the legislature toward the truck interests, for many of the bills which were killed would have regulated the big trucks to the dislike of the big truck owners.

Too, at this session of 1959 there appeared for the first time a bill which would have allowed tandem trailers on four-lane highways. This particular bill was referred to the next session of the legislature.

We now come to the 1961, or last, session of the legislature, a session which has become known to some as the one in which we permitted trucks to be built longer, loaded heavier and driven faster. I mention this in this way because of the bills before our current session in which we are asked to allow them to be built higher and wider and loaded still heavier.

In 1961 a total of sixteen bills pertaining to trucks was introduced and six were passed. Of those not passing, two were in regard to the operation of tandem trailers upon four-lane highways. One of these two bills was the one referred from the previous legislature and it was indefinitely postponed as being covered by other legislation. The other was a duplicate bill prepared and introduced at the 1961 session and the sponsor of this bill was finally granted leave to withdraw. I predict, however, that the State of Maine has not seen the last of such legislation, but that future legislatures will be asked to allow the operation of two and three trailer hitches upon the highways within our state.

The most important legislation passed for the truck interests in

1961 are those I have already mentioned. One bill abolishing the speed differential between trucks and other vehicles; one bill allowing the operation of longer trucks upon our highways; and the bill which increased the gross weight another five and one-quarter tons to seventy thousand five hundred and fifty pounds. And again I refer to the 1955 tolerance legislation of two thousand pounds, which makes the present effective gross weight seventy-two thousand five hundred fifty pounds.

So far I have reviewed legislation from 1953 through 1961. This has taken quite some time. The only reason it has taken so much time is because of the great amount of legislation introduced and the great amount of legislation which has been enacted for the benefit of the truck owners and operators.

The consideration of the great amount of legislation which has been introduced in prior sessions, together with the consideration of the great amount of legislation we have seen at this session serves to illuminate the program of persistent, pernicious attrition pursued by the truck owners to attain their own ends and to satisfy their ever greater and greater desires and their ever greater and more persistent demands upon us.

And I want to direct your attention to this process, and ask you to review in your own minds this program where we have seen the organized truck owners come in here and, over a period of time, nibble off a bit here, another bit there, still another bit somewhere else, bite off a big piece here, nibble off another bit more, bite off another big piece somewhere else, until today they are in the position of having consolidated a very large program out of all the little nibbles they have been allowed over the years. And today they are back again trying to sell us another piece of legislation partly on the basis that it is not large, that, at the most, it doesn't amount to anything at all, that it is not even worth mentioning, and why don't we close our eyes, and pass it and forget about it. I will try to tell you why we should not close our eyes

for another instant this session, and why we should not pass it and forget about it.

I will not try to review every bit of truck legislation which has been introduced at this session but I do want to discuss some of it.

The first bill I want to discuss is the one which was entitled "An Act Relating to Redistribution of Axle Loads on Commercial Vehicles." The title is not too indicative of the effect of the act because the true intent and result was to have entirely abolished penalties for axle-weight overloads. Had this bill passed it would have been an invitation to every truck owner and every truck driver and every truck loader to be careless and to load trucks in such a way as to do the most damage to our roads, with the assurance that no penalty would be imposed for the violation of a law which was designed solely for the purpose of protecting our highways. In the face of rapidly growing opposition this bill was placed on the table where it was subjected to the glare of publicity which further exposed it for the bad legislation it was, and those who had been its proponents finally killed it.

Then there was a bill which increased the height of trucks. This was another small piece of the large pattern of truck legislation which has been passed and has become law.

And now I want to speak to you with some shame, some chagrin, some humiliation, some regret, and a great deal of resentment about a pulp-wood binder bill and a truck width bill. We had introduced into this legislature a bill which would permit the operation of wider trucks upon our highways. They were not to be operated upon our new, wide, four-lane, divided highways. That would exceed Federal regulations, imperil Federal funds, and, besides, it would be too dangerous on such roads. They were to be permitted to operate, however, upon our narrow, hilly, winding, primary and secondary State roads. Somewhere in our legislative process, this width bill, which had little, if any, merit to recommend its passage, became incorporated as a part of the body of the pulp-binder bill; a

place where no one would expect it to be. We have passed this width bill. I learned this by reading it in the newspaper. Even then I did not believe it until I checked for myself. It is because of such tactics as this that I said, and may repeat, that we can not again this session afford to close our eyes, for even a second, on any legislation having to do with trucks because we may find that again we have been caught off guard, deluded and find that we have again voted for some bill which does something different than what is indicated by its title, or than is admitted or indicated or disclosed by the propaganda dispensed by those who believe they are to gain by the legislation.

The bill now under consideration, L. D. 1253, is entitled, "An Act Relating to Weight of Commercial Vehicles," and is being advocated chiefly upon the ground that it increases gross weight by a mere twenty-seven hundred and thirty pounds. Actually, this is not all it does, but let us consider the matter of gross weight first.

Bear in mind that the maximum gross weight until 1955 was fifty thousand pounds. The present bill would increase that to seventy-three thousand, two hundred eighty pounds. The two thousand pound tolerance added to that would make a maximum gross weight of seventy-five thousand, two hundred and eighty pounds; in other words, an increase of twenty-five thousand, two hundred eighty pounds, or more than a fifty per cent increase over the fifty thousand pounds, in only eight years.

Next, and probably most important, I believe the new requested maximum gross weight, when coupled with our weight tolerance, would put us in violation of the Federal Highway Act. The maximum gross weight allowed by the Federal Government is seventy-three thousand two hundred eighty pounds. The present bill requests that maximum, but when the two thousand pound tolerance is added we will exceed Federal Standards by two thousand pounds.

I believe I have just given you sufficient reason to kill the bill.

However, there are other things I feel impelled to say about it and about some of the problems presented by it.

One of the things the proponents of the bill do not appear to emphasize, or to like to discuss, is the increase in axle weight incorporated in page 2 of the bill. I suspect this increase in axle weights and I know it is more damaging to our roads. Let me call to your minds the simile drawn by highway engineers when they compare the action of the axle-load on the road to that of a spike heeled shoe upon a soft wood floor.

Before discussing some of the proposed axle-weight changes I want to talk about damage to our highways. There are those who argue that trucks do no damage to our highways. An argument was made before the highway committee that frost was solely responsible for damage to the roads. Such arguments are contrary to all common sense. Which would you rather roll over your floor at home; a light tea-wagon or a heavy safe? The same principle is involved.

There is an old Chinese proverb that one picture is worth ten thousand words. I have some pictures I want you to see and, if there is no objection, I will pass them around for you to look at. These pictures were taken by the State Highway Commission. They were taken at my request. They are pictures of a highway into Aroostook County where a very special situation exists. Trucks traveling northbound into Aroostook are traveling light and those returning southbound are loaded, or heavy. I ask you to look at these pictures and to compare the smooth condition of the north-bound lane of the highway shown in these pictures, with the south-bound lane which is heaved, cracked, broken, pitted, patched and pock-marked. These pictures give a far more graphic description of truck damages than any words I could find to try to describe it.

Now, bearing in mind the truck damage to roads, and the fact that the axle weight is even more important in this respect than a properly distributed gross weight, let us look at L. D. 1253. This bill proposes

two entirely new categories for five axle trucks. Perhaps more important, certainly more easily compared, are the old weights as against the new. On four axle trucks having a distance of fourteen feet between axles, our present law allows a weight of forty-five thousand nine hundred pounds. The new law permits an increase of more than a ton and a half for such four axle trucks. Looking at the last comparable figure in the table for four axle trucks we find the additional weight allowed by this bill, for trucks having axles thirty-two feet apart, would be over two and one half tons. The last comparison I will make is of the five axle trucks having axles eighteen feet apart, where the proposed bill would increase the weight by more than four tons for such five axle vehicles and would put greater weights on a shorter wheelbase and permit greater axle weight to more severely punish our roads. This is another reason this bill should not receive passage.

Another reason I shall give for not increasing truck weights is that we have, at this session, passed a resolve, L. D. 542, Authorizing a Review of Maine Highway User Tax Study. The original study indicates that the big trucks are not paying a fair share for their use of our highways. Certainly the big, out-of-state trucks which come in here are not paying a fair share for their use of our roads. If we should increase truck weights now, so that the trucks would have nothing further to ask, they could concentrate their entire effort to defeat any bill designed to secure equitable fees for their use of the highways. If we are eventually to increase truck weights let's wait until after this highway user tax review when we can do what has to be done on a fair and equitable quid pro quo basis.

Finally, our effective maximum weight is presently seventy-two thousand five hundred and fifty pounds; that is, seventy thousand five hundred fifty pounds plus our two thousand pound tolerance. This is only seven hundred thirty pounds less than the maximum weight allowed in any state anywhere in

the United States. Seven hundred thirty pounds is not going to hurt anyone very much in the next two years.

In summary, we have probably already been too quick to accede to the special interest demands of the big trucks. Last session we permitted them to be built longer, loaded heavier and driven faster. This session we have knowingly permitted them to be built higher, and unwittingly permitted them additional width. The spokesmen owners and operators certainly cannot claim to have been abused if they are not allowed a small amount of additional weight at this time. Let's not allow them, later, to concentrate their efforts toward defeat of some legislation we may want to pass as a result of the Highway User Tax Study.

In conclusion, I am afraid if we pass this bill we will jeopardize our share of Federal money upon which our present highway program is so heavily dependent, and I believe, that, should we pass this bill now, we would very shortly have to come back to repeal it to stay within the limits set by the Federal Government to be eligible for the Federal funds.

