

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

1969

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Wednesday, February 5, 1969

Senate called to order by the President.

Prayer by Rev. Lance G. Bird of Bucksport.

Reading of the Journal of yesterday.

House Papers

Bills and Resolves today received from the House requiring reference to committees were acted upon in concurrence, with the following exceptions:

Bill "An Act Revising Laws Relating to Boilers and Unfired Steam Pressure Vessels" (H. P. 424) (L. D. 548).

Comes from the House referred to the Committee on Business Legislation and Ordered Printed.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President, I have conferred with the Chairman of the Committee on Business Legislation. Legislation dealing with boilers and unfired steam pressure vessels are recurring items in the legislature and really should be referred to the committee that has heard them in previous years. Accordingly, I would move that this item be referred in non-concurrence to the Committee on Legal Affairs.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that Bill, "An Act Revising Laws Relating to Boilers and Unfired Steam Pressure Vessels," be referred to the Committee on Legal Affairs and ordered printed in non-concurrence and sent down for concurrence. Is this the pleasure of the Senate?

The motion prevailed.

Bill "An Act Relating to Inspection of County Jails" (H. P. 414) (L. D. 525).

Comes from the House referred to the Committee on State Government and Ordered Printed.

On motion by Mr. Wyman of Washington, tabled pending Reference to Committee.

(See Action Later in Today's Session)

Bill "An Act Relating to Reimbursement of Fuel Tax for Miles Traveled on Maine Turnpike" (H. P. 371) (L. D. 511).

Comes from the House referred to the Committee on Transportation and Ordered Printed.

Mr. Greeley of Waldo moved that the Bill be referred to the Committee on Highways and Ordered Printed in non-concurrence.

Thereupon, on motion by Mr. Katz of Kennebec, tabled and tomorrow assigned, pending the motion by Senator Greeley of Waldo, that the Bill be referred to the Committee on Highways and Ordered Printed in non-concurrence.

Bill "An Act Relating to Tandem Trailers" (H. P. 400) (L. D. 510).

Comes from the House referred to the Committee on Transportation and Ordered Printed.

Mr. Greeley of Waldo moved that the bill be referred to the Committee on Highways and Ordered Printed in non-concurrence.

Thereupon, on motion by Mr. Katz of Kennebec, tabled and tomorrow assigned, pending the motion by Senator Greeley of Waldo, that the Bill be referred to the Committee on Highways and Ordered Printed in non-concurrence.

Communications

State of Maine
House of Representatives
Office of the Clerk
Augusta, Maine

February 4, 1969

Honorable Jerrold B. Speers
Secretary of the Senate
104th Legislature
Augusta, Maine

Sir:

On January 30, 1969, the Speaker appointed the following members of the House to the Committee of Inquiry to Study the Administration of Indian Affairs.

Messrs. Bragdon of Perham
Dennett of Kittery
Mills of Eastport

Respectfully,
BERTHA W. JOHNSON
Clerk of the House

Which was Read and Ordered Placed on File.

Senate Papers Agriculture

Mr. Wyman of Washington presented Bill, "An Act Relating to Transfer of Funds from Maine Sardine Council to Department of Agriculture for Sardine Inspection Activities." (S. P. 199) (L. D. 608)

Which was referred to the Committee on Agriculture and Ordered Printed.

Sent down for concurrence.

Business Legislation

Mr. Mills of Franklin presented Bill, "An Act to Revise the Credit Union Law." (S. P. 200) (L. D. 609)

Which was referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Education

Mr. Stuart of Cumberland presented Resolve, Providing Funds for Dental Education. (S. P. 201) (L. D. 610)

The same Senator presented Bill, "An Act Relating to Administration of School Lunch Programs." (S. P. 202) (L. D. 611)

Mr. Wyman of Washington presented Bill, "An Act Relating to the Borrowing Capacity of School Administrative District No. 14." (Emergency) (S. P. 203) (L. D. 612)

Which were referred to the Committee on Education and Ordered Printed.

Sent down for concurrence.

Election Laws

Mr. Berry of Cumberland presented Bill, "An Act Relating to the Re-registration of Persons Who Do Not Vote in the Presidential Election." (S. P. 204) (L. D. 613)

The same Senator presented Bill, "An Act Relating to the Preparation of Voting Lists." (S. P. 205) (L. D. 614)

Which were referred to the Committee on Election Laws and Ordered Printed.

Sent down for concurrence.

Inland Fisheries and Game

Mr. Wyman of Washington presented Resolve, Relating to Ice Fishing in East Grand Lake in Aroostook and Washington Counties. (S. P. 206) (L. D. 615)

The same Senator presented Resolve, Relating to Ice Fishing in Spednic Lake, Washington County. (S. P. 207) (L. D. 616)

Which were referred to the Committee on Inland Fisheries and Game and Ordered Printed.

Sent down for concurrence.

Judiciary

Mr. Mills of Franklin presented Resolve, Authorizing W. H. Hinman, Inc., to Bring Civil Action Against the State of Maine. (S. P. 208) (L. D. 617)

Mr. Logan of York presented Resolve, Authorizing the Estate of David L. Hilton, formerly of Wells, Maine, to Sue the State of Maine. (S. P. 209) (L. D. 618)

Mr. Mills of Franklin presented Bill, "An Act Creating a District Court Division of Northern Androscoggin and Franklin." (S. P. 210) (L. D. 619)

Which were referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Liquor Control

Mr. Berry of Cumberland presented Bill, "An Act Relating to Prohibiting Furnishing Liquor to Certain Persons." (S. P. 211) (L. D. 620)

The same Senator presented Bill, "An Act Relating to Entrances from Liquor Licensed Premises." (S. P. 212) (L. D. 622)

The same Senator presented Bill, "An Act Relating to Jurisdiction of Administrative Hearing Commissioner of Violations of Liquor Laws." (S. P. 213) (L. D. 621)

Which were referred to the Committee on Liquor Control and Ordered Printed.

Sent down for concurrence.

Retirements and Pensions

Mr. Wyman of Washington presented Bill, "An Act to Increase the Retirement Pay of Certain Retired State Police Sergeants." (Emergency) (S. P. 214) (L. D. 623)

Which was referred to the Committee on Retirements and Pensions and Ordered Printed.

Sent down for concurrence.

State Government

Mr. Mills of Franklin presented Bill, "An Act to Clarify the Right to Know Law." (S. P. 215) (L. D. 796)

(See action later in today's session.)

Mr. Berry of Cumberland presented Bill, "An Act to Regulate the Removal and Disposition of Certain State-owned Objects and Specimens." (S. P. 216) (L. D. 624)

Which were referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Towns and Counties

Mr. Gordon of Cumberland presented Bill, "An Act Providing for a Seven Member Council for the City of Westbrook." (S. P. 217) (L. D. 673)

Which was referred to the Committee on Towns and Counties and Ordered Printed.

Sent down for concurrence.

Committee Reports

House

Ought Not to Pass

The Committee on Legal Affairs on Bill, "An Act Relating to Obedience to Police Officers in Controlling Traffic." (H. P. 67) (L. D. 67)

Reported that the same Ought Not to Pass.

Comes from the House the report Read and Accepted.

Which was Read and Accepted in concurrence.

Ought to Pass

The Committee on Public Utilities on Bill, "An Act Ratifying Lease Given by the State to Portland Pipe Line Corporation." (H. P. 41) (L. D. 42)

Reported that the same Ought to Pass.

Comes from the House the report Read and Accepted and the Bill Passed To Be Engrossed.

The Committee on Public Utilities on Bill, "An Act to Amend the Charter of the Fryeburg Water Company by Granting Certain Additional Powers and Ratifying and Confirming Certain Acts of said Corporation." (Emergency) (H. P. 94) (L. D. 103)

Reported that the same Ought to Pass.

Comes from the House the report Read and Accepted and the Bill Passed To Be Engrossed.

The Committee on Taxation on Bill, "An Act Providing for Legal Assistance by the State to Municipalities in Property Valuation Cases." (H. P. 101) (L. D. 109)

Reported that the same Ought to Pass.

Comes from the House the report Read and Accepted and the Bill Passed to be Engrossed.