Mr. President, I move indefinite postponement of both reports and all accompanying papers and request that when the vote is taken it be by a division.

Mr. JOHNSON of Somerset: Mr. President and ladies and gentlemen of the Senate: I would like to call your attention to this L. D. 1253. The last line of this bill states that the registration fee to be paid for 73,280 pounds is \$600 per vehicle. This is a substantial contribution to the highway fund. There are approximately 1400 trucks registered for the maximum at the present time of 70,550 pounds and it is expected that all of these will be registered for the maximum of 73,280 and possibly an even greater number will eventually be registered if this bill passes. This amounts to \$840,000 in registration fees or over three-quarters of a million dollars. The increase will be about \$77,000 a year or about \$55 a year increase per truck. This is a sub-

stantial contribution to our highway fund.

In case you do not already know it, I would like to bring your attention also to the fact that trucks in the State of Maine contribute over twelve million dollars annually for the use of the highway. This is more than one-third of all highway costs. In other words, trucks pay directly for one mile out of every three miles that are built. This deserves your considerable attention, particularly this year when, as you all know, the highway revenues have dropped. By the passage of this bill we can not only help the trucking industry and in effect help ourselves but we can also produce more revenue for the State. I would also like to call your attention to the fact that this \$600 per truck is only the registration fee. They will also pay an excise tax and they are paying a considerable amount in gas taxes. It has been estimated with a great deal of accuracy that each truck registered in the higher weight bracket in Maine pays about \$5000 per year in taxes. It also has been shown here today that this bill is a good bill in that it actually does not violate the provisions of the federal highway act of 1956 and this bill will not hurt our highways. As a matter of fact, the Highway Department has not at the hearing, I understand, indicated that this bill violates any good engineering principle. As a matter of fact, the Federal Highway Interstate System is not especially designed for these heavy vehicles, it is designed primarily for military purposes and as such it has been built to carry vehicles up to 150,000 pounds. You realize there are tanks and many heavy vehicles that weigh 80 and 100 tons. These federal roads were built to carry these heavy vehicles. We cannot afford to be against an industry that is contributing so much to the State of Maine merely for the sake of being against trucks.

It is a matter of record that the railroad industry is opposed to this bill for competitive reasons, however the solution to one industry's problem is not to hamper another.

I would also like to call your attention to the statement that was made here today that there is a 2000 pound tolerance allowed to motor vehicles. I would like to straighten this matter out. There is no tolerance allowed under the general weight provisions of the motor vehicle laws. In Section 111 of the motor vehicle laws, under the so-called "Mandatory Fine Act" there is a rule of evidence which is often construed to be a tolerance but it is not. It states in effect:

"\$20 and costs of court when the gross weight is excess of the limits prescribed in section 109, provided such excess is intentional and is 1000 pounds or over but less than 2000 pounds, and the above provision as to intent shall apply only to such excess as is less than 2000 pounds;"

As you will see, if the overweight is less than 2000 pounds the State Police are required to prove that it is overloaded. If they can prove this, then the violator will be assessed the mandatory fine. I hasten to add however, that if the trooper cannot prove the intent, he can bring the violator in anyway, even if the violation is only one pound, under the general penalty clause.

The tolerances in the motor vehicle laws pertaining to weight are the one regarding firewood, pulpwood, logs and bolts, and the one recently enacted here in the Senate regarding construction materials. To carry this one step further, the State Police as a policy matter and a police matter only allow a 2000 tolerance on the axle weight. This is allowed because of the discrepancy in scales and because of shifting axle loads and because of snow and ice accumulation. It is as much a convenience to the State Police as to the truckers. Scales as a general matter have a two per cent error in them, and two per cent of 73,280 pounds is about 1400 pounds.

We have also had brought up here today the fact that in our discretion we defeated the passage of a bill that had to do with the redistribution of loads on axles. I think we all agree that this bill should not have passed. However, I think you will all agree that the mem-

bers of the other body and I think a great many members of this body would have liked to have seen this bill pass, but in the discretion of those who would be involved with this they felt the bill should not pass and it was defeated voluntarily by the sponsor of the bill. It has been brought out here on the height of the trucks this year. As you recall, a bill was put in to increase the height and it was put in by the City of Portland. Of course indirectly it did help the truckers but it was not one of their prime bills this year. However, you can see that it went very slowly through this body. It had been tabled for people to look it over, for legislators to decide, and finally it was passed a few days ago. And finally we come to the bill that had to do with the width of trucks, and I believe the good Senator Cole said it was with chagrin and shame perhaps that the bill passed, and I would agree. If it was my job to look into these bills and I was paid to come down here, not as a member of the legislature but in the interest of all the people whom it might hurt, and if I missed something like this I would feel that if these people were working for me they would be out looking for another job the next day. If anyone is to blame for the idea in the combination of these two bills—one had to do with the binders which already had a 102-inch width to it, the other bill which increased the width to 102 inches—if anyone is to blame for the idea for the idea of combining these two bills I will take the blame. However, I would say that the committee and many others, I would say over 75 per cent of this legislature was aware of what this combination was intended to do. The law already said that these trucks could have 102 inches, and in the case of the combining of these two bills the committee did not know which title to use in the combination of these two bills so therefore they favored a member of the committee itself who had one of the bills in, and so the other was placed in the withdrawal category, but I believe that anyone who was interested in the width of 102 should have realized

that somewhere along the line there was going to be added this 102 inch width because of the fact it was withdrawn because of other legislation, and I believe if anyone had been on the ball and had not slipped off, so to speak, they would have found it without any trouble, because they could have asked any member of the legislature, I believe, that had any interest in the bill. So, so far as the legislature is concerned, I would feel that whatever they did in this particular case was with no malice, shall we say, or any sneaking behind; they did it as openly as anyone could pass any bill here.

I have heard reference to the damage to roads here today. I haven't seen these pictures but I know they are probably the worst we have in the state or they wouldn't have been shown. I would like to say this, and I think the engineers will agree, that when the roads are frozen there is no damage to them, and I do not believe that any weight will hurt a road when it is frozen, and I also believe that when the roads are dry there will be no damage. However, we have a peculiar situation in this state, and I imagine that north of here they have the same situation where they have eighty thousand pounds and so forth. There comes a time of year when the frost comes out of the ground, and I think you all realize that the frost does go very deep in certain areas where the roads are plowed, especially in towns and cities where they have sewers or water mains down to five and a half or six feet the frost will go down that far at that period. The problem is not at that period but it is at the time when we get the thaw in March, or perhaps in February, when the top of the roads starts to thaw out the first three or four inches and we have snow or water accumulation. Water does not run into the ground but it goes through these cracks that occur in the road. There is no way for this water to escape, so it works down in and for a certain period of time the roads do crack up, and I believe they crack

up almost everywhere. It is a problem, and I am not sure how it could be overcome, but I do know this: that all these secondary roads to which reference was made today as carrying a heavier weight, they can all be posted. There are enough employees with the Highway Commission to post these roads on an hour's notice, because I have passed many of them on my travels back and forth, and at this time of year they are not constructing anything so they should have more help available.

I feel that this bill is a good bill. I know that I have not covered everything here, and I know that others would like to speak. I respect the remarks of the Senator from Waldo, Senator Cole, but I would feel that the indefinite postponement of this bill would certainly hurt the economy of the state at this time.

I would like to say one other thing. The good Senator said that from 1953 to 1963 they practically doubled their weights. I would like to say that in that period of time the engineering has improved by just about a hundred per cent. We have our appropriations bill here, \$143,000,000, and if you look back in 1953 you will find it was about \$70,000,000, so we have doubled that. I guess we are moving forward and we do not have any desire to stop at this time. I hope the motion to indefinitely postpone does not prevail.

Mr. NOYES of Franklin: Mr. President and members of the Senate: I rise to support L. D. 1253. In my three terms here I have always supported that which was good for the the State of Maine and the railroads, that which was good for State of Maine and air service, and I feel that if we are going to continue our search for industrial development we must continue to help the trucking industry. The fact that the trucks are getting bigger is no different than many of the other facts of life. Of course the trucks will get larger, longer and will be asking to carry heavier loads. After all, that is the trend throughout the nation,

and if Maine is going to stay up with the rest of the nation they must be ready to progress in this development. Also, so far as the trucking industry, there have been a few remarks here that perhaps it was not too good for the State of Maine. I would like to remind you that over 60,000 people are employed by the trucking industry. That is one out of every five people employed in the State of Maine today, and the payroll is some \$241,000,000 dollars. A quarter of a billion dollars is quite a payroll. Also, and I think this is the most important fact: over three hundred of our towns and communities in Maine have no other mode of transportation except by truck, 300 of our communities is more than 80 per cent of all the towns and villages in this state. It is the only means we have to haul our freight, and I believe if we are going to keep those communities in mind and not let them dry up, such as was the case when we did not pay too much attention to the railroad years ago, then we are going to find ourselves in the same situation. For that reason and these other reasons I heartily support L. D. 1253.

Mr. CAMPBELL of Kennebec: Mr. President, and members of the Senate: I feel that I will support the three Senate members of the Highway Committee and support the pending motion to indefinitely postpone.