The Committee on Taxation on Bill, "An Act Relating to Penalties Under the Use Fuel Tax Act." (H. P. 127) (L. D. 143)

Reported that the same Ought to Pass.

Comes from the House the report Read and Accepted and the Bill Passed To Be Engrossed.

The Committee on Public Utilities on Bill "An Act Relating to the Exemption of School Bus Operations from Regulation by the Public Utilities Commission." (H. P. 172) (L. D. 211)

Reported that the same Ought to Pass.

Comes from the House the report Read and Accepted and the Bill Passed to be Engrossed.

The Committee on Public Utilities on Bill, "An Act Increasing Compensation of Trustees of Sanford Sewerage District." (H. P. 174) (L. D. 213)

Reported that the same Ought to Pass.

Comes from the House the report Read and Accepted and the Bill Passed to be Engrossed.

The Committee on Claims on Resolve, to Reimburse the Town of Strong for Support of Evangeline C. Bean. (H. P. 136) (L. D. 158)

Reported that the same Ought to Pass.

Comes from the House the report Read and Accepted and the Resolve Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills and Resolve Read Once and Tomorrow Assigned for Second Reading.

Senate

Ought to Pass

Mr. Hoffses of Knox for the Committee on Inland Fisheries and Game on Bill, "An Act Relating

to Fishing in Narraguagus River, Washington County." (S. P. 39) (L. D. 122)

Reported that the same Ought to Pass.

Which report was Read and Accepted, the Bill Read Once and tomorrow assigned for Second Reading.

Mr. Violette of Aroostook for the Committee on Judiciary on Resolve, Authorizing Germaine P. Guerette and Edmund Guerette to Bring Action Against the State of Maine. (S. P. 108) (L. D. 319)

Reported that the same Ought to Pass.

Which report was Read and Accepted, the Resolve Read Once and tomorrow assigned for Second Reading.

Mr. Minkowsky of Androscoggin for the Committee on Health and Institutional Services on Bill, "An Act Requiring Reconstructed Public Buildings Be Made Accessible to the Physically Handicapped." (S. P. 100) (L. D. 310)

Reported that the same Ought to Pass.

Which report was Read and Accepted, the Bill Read Once and tomorrow assigned for Second Reading.

Ought to Pass — As Amended

Mr. Reed of Sagadahoc for the Committee on Natural Resources on Resolve, Authorizing the State Tax Assessor to Convey by Sale the Interest of the State in Certain Lands in the Unorganized Territory. (S. P. 34) (L. D. 92)

Reported that the same Ought to Pass As Amended by Committee Amendment "A".

Which report was Read and Accepted and the Resolve Read Once. Committee Amendment "A", Filing No. S-8, was Read and Adopted and the Resolve, as amended, to morrow assigned for Second Reading.

Second Readers

The Committee on Bills in the Second Reading reported the following:

House

Bill, "An Act Providing Public Dump for Albany Township and Milton Township, Oxford County." (H. P. 50) (L. D. 51)

Bill, "An Act Relating to Duty of Receiver of Unsolicited Merchandise." (H. P. 144) (L. D. 170)

Bill, "An Act Designating Landlocked Salmon as the State of Maine Fish." (H. P. 150) (L. D. 176)

Resolve, Authorizing Forest Commissioner to Exchange Land in West Forks, Somerset County. (H. P. 99) (L. D. 107)

Which were read a Second Time and Passed to be Engrossed in concurrence.

Senate

Bill, "An Act Relating to the Executive Secretary and Procedure of Actuarial Computations Under State Retirement System." (S. P. 59) (L. D. 167)

Which was read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Bill, "An Act Relating to Injury or Incapacity of State Police Officer." (S. P. 58) (L. D. 166)

Which was Read a Second Time.

Mr. Hanson of Kennebec presented Senate Amendment "A" and moved its adoption.

Senate Amendment "A", Filing No. S-7, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

Enactors

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

An Act Relating to Enforcement of Real Estate Taxes in Unorganized Territory. (H. P. 103) (L. D. 111)

An Act Relating to Poll Tax Agents of the State Tax Assessor. (H. P. 104) (L. D. 112)

An Act Relating to Taxation of Railroad Located Right-of-Way. (H. P. 107) (L. D. 115)

An Act Relating to Confiscated Cigarettes. (H. P. 106) (L. D. 114)

An Act Relating to Settlement Status of Persons Residing in Rest Homes and Nursing Homes. (H. P. 36) (L. D. 37)

An Act Relating to Membership and Expenses of Maine Recreation Authority. (H. P. 70) (L. D. 70)

An Act Relating to United States Property and Fiscal Officer Under Military Law. (H. P. 71) (L. D. 71)

An Act Relating to Poll Taxes Paid to Prentiss Plantation. (H. P. 78) (L. D. 78)

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

Which, except for the tabled matter, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Resolve, Designating a Certain Highway in York County as Harold L. Dow Highway. (H. P. 33) (L. D. 34)

Which was Finally Passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

An Act Authorizing Application of 1966 Assessed Valuation for Reimbursement to Towns for Snow Removal in Winter Season of 1968-1969. (S. P. 30) (L. D. 88)

This being an emergency measure and having received the affirmative vote of 27 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

An Act to Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by School Administrative District No. 54. (H. P. 58) (L. D. 60)

This being an emergency measure and having received the affirmative vote of 29 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

An Act Appropriating Moneys to Carry Out Duties of the Attorney General. (H. P. 111) (L. D. 127)

Mr. Conley of Cumberland moved that the Bill be tabled pending Enactment.

Thereupon, on motion by Mr. Katz of Kennebec, tabled and tomorrow assigned, pending Enactment.

Emergency

An Act Prohibiting the Taking of Striped or Sea Bass in Tidal Waters Except by Hand Line or Rod and Reel. (H. P. 251) (L. D. 241)

On motion by Mr. Quinn of Penobscot, tabled pending Enactment.

Emergency

An Act Relating to Overtime Payments to Employees of Augusta State Hospital, Bangor State Hospital, Pineland Hospital and Training Center and Governor Baxter State School for the Deaf. (H. P. 203) (L. D. 227)

This being an emergency measure and having received the affirmative vote of 29 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

The President laid before the Senate the following tabled and specially assigned matter:

JOINT ORDER — Relative to Legislative Finance Officer approve expenses for his office and accounts for payment. (S. P. 198)

Tabled—February 4, 1969 by Senator Katz of Kennebec.

Pending—Passage.

On motion by Mr. Katz of Kennebec, the Order received Passage and was sent down for concurrence.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Hoffses.

Mr. HOFFSES of Knox: Mr. President, I would inquire if the Senate is in possession of Bill, "An Act Relating to the Chairman of the State Apprenticeship Council" (H. P. 352) (L. D. 460)?

The PRESIDENT: The Chair would advise the Senator that the

Senate is in possession of Legislative Document 460, the Senator having asked that it be held.

Thereupon, on motion by Mr. Hoffses of Knox, the Senate voted to reconsider its action whereby the Bill was referred to the Committee on State Government and Ordered Printed in non-concurrence.

On further motion by the same Senator, referred to the Committee on Labor and Ordered Printed in concurrence.

On motion by Mr. Wyman of Washington, the Senate voted to take from the table Bill, "An Act Relating to Inspection of County Jails" (H. P. 414) (L. D. 525), tabled earlier in today's session by that Senator, pending Reference to Committee.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President, I have talked with the Chairman of the Towns and Counties Committee, which has heard a similar bill in previous sessions, and he is agreeable to hearing this bill. I therefore move this be referred to the Committee on Towns and Counties in non-concurrence.

The PRESIDENT: The Senator from Washington, Senator Wyman, moves that Bill, "An Act Relating to Inspection of County Jails" (H. P. 414) (L. D. 525), be referred to the Committee on Towns and Counties and Ordered Printed in non-concurrence. Is this the pleasure of the Senate?

The motion prevailed.
Sent down for concurrence.