The matter of tolerance has been discussed here briefly, and I think that is one point that I would like to emphasize for you. It is something I know a little about because I have several clients who have the unhappy faculty of exceeding the tolerance and they never seem to get down to the limits of the tolerance, but I assure you that there is a tolerance here and I think it is something that you should weigh. As you know, a tolerance is simply an allowance for overweight, which can happen to anybody, and it exempts them from penalty. In other words, you cannot load a truck to the exact poundage, and it is quite

likely that you will on occasion exceed the limits allowed by law, and so the law has provided these tolerances.

Now as I understand the tolerance law, if the truck is overloaded up to the extent of 1000 pounds nothing happens, there is no penalty at all, so you immediately have automatic tolerance and you thereby increase the weight limit by 1000 pounds. Between 1000 and 2000 pounds, again you are exempt from penalty unless it can be proven in court that this overloading was intentional.

This same question that we are discussing has been posed to the Attorney General and I think you might be interested in hearing his reaction to it. Now this was the question that was propounded to him: May a truck carry more than the maximum limit set by Section 109 without penalty? Now that is what we are talking about here because 109 is the section in Chapter 22 that does prescribe the weight limitations. This is his answer:

"Section III sets the penalties for violation of Section 109 which in turn sets a schedule of maximum allowable weights. The third paragraph of Section III provides in part: '\$20 and costs of court when the gross weight is in excess, is intentional and is 1000 pounds or over but less than 2000 pounds. And the above provision as to intent shall provide only to such excess as is less than 2000 pounds.'

"The above-quoted portion of Section III as far as relates to excesses under 1000 pounds in effect grants a tolerance. There is no penalty for carrying a load in excess of the limits set in Section 109 as long as the overload does not exceed 1000 pounds. There being no penalty, there is no violation or offense.

"As to excesses over 1000 pounds but under 2000 pounds there has to be the element of intent. An accidental or unintentional overloading carries no penalty. There being no penalty there is no violation or offense. When the excess is between 1000 pounds and 2000 pounds and the truck is delib-

erately or intentionally overloaded there is a penalty. Such overloading then becomes a violation or offense."

Now this is the final sentence, and this to my mind is the clincher:

"From all this we must conclude that exceeding the maximum weights set forth in Section 109 is not by itself a violation until the excess is 2000 pounds or over."

So it seems to me that what we are really talking about now is a weight limit under the existing law of 70,550 pounds plus a 2000 pound tolerance, which, as the Senator from Waldo, Senator Cole, reminds us is only 730 pounds short of what this bill is calling for. But, more important, I think you should realize that if we go as this bill proposes to 73,280 pounds then automatically, by virtue of this tolerance, you are actually going another 2000 pounds.

Mr. LOVELL of York: Mr. President and members of the Senate: I have listened very carefully to the good Senator from Waldo, Senator Cole, and the good Senator from Kennebec, Senator Campbell. In the present condition that the State of Maine is in — and I would like to remind you that last year there were more bankruptcies in the State of Maine than in any other state in the country on a per capita basis — that Maine must meet competition of other states. If we do not meet competition to a certain extent we are going to hurt the over-all economy of the state.

Now this bill, in my opinion, simply brings Maine up to the 73,000 pounds that is pretty well universal all over the United States.

Now industries locate in a state actually for one reason only, and that is to make more money. If you cannot convince them they are going to make more money they are not going to come to Maine, with the exception you might find some person who liked fishing or hunting here and who might bring in a small industry for the sake of that pleasure, but they are few and far between, because, as you

well know, we have lost manufacturing jobs every year for the last ten years. Now if we do not bring up our standards to the standards of other states so when a truck bringing material into the state must unload some three thousand pounds of their load in Boston and then carry it on at a later time into Maine, it increases the over-all transportation rates. It is essential, in getting new industries and holding industries, to have our transportation rates just as low as possible to meet competition with other states.

I noticed the pictures. As far as the pictures are concerned, I would say that I am no judge of frost coming from the road, but I have been riding up and down the turnpike, which is supposed to be a pretty good road, and it is pretty rough. I do not think the trucks had anything to do with that there; I think it was frost on the turnpike, because in some places this spring it was more or less like plowed ground.

Nevertheless, the state last year spent some 10.2 millions just for maintenance of our 11,000 miles of state highway, and I do not believe that increasing this weight will cost the state any more in their road maintenance, which is nearly a thousand dollars a mile each year, and I certainly feel that times are changing, we are getting into more competition, not only in manufacturing in Maine but even in the European common market, and we must, in my opinion and in the opinion of many industrial people, go all out to meet these changing times. Now if the truck weight has increased over recent years that is only to meet competition, and in my opinion this bill is to meet competition so that our industries in Maine and our businesses can get their material or their goods at the lowest possible rate. I hope that the motion to indefinitely postpone does not prevail.

Mr. FARRIS of Kennebec: Mr. President and members of the Senate: I also have listened with great interest to the proponents and opponents of this particular measure. It is an old saying amongst

lawyers that when the over-all facts go against you you argue like mad on the law, and when the law is against you you argue like mad on the facts. That seems to be the situation so far as the proponents of this motion to indefinitely postpone are concerned, because the over-all facts certainly justify bringing Maine into line with 41 other states. We have provinces to the north and east and states to the south of us and to the west of us which do have a weight law which meets the national standards, and the national standards measure is incorporated in this bill.

Now certainly this is not a question of rewarding anybody. None of us are in this Senate here with the thought of enacting legislation to reward anyone or penalize anyone; we are trying to use our best judgment and enact legislation which is for the best interest of all of the people of the State of Maine, and certainly anything that can be done to lower or at least to keep freight rates at a constant level is an improvement in our present economic condition, particularly in relation to other states.

Now I cannot become at all excited about the fact that when a bill has been enacted people say that is a bad bill, because we are still in session, there is a bill right here that pertains to trucks, the amendment process is certainly available, and if bad legislation has really been enacted I would certainly be the first to support its immediate repeal.

This is, as I have stated, within the limits of federal laws and regulations and would not be a violation. It has been so stated by the federal administrator of the Bureau of Public Roads, and if there is any question whatsoever that this bill could put us in violation of the federal law there is no reason why we should not add another phrase onto this bill so that if it is in violation of federal standards then the law shall not be effective. We have done this on many occasions in the past, and obviously if it truly was a fact that the passage of this bill would place us in any jeopardy with the federal gov-

ernment an amendment would be presented. I certainly hope that this motion to indefinitely postpone is defeated.

This, it happens, is the third time between legislative sessions where I have been in the rather unfortunate position of being in opposition to my very good friend, the Senator from Waldo, Senator Cole. He certainly is doing a wonderful job in working on these problems with his committee, and I certainly respect the work which he does, but in this particular situation I must disagree with his stand. I do not feel that facts have been presented which would warrant the defeat of this bill.

In conclusion: we have heard about trucking interests and railroad interests. There is nothing wrong about that. I think if any of us were engaged in either of those industries we would be taking a very definite stand. But I have had occasion to talk to many responsible railroad people, and there is no question in their minds but what this bill is inevitable, and there is also no question in my mind but what they would like to have this bill deferred for a couple of years so that they would be in a little better bargaining position when it came to again facing up to tax relief measures for the railroads, which may be well and just. I do not say it is unfair but it is just a part of the chess game which goes on in progress and in many facets of life. I urge that we defeat this motion to indefinitely postpone and that we enact this bill.

Mr. PIKE of Oxford: Mr. President and members of the Senate: I want to state right here that I am not paid by anybody for anything, and it almost makes the tears run down my face to oppose Senator Cole. Ever since I have been in the legislature I have always thought a lot of Senator Cole from Waldo, and I have always tried to go along with the highway boys, because I thought they were pretty fair on the whole, but I think in these changing times they are all wet.

I like the railroad boys—they have got to have quite a lot of help, I

think, but I do like the trucking boys. Of course I come from the section where Sanborn's Motor Express is located, in Norway, and they have big trucks all over New England, New York and New Jersey every day, and when they have a load come from any of the 41 other states that allow the larger load limits they have to either send another truck or else they have to hire a truck or go back after the extra 300 pounds, and it seems to me ridiculous. I do not believe it hurts the roads one bit more to have one truck with the modern arrangements that they have now haul this larger load than it does to have two trucks go over the road.

One of my neighbors is the March Orchards. They do a big business in apples and that is all they do. They employ around fifty people at times and they go by my home every day. They have two storages, a regular storage and controlled storage. They start packing with a large crew the very first of the winter on the regular storage and then they go onto the controlled storage, so that they are packing all winter. These big trucks go by our place, and I know the thing that seems so foolish to me is that when they ship to New York and New Jersey, or even to Florida, as they do lots of times, they have to send another truck trailing this big truck until they get to the state line so that they can load that extra amount on. I think that is ridiculous.

As I say, I think a lot of the highway folks but I think they are all off when they oppose this three thousand pounds extra.

Senator Johnson spoke about that additional fee. I do not think they are doing any nibbling, they are asking for this and they are willing to pay for it. \$600 is a lot of money for 2730 pounds extra. Somebody said that it amounts to \$77,000 a year. I think that is a lot of money extra besides all the big fees they have to pay license fees and so forth. I cannot go along with Senator Cole on this.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Waldo, Sen-

ator Cole, to indefinitely postpone the reports and the bill, A division has been requested.

A division of the Senate was had.

The PRESIDENT: The Chair will vote to keep the bill alive, voting No on the question.

Thereupon, sixteen having voted in the affirmative and seventeen opposed, the motion to indefinitely postpone did not prevail.

Thereupon, on motion by Mr. Johnson of Somerset, the Ought to Pass Report of the Committee was accepted, the bill read once, House Amendment A read and adopted, and the bill as amended was tomorrow assigned for second reading.