On motion by Mr. Violette of Aroostook, the Senate voted to take from the table the first tabled and unassigned matter,

HOUSE REPORTS — from the Committee on Judiciary on Bill, "An Act Relating to Notice Requirement Under Tenancy at Will by New Owner or Lessee." Report "A", Ought Not to Pass; Report "B", Ought to Pass; Report "C", Ought to Pass as Amended by Committee Amendment "A". Filing H-2. (H. P. 64) (L. D. 66)

Tabled — January 23, 1969 by Senator Violette of Aroostook.

Pending — Motion by Senator Mills of Franklin to accept the Report "B", Ought to Pass.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Violette.

Mr. VIOLETTE of Aroostook: Mr. President and Members of the Senate: This bill under consideration seeks to correct what I feel and some other people feel is an inequity in our lease or rental laws as they now stand on the books of the State of Maine.

I would like, first of all, to summarize for the membership of the Senate the presently existing laws as they are now on our books and what this bill seeks to accomplish. The bill relates to what is known as tenancies-at-law, and under our law all tenancies that are not written tenancies, or those that are not subject to written leases, are known as tenancies-at-will. In other words, a person occupying a residential unit without a written lease is a tenant-at-will or, as we say, a 30-day tenant, and subject to termination by effect of law, as we have it in our books, and not subject to termination by the effect of a written lease.

Now, under our law today, such a tenancy may be terminated by either party giving a 30-day written notice to the other party that he wishes to terminate the tenancy. In other words, if a property owner wishes to terminate the tenancy, then he gives his tenant a 30-day written notice, informing him that the tenancy will be terminated at the end of 30 days. Likewise, the tenant occupying the premises has the like responsibility of giving to the property owner the same notice. This, I think, is very fair and equitable.

Now, our courts have ruled and interpreted that when there is an alienation, or where there is an alienation or a change in the title by lease or by deed, that this tenancy-at-will is terminated and the person in possession then no longer has any tenant status at all. Under our law, after termination of the 30-day written notice in the normal tenancy-at-will, if the tenant has not vacated the premises at the end of 30 days he then

becomes subject to a court action which is known in our laws as a forceable entry and detainer action, and he becomes subject to this action in order for the property owner to acquire possession of his property.

Now, in the case where this tenancy-at-will is determined by an alienation of the title, either by lease or by deed, our courts have said that there is then no tenancy so that the tenant who occupies the premises then no longer has the right to this 30-day notice. He becomes immediately a disseisor, as we say in the law, and has no right to further occupancy of the premises and then becomes immediately subject to the court action being brought against him for the property owner to recover possession. This is the law as it is today.

What this bill seeks to do is correct what I personally feel, and what some other people feel, is an injustice and an imbalance in our laws whereby if there is a change in the ownership of the property or in the title, either by lease or by deed, the tenant still would have the right to receive this 30-day notice. I think this is only fair. I know that in my experience as an attorney I would say that I undoubtedly had represented more property owners than I had represented tenants and I think, speaking for myself, I have always felt somewhat uneasy about the situation where there is a change in the ownership of the property, either by deed or by lease, and then having to bring against the tenant who in most instances has been a regular, good tenant, who has paid his rent regularly, and having this tenant faced with an immediate court action in order to entitle the new property owner or the new holder of the property under the lease to immediately have the right to possession. It seems to me that this is not quite fair and I, at least, personally have felt rather uneasy about accomplishing the transaction of the conveyance to the new owner or a lease to the new leaseholder and then immediately turning around, at the request of the new leaseholder, and bringing a court action

against the tenant to entitle this owner to have possession. I think this situation is recognized very often by many attorneys who see the rather unfair procedure in this and then proceed to bring the court action, but drag the matter a few days or a few weeks in the courts to give this tenant the time to look around for a new place to occupy.

It seems to me, in all fairness, the tenant, regardless of the situation of change in ownership, ought to still have this right to the 30-day notice, and this is what this bill seeks to accomplish. Mr. President and Members of the Senate: I think it brings a better balance of fairness to a tenant who would be dispossessed and who has been a good tenant, but who faces the prospect of a court action to displace him because the property has changed hands. We also know that our courts have also said that in ruling on this situation they will not look in back of the document that has been executed, either the lease or the deed — they say they will not look in back of this to see the reason why this has been done, and we do know in many instances that deeds are written, or leases are written, not in fact to change ownership of the property, but as a means of accomplishing the forceable removal of a tenant without the requirement of a 30-day notice. We know this is done. Attorneys do it, I have done it, and many others do too. And then, after the tenant has been removed, you just throw away the deed or you throw away the lease, and the same owner continues to own either under the lease or under the deed to own and occupy the premises.