The PRESIDENT: Will Mr. Joseph Silvano please stand and be recognized?

The Chair in behalf of the Senate is happy indeed to recognize Joseph Silvano, who is present Labor Relations Commissioner in the Commonwealth of Massachusetts. He was formerly a member of the House of Representatives and the Senate in the Commonwealth of Massachusetts. We are happy indeed to have you here, sir. (Applause)

The Chair is likewise happy to welcome a group of patient students who have been in the balcony, 55 pupils of the St. Augustine School graduating class here in Augusta. They are accompanied by Sister Alice Therese, Principal, and Sister St. Narcisse and Sister St. M. Laure.

We are also happy indeed to recognize in the balcony the 8th grade of the Washington school in Dixmont, which is in Penobscot County. They are accompanied by their teachers, Mr. and Mrs. Robert Smith.

Would the Sergeant-at-Arms please escort to the rostrum a young man who is seated to the left of former Senator "Turk" Gilbert.

Of course the Chair is not interested and the members of the Senate are not the least interested, but for the benefit of the young people here in the gallery I would like to introduce this man to you.

Baseball is our national game. This is a beautiful day outside, and we passed an order today to honor

a young man from Cherryfield by the name of Carleton Willey, who is in the major league. I would like to introduce to you people here today Milton Bolling, who for five years was the star shortstop for the Boston Red Sox and who is now an executive for the organization. I had the pleasure of meeting him at State of Maine Day at Fenway Park two years ago. It is nice indeed to have you here, Milt. We in the business of politics and government have our problems with hits, runs and errors and we have as much trouble with a curved ball as some of you fellows do. I think it would be nice for you to make any remarks you care to say, particularly to the young people in the balcony. Milt Bolling. (Applause)

Mr. MILTON BOLLING: Thank you, Mr. President. Ladies and Gentlemen, future Red Soxers, I hope, beautiful young ladies of Maine and good sisters: It is a pleasure to be here. I am glad I came here because you are now honoring Willey, who is now pitching for the New York Mets. He is a fine pitcher, and I wish that the Red Sox had signed him, the way he is doing right now.

My job here in Maine right now is to scout out some of the fine young baseball players whom we have notes on, like from "Turk" Gilbert, who are supposedly prospects. The weather we have had today is conducive to baseball. I won't say anything about the kind of weather the last time I was up here, but today is a beautiful day and it is certainly a pleasure to come up here and watch baseball. We know that the people in Maine are tremendous baseball fans. We feel that although we carry the name of Boston that we represent New England, the best fans in the world, and with the super-highways that you have here, and the Maine Turpike, with its speed limit of 70 miles an hour, you can come into Fenway Park any time, and we hope to see you there this summer. Thank you. (Applause)

Second Readers

House

Bill, "An Act Relating to Fees of Arresting Officers for Warrants. (H. P. 655) (L. D. 911)

Bill, An Act Relating to Boundaries of Western, Eastern and Central Aroostook District Court Divisions. (H. P. 814) (L. D. 1201)

Bill, An Act to Promote Merchandizing of Maine Sardines and Increasing Number for Quorum of Maine Sardine Council. (H. P. 817) (L. D. 1204)

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

Senate

Bill, An Act Relating to Salaries of County Officials and Municipal Court Judges and Recorders. (S. P. 609) (L. D. 1575)

Which was Read a Second Time, and on motion by Mr. Jacques of Androscoggin, tabled pending passage to be engrossed, and especially assigned for tomorrow.

On motion by Mr. Edmunds of Aroostook

Recessed for five minutes.

After Recess

The PRESIDENT: With reference to the non-concurring action of the two bodies on bill, "An Act Amending Certain Provisions of the Employment Security Law, the Chair appoints as Senate conferees, Senators: Johnson of Somerset, Hinds of Cumberland and Stitham of Somerset.

The President laid before the Senate the 1st tabled and today assigned item (H. P. 978) (L. D. 1417) Bill, "An Act Authorizing the Maine Port Authority to Establish Foreign Grade Zones in Maine"; tabled on May 22 by Senator Edmunds of Aroostook pending passage to be engrossed; and on further motion by the same Senator, the bill was retabled and especially assigned for Tuesday, June 4.

The President laid before the Senate the 2nd tabled and today assigned item (H. P. 194) (L. D. 263) House Reports from the Committee

on Claims on Resolve to Reimburse Town of Woolwich for Loss of Tax Revenue of Property Owned by State; Majority Report, Ought to Pass in New Draft and New Title on Resolve, in Favor of Town of Woolwich for Rent of Certain Property Owned by State (H. P. 1026) (L. D. 1487) Minority Report, Ought Not to Pass; tabled on May 22 by Senator Hichborn of Piscataquis pending acceptance of either report.

Mr. HICHBORN of Piscataquis: Mr. President and members of the Senate, the original report on this bill was nine to one, Ought to Pass. I signed the Minority Ought not to pass because of the fact that it appeared to be unconstitutional and a decision by the Attorney General's Office bore that out. However, because a suggestion has been made for an amendment which will correct this situation I now move the acceptance of the Ought to Pass report in order that the Senator from Sagadahoc, Senator Reed, may present that amendment.

Thereupon, the Ought to Pass Report was accepted and the bill read once.

Mr. Reed of Sagadahoc presented Senate Amendment A and moved its adoption.

The Secretary read the amendment.

Which amendment was adopted and the bill as amended was tomorrow assigned for second reading.

The President laid before the Senate the 3rd tabled and today assigned item (S. P. 596) (L. D. 1563) bill, "An Act Shortening the Period of Real Estate Mortgage Foreclosure"; tabled on May 22 by Senator Philbrick of Penobscot pending passage to be engrossed; and that Senator moved the pending question.

Mr. FARRIS of Kennebec: Mr. President, I present Senate Amendment A, S-244 and move its passage and would explain that it is merely a technical amendment with regard to the date.

Senate Amendment A was adopted and the bill as amended was passed to be engrossed.

The President laid before the Senate the 4th tabled and today as-

signed item (S. P. 374) (L. D. 1040) bill, "An Act Increasing Salary of Forest Commissioner"; tabled on May 22 by Senator Edmunds of Aroostook pending consideration; and on motion by the same Senator, the bill was retabled until later in today's session.

The President laid before the Senate the 5th tabled and today assigned item (S. P. 281) (L. D. 795) bill, "An Act to Correct the Name of Heron Lake Dam Company and Relating to Its Powers"; tabled on May 22 by Senator Reed of Sagadahoc pending motion by Senator Cyr of Aroostook to indefinitely postpone; and Mr. Reed of Sagadahoc moved the pending question.

Mr. CYR of Aroostook: Mr. President and members of the Senate, I don't have any violent opposition to this bill with the exception of the way this was introduced to us. However, before we do take action on this, I think we want to consider very seriously the wording of this bill and we should have further explanation as to what it will do.

The last sentence of the bill says, "To hold and store water for manufacturing and power purposes upon any or all of its dams and works." Now we have been told by what little information I have about it that they want to create a water storage but it says here "to hold and store water for manufacturing and power purposes". The questions that I would like to pose to the sponsor or those who heard this bill are these. I would like to know first, for what purpose they want this. We are told that this is to reconstruct the old Churchill dam. Now, if that is the only purpose, they don't have to come to the legislature for power. They already have that power. I suspect that there is more to this bill than we are told. The rights to these waters belong to the State of Maine. Before we indiscriminately give away those rights, we should know for what purpose they are going to be used. I would like to pose these questions: Do they intend to manufacture power? How high a dam will this be? How long a dam will it be? How much storage in acres?

How much land will it flood? Those are all questions we should know before we decide the fate of this legislation.

So, Mr. President, if it is possible, I would like, through the Chair, to have an explanation to these questions.

The PRESIDENT: The Senator from Aroostook, Senator Cyr, poses a question to any member of the Senate who may answer if he chooses.

Mr. CAMPBELL of Kennebec: Mr. President I became interested in this after the debate last week, and I made a little inquiry on my own to find out exactly what were the rights this company had. I find that under the existing law, which is Chapter 19 of the laws of 1891, the Heron Lake Dam Company has authority "is hereby authorized and empowered to rebuild or repair said dam and maintain it at such a height as shall facilitate the passage of logs and lumber northward over said dam and thence down the Allagash and St. John rivers." So I am satisfied in my own mind anyway, that there is no ulterior purpose in this bill, no attempt made to change in any way the existing law with respect to the height, size or purpose of the dam. I believe that the purpose that the bill says in permitting the holding back of water is to improve flood control.

And I might read from a memorandum that I prepared the other day and I think it might answer in full the question. All this bill does is to authorize the holding of water for additional purposes; namely flood control, manufacturing, and power purposes. It does not authorize building of a power dam to generate electricity. It does not authorize the sale of electricity. It only authorizes the holding of waters for the benefit of people and firms down-river on the St. John. It is of distinct advantage to the people on the upper St. John in assisting to avoid flood water conditions. It would be of value to any industry down-river needing water, and to any hydro-electric plant down-river needing an improved head of water. Finally it would im-

prove conditions on the Allagash by maintaining a more uniform flow of water the same as occurred from 1946 until the dam washed out in the late 1930's.

Mr. CYR of Aroostook; Mr. President and members of the Senate, this goes back to the old feud or battle or fight or whatever you want to call it of the lumber barons. You will recall at that time they built a dam and I think it is the Churchill Dam, they built a dam so that they could raise the water sufficiently to divert the flow of water. Instead of running toward the St. John River, it was running toward the Penobscot River, and the reason that time was that they could get a dollar a log at Bangor while if it went the other way and was marketed in St. John, it was worth only sixty cents.

Now we are getting back to the same thing. The question mark that I have in my mind is this: Why is this proposition popping up at this time? Why are they interested in flood control on the St. John at this time, when there are so many propositions as you know, being studied in the area? Furthermore this is not going to control flooding on the St. John River. You still have the upper St. John, the Big Black and the Little Black which will keep doing damage as far as flooding is concerned. So the question mark in my mind is still there. What is the purpose behind this legislation? I think there is more than we are told in regard to this. As yet, no one has answered exactly what they intend to do. If they just want to reconstruct the old Churchill Dam, they are not controlling floods. Are they intending to build a bigger dam? And if they want to manufacture power to have a sufficient head to create power, it means that they have to have a pretty sizeable dam there.

Is this just intended to put more obstruction into the development that is going on in that area? Unless someone can satisfy me a little further as to this, my motion to indefinitely postpone will still hold. If I can be satisfied, I will withdraw my motion.

The PRESIDENT: The Chair will inform the Senate that the printed calendar today is in error as to the status of this bill. It has been enacted in the other body; the pending motion is correct. It was tabled pending the motion to indefinitely postpone and pending enactment.

Mr. EDMUNDS of Aroostook: Mr. President, I am reliably informed that this legislation is of vital interest to one of Maine's largest industries, if not the largest single industry we do have in our state at the present time. I think that the record of this industry since it was founded many, many years ago is a very, very good one, and I would hesitate to say that they have ever been accused of devious or sharp practice of any kind whatsoever so I do not suspect there are any niggers in the woodpile, so to speak, I do reluctantly arise to oppose the motion of my colleague, the Senator from Aroostook, Senator Cyr but I would hope that his motion for indefinite postponement would not prevail and when the vote is taken I request a division.

Mr. CYR of Aroostook: Mr. President, I think if you look back in history at the time that Maine indiscriminately gave away its rights in its public lands, you probably will find out that we are probably duplicating or stepping in the same trap as our forefathers did when they gave away indiscriminately our timber rights. We are stepping in the same trap and they are asking us with their sugar coated pill to please "give us some more of your water rights." I think that is what is involved in this bill.

I will still repeat the same question. Why is this bill timed at this time? Why couldn't it wait until the 102nd legislature. They have lived with it all this time. Certainly by the 102nd legislature we will know exactly what kind of plans will evolve for the area and at that time if nothing happens and if this does not create any obstacle in the way of development then certainly it will merit passage at that time, but at this time I think we should defer passage on this legislation. I still keep my motion to indefinitely postponed.

Mr. PHILBRICK of Penobscot: Mr. President, I would like to ask the sponsor of this bill if he would have any objection if an amendment to follow the paragraph I am about to read were to be included in this particular piece of legislation. The amendment would read essentially as follows: "Nothing in this chapter shall be construed to impair the authority of any public body heretofore or hereafter created by the legislature in the exercise of powers granted to any such public body."

The PRESIDENT: The Senator from Penobscot, Senator Philbrick, has posed a question, through the Chair, to any Senator, who may answer if he chooses.

Mr. ATHERTON of Penobscot: Mr. President and members of the Senate, I am really not prepared to answer the question. It doesn't sound like an objectionable amendment to me but at this point I really cannot speak for the company or know whether they would object to it or not.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Cyr, that the bill be indefinitely postponed.

Mr. JACQUES of Androscoggin: Mr. President and members of the Senate, the city of Lewiston is in a predicament as Senator Cyr just said a moment ago. The city of Lewiston is the only city in the state that has its own generating plant. We generate our own power for our street lights. But we cannot generate for over twelve hours a day. Anything over twelve hours a day, we sell to the power company and in return they sell it to us for either a cent or a quarter cent more. So you can see how the city government of a few years back gave away their water rights. And the same thing applies to the Libby Company which generates its own power, and Mr. Libby's grandfather did the same thing in selling his water rights and I believe that we are doing the same thing here if we allow this bill to go through and I certainly will go along with the indefinite postponement of this bill. I certainly would not want to

see anybody involved in the same situation as our city is in right now.

The PRESIDENT: The question before the Senate is the motion of the Senator from Aroostook, Senator Cyr, that the bill be indefinitely postponed.

A division of the Senate was had.

Ten having voted in the affirmative and twenty-one opposed, the motion to indefinitely postpone did not prevail.

Thereupon, on motion by Mr. Philbrick of Penobscot, the bill was tabled pending enactment and was especially assigned for Tuesday next.

The President laid before the Senate the 6th tabled and today assigned item (S. P. 583) (L. D. 1548) bill, "An Act Revising Certain Laws Under the Workmen's Compensation Law;" tabled on May 23 by Senator Campbell of Kennebec pending passage to be engrossed; and on further motion by the same Senator, the bill was passed to be engrossed.

The President laid before the Senate the 4th tabled and today assigned item, (S. P. 374) (L. D. 1040) bill, "An Act Increasing Salary of Forest Commissioner;" tabled earlier in today's session by Senator Edmunds of Aroostook pending consideration; and on further motion by the same Senator, the Senate voted to recede and concur.

The President laid before the Senate the 7th tabled and today assigned item (S. P. 492) (L. D. 1344) Senate Report, Ought Not to Pass from the Committee on Judiciary on recommitted bill, "An Act Relating to Research Studies of the Department of Health and Welfare;" tabled on May 23 by Senator Porteous of Cumberland pending Acceptance of the Report.

Mr. PORTEOUS of Cumberland: Mr. President and members of the Senate, this particular bill has been given too little attention by me during the long weeks and months that we have been in session here, and for that reason it was badly drawn in the first place, which was my own fault. It was well treated by the committee that first heard it, which I had a little to do with, and

then, because of the fact that we borrowed from North Carolina legislation that had been suggested to us. We had a bad title calling for a relationship with the wrong department. Evidently the department of health in the state of North Carolina does not have the function that the Department of Health and Welfare has in the State of Maine and so we have come now to the conclusion with the best possible legal advice, that of Mr. George West of the Attorney General's office and Mr. Sam Slosberg, to change this around and cut it down to doing just basically what we had hoped and intended it would do in the first place.

The resemblance to the former bill is negligible but the purpose still remains the same. I refer to Filing Number S-256 and in that S-256 you will see and may read the sum and substance of this particular bill. We are changing the title to An Act Relating to Investigation of Motor Vehicle Accidents by Highway Safety Committee, and then I would explain to you that on advice from the Attorney General's office, this Highway Safety Committee is a legally constituted organization of the state that can operate with this as one of its sections.

I have here before me An Act Revising the Highway Safety Committee, dated March 27, 1963 and under section 371, Powers and Duties of the Executive Board, (1) Safety Programs, (2) Safety Recommendations, (3) Reports (4) Subcommittees. The two amendments I just mentioned making this 5, entitled Motor Vehicle Accidents. The rest of it goes on to read, "It"—meaning the Highway Safety Committee — "It may investigate motor vehicle accidents by itself or in cooperation with any person, agencies, or organizations it may select. Any information, records, reports, statements, notes or memoranda or other data obtained through such investigations shall not be admissible as evidence of any kind in any court for any other administrative agency or person. No persons participating in such investigations shall disclose in any manner the informa-

tion so obtained except for statistical purposes.”

This does not do as much as the bill originally submitted would have it do, but it is certainly enough to get a start. I hope that some of you were able to read, and for your information if any of you would like to refer to it, I have had printed up and placed on your desks a copy of the very fine article which appeared in almost all if not all of the Maine daily newspapers on Monday, May 27th. In the Portland Press Herald it was stated that my bill would allow probing of fatal accidents. This was taken by Mr. Morrison on my left over here, from a booklet that was put out by the Harvard Medical School entitled “The Search on Fatal Highway Collisions” papers 1961-1932 and incidentally, the first article there is testimony on the Maine Senate bill which had to do with our motor vehicle inspection law of the 101st legislature.

Other items in there are Social Investigation of Automobile Death Cases, Last Crucial Moment, Hypothesis on Automobile Deaths, Motor Vehicular Suicide, Death by Driving, Train Drivers to Meet Emergencies, Steering Wheel Impact, Path of Body Travel. It is some 90 pages long and is illustrated to show some of the things that have been divulged from thorough investigation of motor vehicle accidents. When I say “thorough” I would say that this Harvard Medical School research team is doing that which we definitely need to do to ascertain the causes of our accidents.

Further attention by the press to this problem—and I think we stand here in the Senate today to be judged somewhat by the people of the State of Maine on our action in behalf of Highway Safety, some of it has been expressed in an editorial in last night’s Evening Express from which I will read in part. I do not agree entirely with one part of this editorial. I think that the editorial policy perhaps would have been a little more conducive to friendly feelings if they had not, as they sometime do shored up one argument and beat somebody over the head at the other

time. I will leave out part of this and if anybody wishes to find out what the rest of it is, it is right here.