I sincerely feel, Mr. President and Members of the Senate, that this is a good bill and I think it corrects an inequity that has existed in our laws for a long time. I sincerely hope you will vote favorably on the motion of the Senator from Franklin, Senator Mills, for acceptance of Report B, Ought to Pass.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Franklin, Senator Mills, that the Minority

Ought to Pass Report be accepted.

The Chair recognizes the Senator from Penobscot, Senator Quinn.

Mr. QUINN of Penobscot: Mr. President and Members of the Senate; It is with reluctance that I stand in opposition to my good friend from Franklin County, Senator Mills, and my good friend from Aroostook, Senator Violette.

The law as it now stands is adequate and proper, and does not need this change. The law as it now stands, if a man has a "For Sale" sign on his property, and perhaps has had it on there for a year or two, and hasn't been able to move it, he has a tenant in the property, the tenant knows it is for sale and he has an opportunity to move into other quarters if he wants. The landlord lets him stay there because he is paying rent to the landlord and the landlord doesn't want it vacated; he wants the rent. So the tenant remains on until the property is sold. Now, when the property is sold the purchaser purchased the property because he wants possession and he wants to use it. This property has been on the market a long time, it hasn't moved, but now comes the purchaser and he wants the property, he wants to use it. Now, under the present law he would notify the tenant that he has purchased the property and he would like very much to have possession of it, and possibly he will make some agreement with the tenant as to when he will get possession. Now, if the time comes after the time has elapsed that the tenant doesn't give up possession, then his next step is to go to the District Court and seek out a writ of forceable entry and detainer. Now, that writ of forceable entry and detainer requires seven days notice before it can be heard, and usually it is ten days or two weeks before it comes up on the calendar of the court to be heard. Then, if it still stays on there and nothing happens, the parties have a right to come in and have their day in court. The tenant has his say, the purchaser has his say, and the judge has his say and he may say "Give him another week or ten days." As a

result of that he gets about 30 days right then and there.

That is why we have opposed this particular bill. Seven members of the Judiciary Committee, all lawyers, felt that it wasn't needed and would serve no useful purpose, but would impede the sale of property. Consequently, we reported Report A. Report B is signed by two Senators and it was that it should pass. Report A was that it Ought Not to Pass.

Now, if you pass this, you are going to require the purchaser to accept this man in there who was the tenant of the seller as his tenant and require him to give that written notice of 30 days, which extends the time to about 60 days. We say this is unreasonable and unnecessary. The law as it presently exists is satisfactory and is working out all right. Consequently, I hope that you will not embarrass the sales of property by adding this unnecessary burden to the purchaser in order for him to get possession and will vote against the pending question.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: I think that this measure should be equated for what it is. It is plainly and simply a question of landlords' rights against tenants' rights, and I think it is privileges, shall we say, or right, and I think you can say also that it is plainly and simply a question of property rights against human rights, the living rights, rights of occupancy, rights of a person not to be turned out in the middle of the winter arbitrarily and summarily.

This legislation didn't come from any one of the members of the Judiciary Committee. It wasn't introduced by any one of us. Basically, it didn't come from the brain of any member of the legislature. It came from an organization that is new in the State, and one that probably most of us don't know about: it is the Pine Tree Legal Association, which is set up to give free law to the poor people of the State. This organization in its activities found that it is a prevalent practice, that in-

volves us lawyers necessarily because we are the ones who draw the documents when it happens, a prevalent practice of terminating a tenancy by giving a sham lease or a sham sale in which maybe the lawyer's secretary becomes the owner for the time-being of the property in order for the landlord to get his tenant out quicker than he otherwise could. All of us lawyers know that, and we are confronted by that request by landlords frequently and, as the good Senator from Aroostook, Senator Violette, pointed out, we don't like to do it. I can say I never have done it. I have never been asked very much either.

It is not a fair thing, it is not a fair practice, and this legislature, when it put this law on the books, I don't think it intended that the practice should be there, because the law said, and still says, the tenancies-at-will may be terminated by either party by 30 days notice in writing for that purpose given to the other party, and not otherwise except by mutual consent. Well, what the legislature didn't take into account was the fact that the parties no longer exist when someone sells the property. Therefore, the Supreme Court of the State some years ago interpreted the statute to say that this device, which has been the brainchild of some of us members of the bar, to get around this and break up the tenancy was something that the Court would not go behind, but it clearly indicated that this was legislative in character and that if this device would be considered a poor one and a bad one for the citizens of the State the Legislature should make the correction and that is what the Pine Tree Legal Association has attempted to do.

I submit that these people that work in the Pine Tree Legal Association giving free law to the poor people of this State have no ulterior motive, they have no financial motive, in promoting this sort of thing, but only a motive to help the poor of this State.

It has been said here in debate that the law today is adequate and proper. Well, adequate and proper for whom? For the landlords, of

course. For the landlords this is highly in their favor. It is said that this will impede the sale of property. It may impede the sale of property, but is that the criterion that we should impose? It is said that it is satisfactory and working all right. Well, this complaint that came to us struck a responsive chord among lawyers of the legislature who have seen this practice and know that it is inequitable.

I suppose that the Senate today is arguing against its own pocket-book. I suppose that there is hardly a tenant here. I suppose that almost unanimously we are landlords and that we have tenants, but I hope the Senate is big enough to consider the rights of all of the citizens of this State and to equate this for what it is: human rights against property rights.

I ask for a roll call, Mr. President.

THE PRESIDENT: Is the Senate ready for the question?

A roll call has been requested. In order for a roll call to be ordered it requires the affirmative vote of twenty per cent of the elected members of the Senate. Will all those desiring a roll call please rise?

Obviously more than twenty per cent having arisen, a roll call is ordered. The Chair will state the question.

On Bill, "An Act Relating to Notice Requirement Under Tenancy at Will by New Owner or Lessee" (H. P. 64) (L. D. 66), the question is on the motion of the Senator from Franklin, Senator Mills, that Report "B" of the Committee, Ought to Pass, be accepted. The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Barnes, Bernard, Berry, Cianchette, Dunn, Gordon, Greeley, Letourneau, Logan, Mills, Peabody, Reed, Stuart, and Violette.

NAYS: Senators, Beliveau, Hanson, Hoffses, Katz, Levine, Martin, Minkowsky, Moore, Quinn, Sewall, Tanous, Wyman, and President MacLeod.

ABSENT: Senators Boisvert, Conley, Duquette, and Kellam.

A roll call was had. Fifteen Senators having voted in the affirmative, and thirteen Senators having voted in the negative, the motion prevailed and Report "B", Ought to Pass, of the Committee was accepted in non-concurrence.

Thereupon, the Bill was Read Once and tomorrow assigned for Second Reading.

On motion by Mr. Wyman of Washington, the Senate voted to reconsider its action of earlier in today's session whereby Bill, "An Act to Clarify the Right to Know Law." (S. P. 215), was Referred to the Committee on State Government and Ordered Printed.

On further motion by the same Senator, tabled pending Reference to Committee.

On motion by Mr. Anderson of Hancock, the Senate voted to take from the table the third tabled and unassigned matter,

Bill, "An Act Increasing Salaries of Members of Harness Racing Commission." (H. P. 351) (L. D. 458)

Tabled — February 4, 1969 by Senator Anderson of Hancock.

Pending — Reference.

On further motion by the same Senator, referred to the Committee on State Government and Ordered Printed in concurrence.

On motion by Mr. Anderson of Hancock, the Senate voted to take from the table the fourth tabled and unassigned matter, Bill, "An Act Relating to Notice of Suspension or Revocation of Motor Vehicle Operators' Licenses." (S. P. 57) (L. D. 165)

Tabled—February 4, 1969 by Senator Anderson of Hancock.

Pending—Passage to be Engrossed.

The same Senator then moved the pending question.