“Some of the most revealing information ever assembled on the part of the motor vehicle accidents came from the motor vehicles research of a team headed by Alfred L. Mosley of the Harvard Department of Legal Medicine. The accident investigations of this team began where most police investigations end. The examination of evidence was beyond the scope of many police departments, beyond the budget of most and beyond the interest of too many. But it produced information that was illuminating, detailed documented evidence that indicates that all accidents aren’t what they seem and that too many accident investigations are superficial. The Mosley research team would like to extend its work into Maine and—then it mentions my name—“has sponsored legislation which would permit this. The legislation in all probability will be defeated.” That begins the paragraph or section that I would omit here, but I would like to see this Senate and this legislature disappoint this editorial writer or maybe please him, I don’t know which, but I think that is one part of editorial writing that certainly rubs me the wrong way because I don’t think they very often understand our problems.

Then the last two paragraphs. “A disease can be fought effectively only when the cause is known. We need to know more about the true causes of highway disease and we are not going to find out through routine investigations.”

And so I have changed this bill to do the job that it is meant to do. It has been asked, “How much will this cost?” Actually it won’t cost anything. It is permissive legislation in the first place because it says about the Highway Safety Committee, “It may investigate motor vehicle accidents by itself or in cooperation with any other persons, agencies, or organizations it may select.”

Now these “any other persons, agencies or organizations” really

means the Harvard Medical School Research team. They are the ones that are specifically designed to permit, to do this sort of thing without divulging some of the things that they find out in a court of law, some of them personally embarrassing to the people involved in the accident but necessary to find out the real cause of the accident.

The people who have sponsored this in the past, this Harvard Medical School Research, have been with the Public Health Service through a research grant from the division of General Medical Sciences, National Institutes of Health and the Division of Accident Prevention Bureau of State Services, Public Health Service as well as the automobile companies independently or as a group supporting independent research which oftentimes has reflected badly on some of the safety features in the very cars which they produce. But they are tremendously interested in this project and they feel that this is so worthwhile that they are willing to back it up with thousands of dollars of research money. Therefore it doesn't cost the State of Maine any money. It is a project which, I am sure, as you may hear in a few minutes, the State Highway Safety Committee is glad to have and to implement themselves.

Mr. COLE of Waldo: Mr. President and members of the Senate, I rise in support of the motion of the Senator from Cumberland, Senator Porteous and I also would like to state that the Highway Safety Committee, as such, has not endorsed this amendment. However, at our executive meeting last night this amendment was discussed and it was voted that if the legislature desires that the Highway Safety Committee sponsor this, we certainly will cooperate in every way possible.

Mr. FARRIS of Kennebec: Mr. President and members of the Senate, I suspected—I have not seen the editorial—but suspected that probably there was some criticism leveled at the Judiciary Committee but I see I made the editorial column again and I am

also having criticism leveled at me for the stand which has been taken on this measure.

First, let me explain that in the press release yesterday, my position was not actually made clear but that was through no fault of the gentleman who was writing the article because he was going on the premise that investigation of this nature could not be made in the State of Maine unless we enacted such legislation. Now that is not true. The Highway Safety Committee in cooperation with the State Police can certainly make investigations but this is a piece of legislation desired by the research group to make sure that no information can be brought into court. I might explain first that about the only information, the only information of course that would be admissible in court is direct testimony and any of the evaluations or conclusions of a research group would be based on conjecture and surmise and it would be hearsay evidence. Any testimony which might be given would be solely in the realm of opinion testimony, and certainly no one can compel someone to render an opinion on any given matter unless they want to so do.

I do not feel that the proposed amendment does much as far as removing the opposition of members of the Judiciary Committee. As a matter of fact, this could be or could have a very adverse effect upon investigations we will say for the purpose of detecting crime. I think the first sentence of the amendment would be all right. It wouldn't do any harm. "The Committee may investigate motor vehicle accidents by itself or in cooperation with any persons, agencies or organizations it may select". End it right there and it wouldn't do any harm, but it isn't necessary. But then it goes on to say that none of this information, any of the data—it shall not be admissible as evidence in any action of any kind in any court. That I feel is dangerous because a research group might very well develop information and actually develop a case whereby a homicide has been committed. A mur-

der might even have been committed. And this law, if we were to enact it, would preclude any of that information, any of that data being used as evidence in any court against the respondent. I think that is a very compelling reason as to why we should not adopt this measure.

Now, the original bill it it true was not too readily understood and it did go a lot further. It was certainly much more objectionable but this amendment does not remove the basic objection.

Another thing that could conceivably happen. We will say that John Jones prominent citizen in Portland, his wife was out in the automobile and she was involved in a fatal accident. No brake marks were left to conjecture in theory as to what happened to her. The research team comes in and they reconstruct the parts of the automobile and they have reason to suspect that a cotter pin has been sheared or cut and they put that in their report, that this was probably not a true accident, but a suspicion of homicide. Maybe there was not enough evidence to bring anyone into court with other evidence and even with this evidence if it were admissible but even if we say that it is confidential and secret, I think we are all pretty cognizant of the fact that there aren't many secrets kept in the State of Maine. And I can just see that within a reasonably short time the rumor would be around the Portland area: "Say, did you know that John Jones did away with his wife Mary?" and a little whispering campaign would go on and this man would have absolutely no way of defending himself and I honestly feel that legislation such as this would do more harm than good. But if the research people want to make the investigations they are certainly welcome to come into the State of Maine and work with the Highway Safety Committee. But I feel we would be establishing a very dangerous precedent if we enact this measure. I therefore move indefinite postponement.

Mr. PORTEOUS of Cumberland: Mr. President and members of the Senate, it is almost with tears in

my eyes that I hear the Senator from Kennebec, Senator Farris, Chairman of this Committee, against this. Two other members of the committee have said that they would go along with this as it is now written, because it was not written this way before. It is cut down very much to a simplified basis. The first three lines which the Senator from Kennebec, Senator Farris, has said would be agreeable to him are well and good. But the people who are making these investigations at no cost to the State of Maine and with only good accruing to the state through further knowledge of what causes the motor vehicle accidents, maintain that this is necessary, otherwise the people will not voluntarily give up this information. They will not give up personal habits that they may be ashamed to admit otherwise. They say it is necessary. I am convinced of their sincerity. Their organizations are well recognized. They are doing something that we all feel who believe in highway safety is necessary to further that cause.

This motion to indefinitely postpone I hope will not prevail and I ask for a division.

Mr. STITHAM of Somerset: Mr. President and members of the Senate, the original bill as presented, was as has been said poorly drawn. I have carefully gone over the proposed amendment and I feel it will serve a very useful purpose. I am familiar with the work of Dr. Mosley and his team and if they are willing to come in without expense to the state and conduct the thorough investigations that they will do, we will be receiving a lot of benefit from it. This bill does not take away from any of the other investigative bodies and in the event that there has been a criminal offense, that still can be carried through the courts and prosecution can be taken. I think the objection of the good Senator from Kennebec, Senator Farris, is not well taken. I think that we should not indefinitely postpone this bill and I hope it passes.

Mr. FARRIS of Kennebec: Mr. President and members of the

Senate, of course I have just for the first time seen this amendment this morning and at this time I would at least like to put it in the record that our Committee on Judiciary is not consistently opposed to Highway Safety. As a matter of fact we favor Highway safety. Sometimes the methods or the vehicles which we use to accomplish it are not meritorious.

But I would like to propound a question to my learned colleague, the Senator from Somerset, Senator Stitham, in regard to the phraseology of this amendment and where it says in the second sentence, "Any information" and so forth. And then we go down to "statements or other data obtained through such investigation shall not be admissible as evidence in any kind of action" would it not preclude anyone else from coming in, a bona fide police agency from coming in and using this information and presenting it in court. In my opinion, it certainly would and that is really a basic objection that I would have.

The PRESIDENT: The Senator from Kennebec, Senator Farris, poses a question to the Senator from Somerset, Senator Stitham, who may answer if he chooses.

Mr. STITHAM of Somerset: Mr. President and members of the Senate, it is my opinion that this only applies to such information, records, reports, statements, memoranda, or other data obtained through such investigations and that refers back to such investigations as are made by the State Highway Safety Committee. I do not believe that it limits in any way such investigations that might be made by the state police, sheriffs departments or other agencies.

Mr. FARRIS of Kennebec: Mr. President and members of the Senate, that is true; it would not limit investigations by other departments, but my point is that any information that would develop as a result of the investigation of the research group could not then be used even by any other department, because it specifically said it shall not be admitted into court and I request a division on my motion for indefinite postponement.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Farris, to indefinitely postpone the report and the bill. A division has been requested.

Five having voted in the affirmative and twenty-seven opposed, the motion did not prevail.

Thereupon, Senate Amendment B was read and adopted and the bill as amended was passed to be engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the 8th tabled and today assigned item (HP 871) (LD 1258) House Reports from the Committee on Labor on bill, "An Act Relating to Disqualification and Claims for Benefit and Employer's Contribution Rate Under Employment Security Law"; Majority Report, Ought Not to Pass as Covered by other Legislation; Minority Report, Ought to Pass; tabled on May 23 by Senator Brown of Hancock pending acceptance of either report; and on further motion by the same Senator, the bill was retabled and especially assigned for one week from today.

The President laid before the Senate the 9th tabled and today assigned item (H. P. 872) (L. D. 1259) House Reports from the Committee on Labor on bill, "An Act Relating to Partial Unemployment Benefits and Experience Rating Record Under Employment Security Law"; Majority Report, Ought Not to Pass as Covered by Other Legislation; Minority Report, Ought to Pass as amended with Committee Amendment A; tabled on May 23 by Senator Brown of Hancock pending acceptance of either report; and on further motion by the same Senator, the bill was retabled and especially assigned for one week from today.

The President laid before the Senate the 10th tabled and today assigned item (H. P. 689) (L. D. 945) bill, "An Act relating to County Taxes"; tabled on May 23 by Senator Wyman of Washington pending enactment.

Mr. WYMAN of Washington: Mr. President and members of the Senate, I move that the Senate suspend the rules, for the purpose of making a motion to reconsider our action whereby this was passed to be engrossed.

Mr. CRAM of Cumberland: Mr. President, this bill has been enacted in the House, and as you know the bill was amended by the addition of an amendment which I introduced and which was passed by this chamber, providing that the Board of Equalization should revalue the County of Cumberland, in the year 1963. The purpose of this amendment was to correct what appears to be a very wide discrepancy between the figures of the city of Portland developed by a recent revaluation by a professional firm of assessors, and the state valuation. The figures were these. The 100 percent valuation of the city as found by the city revaluation was \$310 million. The 100 percent valuation as based on the state's fifty percent valuations of \$223 million would be \$446 million which gives us comparative figures of \$446 million for the state, and \$310 million for the city.

If the state valuation agreed with the city valuation, then the valuation of the city used for the purpose of the county tax or the distribution of state school subsidies would be \$155 million as compared with the present \$223 million, which is a difference of \$68 million. \$68 million is quite a substantial sum in the valuation of any town or city and would still be substantially in excess of any other communities in Cumberland County; namely — the other large communities in Cumberland County are South Portland, Westbrook and Brunswick. It seems to me that this would not place an undue burden on the State Department of Taxation and Board of Equalization because it was a task that they were going to have to tackle before December 1, 1964 anyway, and it did not seem unreasonable to me to ask

them to correct the thing before December 1st, 1963.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Washington, Senator Wyman, to suspend the rules, in order that he may make a reconsideration motion.

Mr. CRAM of Cumberland: Mr. President, I request a division.

A division of the Senate was had.

Twenty-one having voted in the affirmative and nine opposed, the motion prevailed and the rules were suspended.

Thereupon, on motion by Mr. Wyman of Washington, the Senate voted to reconsider its action whereby the bill was passed to be engrossed.

Mr. WYMAN of Washington: Mr. President and members of the Senate, as my good friend, Senator Cram of Cumberland, has stated, this started out as a minor bill relating to the assessment of county taxes and it was heard before the Committee of Taxation with only one proponent and no opponents and it was reported out unanimously ought to pass. However, The Senate has adopted Committee Amendment A which does seem to have a considerably greater import than the original bill itself. Now, it is true that Portland at this time apparently is unhappy with the assessment which the State Assessor has placed upon the city. However, the Portland assessors did have an opportunity to protest this assessment and that they did not do. They allowed their opportunity to protest, to pass.

Now we are on a biennial program of assessment and if we pass this bill with the amendment on it it will be establishing a precedent whereby any community or county in the state can come to the legislature and request a revaluation. This could happen in the case of a fire or disaster or just plain dissatisfaction with the assessment.

Portland is the largest city in the state and Cumberland County

is the largest county and it would take a considerable amount of time from the state assessors program to go through this revaluation. He informs us that he does not have adequate help for it and it would result in neglect to some of his other work because he says it is impossible to go out on short notice and hire the kind of help he would need for this.

Now in changing this method whereby we would allow one county or one city to come in and request a revaluation by statute, we are doing this without any hearing. This was not introduced as a bill, but was introduced as an amendment, tacked on a bill, and I think a matter of this importance should have a hearing. If the legislature wishes to put the state on a system of annual valuations then it would seem to me that it would be proper to have it done through a bill and a proper hearing.

Finally, it is my understanding that if a readjustment is made, unless it is greater than \$60 million, the only difference it will make will be to redistribute the tax in Cumberland County. Portland will pay less and the smaller municipalities will pay more. For that reason, Mr. President, I want to move for the indefinite postponement of Senate Amendment A.

Mr. PORTEOUS of Cumberland: Mr. President and members of the Senate, the remarks of the Senator from Washington, Senator Wyman, are well taken that it could set a precedent, but in this case it is, I think warranted because of the great difference in the valuation that was shown from that which we thought we had in the City of Portland.

And then too, I think a very real factor in this is that this new valuation was not known and not reported to the City Council until March so that there was no chance to introduce legislation on its own merits but it was necessary then to amend a bill which thereby became a vehicle for it to pass here once and over in the other body.

The Taxation Department is being asked to reconsider or revalue one city for a full year in which that city and county receives allocation on the basis of its valuation. Now, for the valuation of the city of Portland on the books of the state to be off by as much as they would be if this is not done, I think it very unfair and unjust to the state's largest city and I am certain that no other city in this state, or any town, would like to be in the same shoes as Portland will be during the entire calendar year of 1964 of being over valued by the state of \$64 million.

This amendment was put on shortly after, approximately two weeks after it was known that the valuation was off by such a figure. I have a high regard for the Bureau of Taxation and I would think naturally they might say that this is going to cause them more work, but I don't know of other more important thing they could do in equalizing the valuation of the state's cities and towns, than to move forward on this revaluation now that it has been shown that there is such a great difference.

When the vote is taken on the motion to indefinitely postpone, I move for a division and hope that the motion will be defeated.

Thereupon, Mr. Wyman of Washington was given permission to withdraw his motion to indefinitely postpone Senate Amendment A; and the same Senator moved that the Senate reconsider its action whereby it adopted Senate Amendment A.

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

Mr. WYMAN of Washington: Mr. President, I now move the indefinite postponement of Senate Amendment A.

Thereupon, on motion by Mr. Whitaker of Penobscot, the bill was tabled pending motion by Mr. Wyman of Washington to indefinitely postpone Senate Amendment A, and the bill was tomorrow assigned.

The President laid before the Senate the 11th tabled and today assigned item (S. P. 117) (L. D. 345) Senate Reports from the Committee on Legal Affairs on Bill, "An Act

Relating to Enforcement of Certain Codes in Municipalities"; Majority Report, Ought to Pass with Committee Amendment A; Minority Report, Ought Not to Pass; tabled on May 23 by Senator Atherton of Penobscot pending motion by Senator Ferguson of Oxford to indefinitely postpone the report and the bill.

Mr. ATHERTON of Penobscot: Mr. President and members of the Senate, when this bill was discussed last week, mention was made of its effect on urban renewal in some way. It was tabled for the purpose of obtaining more definite information. Since then I have conferred with the office of the Attorney General and I have been informed that it has been their experience that it is virtually impossible to obtain anything definite from the federal agency. If you do finally get something in writing, it is so lengthy that it is difficult or impossible to interpret or understand.

However, I have a letter from the Department of the Attorney General, which I will read.

"Dear Senator Atherton: Re L. D. 345.

You have asked if under the above legislative document as amended by House Amendment A, building, electrical housing or plumbing codes would be enforceable. This legislative document now reads — and he quotes the bill before us with the committee amendment and I won't bother to read that — the letter continues: "This proposed act is enforceable. It is not necessary that a fine or forfeiture be imposed through criminal process to make a law or ordinance enforceable. The imposition of a penalty is the criteria by which it is determined whether or not a law is enforceable. There is a suggested redraft which reads 'The municipality shall provide a penalty of not more than \$100 plus costs for the violation of any ordinance authorized by this section except that the penalty for violation of any building, electrical, housing or plumbing code shall be enforced by civil action or the municipality may file a complaint with the Superior Court to enjoin any violation.' This redraft is also en-

forceable. The redraft carries the additional provision by which the municipality may enjoin any violation of these codes.

Very truly yours,

Deputy Attorney General"
GEORGE WEST

In line with the suggestion of the Attorney General, I have had this suggested redraft reproduced in the form of a Senate Amendment which is Filing S-253 and if the motion to indefinitely postpone the bill does not prevail, then upon acceptance of the Majority Report of the Committee I would move the indefinite postponement of the Committee Amendment.

Mr. FERGUSON of Oxford: Mr. President and members of the Senate: I would like to refresh your memory briefly here, because time is passing by very rapidly here, but this L. D. 345, the amended version as well as the original version prevent effective law enforcement. If this type of enforcement was used for violation of the speed laws we would have no enforcement whatsoever.

The reason why Urban Renewal is affected is from the loss of enforcement point of view. Without effective enforcement there can be no Urban Renewal.

If this bill passes, no city or town will be able to enforce these codes whether or not they have urban renewal programs.

Presently building inspectors file complaints in the municipal court at no cost other than the inspector's regular time. L. D. 345 would stop all this and require civil actions to be filed. Attorneys' fees for drafting and filing these civil actions are a minimum of \$25.00 per action and \$50.00 additional if there is a hearing. This is a \$75.00 fee for getting something off the ground for any of the violators. The injunction costs are higher — the preliminary injunction is \$25.00 for filing and the permanent injunction is \$25.00 for preparing and filing. If a hearing is held each one is \$50.00 extra. These costs will very quickly stop day-to-day enforcement of these codes and leave the city's home safety codes in complete confusion. The court costs cited are Kennebec

Bar Association's minimums. The minimum fee for drafting and filing any civil action is \$25.00.

The repeal of these penalty codes would involve violation of safety. People would be able to go on in a slipshod way which would endanger the safety of the whole community. If you had houses that were scattered and away from other residences that would not be too serious, but in apartment blocks and that sort of thing that would be very bad. And so far as the plumbing code, we have a fairly flexible plumbing code, which, as you know, requires that anybody building a house or making repairs must comply with the terms of the code or they are taken into court. The general housing codes do apply in the larger cities, they are a necessity for every day living, and that is why we have these codes.