The PRESIDENT: The Senator from Hancock, Senator Anderson, moves the pending question. The pending question is that this bill be passed to be engrossed and sent down for concurrence. Is this the pleasure of the Senate?

The motion prevailed.

Thereupon, on motion by Mr. Berry of Cumberland, the Senate

voted to reconsider its action whereby the Bill was Passed to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I apologize. I thought I was going to have to follow somebody and not precede them here.

This bill, which was discussed in some detail yesterday, has come out with a committee amendment which is now on the bill, and which turns the matter around 180 degrees—and this is always serious—in that it is an action taken by the Committee diametrically opposed to the sponsor. In this case it is probably not too serious but, as Senator Mills said yesterday, this isn't the most important bill that is going to be before us. He indicated, however, in his debate that I merely endorsed the bill as a matter of politeness to the Secretary of State, and I can assure him I don't take my obligations quite that lightly. I am very much interested in the bill, and I am very much interested now that he has taken his committee action.

First, let me discuss the committee action. In my opinion, it places an impossible load upon the Secretary of State. The action of the committee does this, Mr. President and Members of the Senate: it requires that the Secretary of State cannot consider a license suspended until he can certify that the individual involved has received notice. Now, it won't take long for everybody who is in trouble with his driver's license to know that this law is on the books, if it goes through, and all he needs to do is evade the postman and evade anybody who is trying to serve him with a piece of paper, and as long as he does that he is not in violation of the law. The judge may have suspended his driving license, the hearing examiner may have suspended his license, but by thumbing his nose at the law he gets away with it. I don't think this is very good legislation. This is the direct result of the committee amendment, so that is why I am opposed to the committee amendment itself.

Now, let's just step back a little bit and see the problem itself which, in my opinion, the amendment aggravates instead of trying to satisfy. Under the present law if you are in trouble with your license you know it. You are not ignorant of the fact. You have either been before a judge or you have been before a hearing examiner, one or the other. Now, you know you are in trouble. Sometimes, and probably in most cases, your license is taken from you immediately as a result of such action. However, if as a result of court action, or the hearing examiner's action, it is decided after the hearing that your license be taken, then you receive a message. You receive your message with a return envelope from the Secretary of State. "Your license has been lifted. Mail it back to us in the enclosed envelope." There doesn't seem to be anything too wrong with this. You are expecting, with horror, the receipt of the letter and you get it, and you comply with it. Now, this applies to seventy percent of the people affected. They receive a notice, they send their license in and there is no trouble; there is the end of that. Thirty percent of the offenders do not return their license. They are out of State, they could care less, or they intentionally do not return their license. These are the people we are concerned about. The amendment would legalize this thirty percent of the people refusing to return their license, and this is wrong.

It would seem to me that if the Secretary of State were to send a certified letter, return receipt requested, to all these people, and the letter comes back marked unknown or refused, in these two instances we have an offender, a real intentional offender. Now, there is part of the thirty percent that may be on vacation, and I

think we could work out an amendment of some kind to give them a time element of thirty days or, if a wife or a mother or somebody who receives the letter writes in and says that the person is away but as soon as they get back they will get it, we can take care of that, I would think, by an amendment. But certainly let us not prolong any such illegal action. It is almost impossible to end up physically picking up all the licenses if you say the Secretary of State has got to prove that everybody received notice. It is too easy to evade receipt of notice.

Now the status of this bill is up for enactment. I would hope that we can debate it further. I would be delighted to hear any other viewpoints, of course. I would hope that we could end up by a workable amendment which will satisfy what appears to be a real problem in the State. Maybe this can be tabled by somebody. I will leave it up to Senator Mills from Franklin as to what he wants to do on it, but I would hope that we wouldn't pass the bill in this present form.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Aroostook, Senator Barnes.

Mr. BARNES of Aroostook: Mr. President, I move that this item be tabled unassigned.

The PRESIDENT: The Senator from Aroostook, Senator Barnes, moves that Legislative Document 165 be placed on the table. Is this the pleasure of the Senate?

The motion prevailed and the Bill was tabled, pending Passage to be Engrossed.

(Off Record Remarks)

On motion by Mr. Hoffses of Knox, Adjourned until 1:30 p.m. tomorrow afternoon.