When you get into civil actions, we have many, many counties in the State of Maine where there is no resident justice. I am no lawyer, but I understand that you have to apply to a Superior Court judge, either in recess or in session, and I know we do not have any in Oxford County and there are a good many other counties that do not have any resident judge. This could go on for years and years in order to get action.

I am going to read a letter from Abraham J. Stern, City Solicitor, City of Bangor:

"Mr. Joseph R. Coupal, Jr., City Manager,
City of Bangor,
City Hall, Bangor, Maine.

Dear Mr. Coupal:

This is to inform you that as City Solicitor of the City of Bangor, it is my feeling that L. D. No. 345 as amended, if passed, would make the effective enforcement of the housing, building and electric codes virtually impossible.

I would therefore strongly recommend against the passage of this L. D. No. 345 as amended.

Very truly yours,
Abraham J. Stern
City Solicitor"

I hope that the Senate will go along with my motion for indefinite

postponement of this bill and accompanying papers.

Mr. WHITTAKER of Penobscot: Mr. President and members of the Senate: I rise to support the motion for indefinite postponement.

You have just heard a letter from the City Solicitor of the City of Bangor. I have a copy of that letter also, but I would like to submit this supplementary information.

In the City of Bangor, and I presume this may be true in other cities and towns, the enforcement of the housing code has been very effective under the present law. In the City of Bangor, for example, there has been only one warrant issued since the code has been in effect. This case was continued for one week and then the charges were dropped upon compliance with the orders of the Health Department. As the City Solicitor has indicated, it is important, in the case of the City of Bangor, at least, for us to have the law in its present form.

Now there is another communication which I think ought to be entered into the record. It is from a federal government official and comes from Washington from the Housing and Home Finance Agency, signed by Milton Seymore, General Counsel of the Housing and Home Finance Agency. I will read only the pertinent parts of the letter.

"This bill has been called to the attention of our New York office by local officials in Maine, who expressed concern as to whether the enforcement of codes by municipalities under the bill would be affected to the extent that this agency could not provide funds for urban renewal or low-rent public housing. Among the essential elements of a workable program are the existence of housing and other codes and adequate enforcement of the codes by the locality. Unless we are assured that municipal code enforcement power under this language is adequate a grave question would exist as to whether the Housing Administrator could approve and re-certify workable programs submitted by Maine municipalities. If it should be determined that they cannot be approved and re-certified federal funds for additional urban renewal

on low-rent public housing would necessarily be curtailed."

I read this in conjunction with the letter which you have already heard from the City Solicitor of the City of Bangor indicating the difficulty of enforcing the code under the L. D. which we have under consideration here. I therefore hope that the motion to indefinitely postpone may prevail.

Mr. ATHERTON of Penobscot: Mr. President, I believe a division was requested.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Oxford, Senator Ferguson that the bill and report be indefinitely postponed.

A division of the Senate was had.

Twenty-six having voted in the affirmative and six opposed, the report and bill were indefinitely postponed.

The President laid before the Senate the 12th tabled and today assigned item (S. P. 531) (L. D. 1452) Senate Reports from the Committee on Constitutional Amendments and Legislative Reapportionment on "Resolve, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in bills Appropriating Money"; Majority report, Ought Not to Pass; Minority report, Ought to Pass; tabled on May 23 by Senator Stilphen of Knox pending motion by Senator Porteous of Cumberland to accept the Majority Ought not to Pass report; and Mr. Stilphen of Knox yielded to Mr. Edmunds of Aroostook.

Mr. EDMUNDS of Aroostook: Mr. President and members of the Senate, as the sponsor of this particular amendment to the Maine Constitution, and as a signer of the Minority Ought to Pass report I would like to make a few brief remarks in support of the proposed legislation.

First, if I might, I would like to point out to the Senate that this is part of the third report of the Maine Constitutional Commission to this 101st Legislature. You have a copy of that in your

legislative documents and it is numbered L. D. 1394.

I can think of no better defense of this particular constitutional amendment than to read to you the remarks in the Constitutional Commission's report which are pertinent to this particular amendment as proposed to the Constitution, and, with your leave, I will quote from the L. D. that I have referred to, L. D. 1394, on Page 2.

"In the opinion of the Commission, the most important amendment presented is that which would give to the Governor the right of item veto over legislation involving appropriations. It is the responsibility of the Governor to prepare and submit to the legislature a budget wherein the Governor, reporting on amounts of income available from existing or proposed revenue sources indicates the expenditures which the Governor believes must be made to carry out authorized and proposed state programs during the next biennium. Such budget submissions giving guidance to the legislature do not make funds available to the executive branch of the government. It is the responsibility of the legislature to appropriate all amounts to be spent by the State of Maine. Such appropriations, however, require the approval of the Governor. If appropriations made by the legislature depart from the budgetary proposals of the Governor he may veto such appropriations. However, if many appropriations are contained in a single bill, most of them meeting with the Governor's approval, he must find it necessary or expedient to approve such bill even though certain appropriation items are excessive or in the Governor's opinion unnecessary, even though such items do violence to budget proposals made by the Governor. More than forty states have now recognized the hand of the Governor in financial matters should be strengthened by authorizing a Governor to veto separate items contained in appropriations bills. The legislature at all times retains the right to veto, to pass such vetoed items over the Governor's objec-

tion. The right of veto, however, does allow careful and thorough consideration both by the legislature and the Governor of each separate item contained in a multi-item appropriation measure. Maine should now join the more than 40 other states in which a Governor has the right of item veto, and the Governor of Maine should be authorized to veto or reduce separate items contained in bills appropriating state funds. A resolve containing the necessary amendment to the Constitution to accomplish this result is submitted herewith and marked Resolve "A", and of course that is the matter now before you, "Resolve Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money."

I would state that this is a non-partisan matter; it would make no difference which party occupied the front office, in my opinion. I feel very strongly that the governor and the executive branch should have this authority, and therefore I would hope that the motion now pending to accept the majority Ought not to Pass report would not prevail, and when the vote is taken I would request a division.

Mr. PORTEOUS of Cumberland: Mr. President, may I approach the rostrum?

The PRESIDENT: The Senator may.

At Ease

Called to order by the President.

Mr. PORTEOUS of Cumberland: Mr. President and members of the Senate: In supporting the action of the majority, and it was 8 to 7, so I will be very candid and say it was a close one, the majority opinion "Ought not to pass" on this, that as a principle of the checks and balances which make up the body of our Constitution this has always been a good one. It has always been felt that the item veto is a tool by which, with no reflection on the present occupant of the front office or either political party, that could be held as a hammer over the

head of individual legislators, and that there does not seem to be a particular need for the item veto since the budget is, in this State anyway, is very carefully and at length discussed, as has just been witnessed throughout the last several weeks of discussing it, and through two committees of conference, at which time any items that the Governor would wish to have removed could certainly have been removed.

I remember former Secretary of State Goss speaking with great pride of the Constitution of the State of Maine as one which is relatively uncomplicated and a good one, especially insofar as the checks and balances are concerned. So I would urge that you support the majority opinion of this committee and defeat the motion of the good Senator from Aroostook, Senator Edmunds, for adoption of the "Ought to pass" report.

Mr. EDMUNDS of Aroostook: Mr. President, I made no motion. I merely stated that I hoped the motion now pending to accept the majority "Ought not to pass" report would prevail, and I did request a division.

I agree with the Senator from Cumberland, Senator Porteous, that the Maine Constitution is a good one, however I believe we recognized at the last session that there were numerous areas in the Constitution where revision was perhaps necessary in view of changing times, changing conditions and so forth. I believe that the Constitutional Committee did an outstanding job. As you all know, they did find many areas in the Constitution where they felt new language was necessary or antiquated provisions should be deleted or new authorities should be provided. I do think that in view of the fact forty states have adopted the type of amendment which we are now considering is indicative of the fact that it is good legislation and it does not in any way upset the checks and balances which we currently operate under, either here in the State of Maine or in the other 49 states of the Union. I repeat: I hope

that the motion to accept the "Ought not to pass" report will not prevail.

Mr. FARRIS of Kennebec: Mr. President and members of the Senate: As one of the members of the committee that did sign the "Ought not to pass" report, all that I can say is along the same lines that the Senator from Cumberland, Senator Porteous has stated, you cannot win them all, but I hope I can win this one.

I seriously feel that the legislature should think very seriously before it does give up the power which has been accorded it under our Constitution. I feel that we may be moving a little too rapidly in the theory of a strong central government and I heartily endorse a practical working constitution where we do have a legislative check upon the executive branch of the government. I certainly can see no need of this constitutional amendment in Maine, and I hope that the majority "Ought not to pass" report prevails.

Mrs. CHRISTIE of Aroostook: Mr. President and members of the Senate: I dislike very much

to oppose my colleague from Aroostook County, the good Senator Edmunds, but I feel that there can be too much centralization of power. I feel that although forty states have adopted such a law as this it is a trend toward more centralization. I am in favor of keeping the government as diversified as possible through the three branches of government and I feel that the legislature should have the right to control this matter:

The PRESIDENT: The question before the Senate is on the motion of the Senator from Cumberland, Senator Porteous, to accept the Majority Ought Not to Pass report.

A division of the Senate was had.

Sixteen having voted in the affirmative and fifteen opposed, the motion prevailed.

On motion by Mr. Edmunds of Aroostook

Adjourned until tomorrow morning at 9:30.