

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

Volume II

May 9, 1969 to June 17, 1969

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Monday, May 26, 1969

Senate called to order by the President.

Prayer by the Rev. Fr. Paul M. Ouellette of Augusta.

Reading of the Journal of yesterday.

**Papers From The House
Non-concurrent Matter**

Bill, "An Act Relating to Immunity of Government Employees Under Civil Defense Law." (S. P. 166) (L. D. 540)

In the Senate May 22, 1969, Passed to be Engrossed.

Comes from the House, Recommended to the Committee on Judiciary in non - concurrence.

Thereupon, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Increasing Salaries and Duties of Liquor Commissioners Other Than the Chairman." (S. P. 151) (L. D. 432)

In the Senate May 15, 1969, Passed to be Engrossed.

In the House May 16, 1969, the Majority Ought Not to Pass Report Read and Accepted, in non - concurrence.

In the Senate May 19, 1969, the Senate voted to Insist.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-383), in non - concurrence.

Thereupon, on motion by Mr. Berry of Cumberland, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Providing for Androscoggin County Funds for Child and Family Services." (H. P. 1084) (L. D. 1405)

In the House May 7, 1969, Passed to be Engrossed as Amended by House Amendment "A" (H-282).

In the Senate May 22, 1969, Passed to be Engrossed as Amended by House Amendment "A" (H-282) and Senate Amendment "A" (S-173) in non - concurrence.

Comes from the House, that Body having Insisted.

Mr. Minkowsky of Androscoggin moved that the Senate Adhere.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. MINKOWSKY of Androscoggin: Mr. President and Honorable Members of the Senate: The purpose of my amendment to the L. D., which has been rejected by the other body, on the motion from a gentleman from our delegation without debate, I felt was unjustified. It is only common sense and good business practice that there be guidelines to follow in the donation of county funds to a private health agency. I don't feel it proper to donate public funds on a blank check endorsement, and this is precisely what is being done by their request. They have been receiving county funds for the past four years without enabling legislation, until our county attorney was called upon to render a ruling, which he declared was illegal.

For this biennium Child and Family Services requested approximately \$58,000. This was cut back to \$30,000, pending the outcome of this L. D. which was introduced after cloture. Even though it has been stated many times that this private agency is overrated as to the effectiveness of their service to the county, no one is opposed to a great degree that they should receive some money from the county to continue their programs, provided that there are guidelines to follow. My amendment was such a guideline for the benefit of the taxpayers of Androscoggin County, the towns and the two cities. At the present time this agency is receiving from private sources, the Catholic Church and the United Fund. Two, the City of Lewiston and Auburn donate, the State of Maine contributes for the actual cases that they work on, plus providing them with approximately eight or ten state employees. Four, the Federal Government provides them with a substantial amount plus, in addition to this, according to one amendment in this L. D., they are now changing the name to Child and Family Mental Health Services, which will give them additional funds under the mental health grant.

Many have felt that there should be a clearer understanding of the

services between the County Commissioners, who place the money in the budget, the delegation who approve the allocation, and members of the Child and Family Board.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Boisvert.

Mr. BOISVERT of Androscoggin: Mr. President and Members of the Senate: I rise reluctantly to oppose the motion to adhere. This matter has been before this body since May 7, and it has gone its course. The other body has acted twice upon it, and I firmly believe, members of the Senate, in home rule. Why single out Androscoggin County? I have before me three other counties who are giving the same type of service to different organizations within their own county. I am talking about Kennebec County, Oxford County and Aroostook County. From what I could find out, they place their entire faith in the County Commissioners and the members of their delegation. At this point, I would request that you members of the Senate do not support the motion to adhere. Then, in turn, I will make the motion to concur with the House.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY of Androscoggin: Mr. President and Honorable Members of the Senate: The main purpose of this amendment was to ensure home rule, as has been so ably presented by the Senator from Androscoggin, Senator Boisvert. We have got to bear in mind one thing, that in the future we may not have the same members on the Board of Child and Family Services, nor will we have the same County Commissioners to administer this particular law. This is the basic purpose for these guidelines, Mr. President, and I now move the Senate adhere to its former action.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Bernard.

Mr. BERNARD of Androscoggin: Mr. President and Members of the

Senate: I would arise to support the motion of Senator Minkowsky. Being a very active member of the Androscoggin Delegation, I can recall way back when we had a public hearing, when Child and Family Services first approached the delegation to acquire funds, a vote was taken by the delegation, something like nine to three in favor of the Child and Family Services giving us an audit report of their finances.

To me, they are hiding something. I don't know what they are hiding, but I am suspicious. I think their continued actions progressively show us that there is something they don't want us to know. For this one reason alone, I would go along with these amendments. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President and Honorable Members of the Senate: This by no means kills the bill. This just sets the guidelines on this particular bill. We favor the bill, but we just want a guideline to go by.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Boisvert.

Mr. BOISVERT: Mr. President and Members of the Senate: At this point, I move we recede and concur with the House.

The PRESIDENT: The Senator from Androscoggin, Senator Boisvert, moves that the Senate recede and concur with the House.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: A parliamentary inquiry: Does the motion to recede and concur override the motion to adhere?

The PRESIDENT: The Chair would inform the Senator that the motion to recede and concur takes precedence over the motion to adhere and, therefore, it is in order.

Mr. MINKOWSKY: Mr. President, I request a division on that particular motion.

The PRESIDENT: A division has been requested. Is the Senate ready for the question? The pending question before the Senate

is the motion of the Senator from Androscoggin, Senator Boisvert, that the Senate recede and concur with the House. A division has been requested. As many Senators as are in favor of the motion to recede and concur will rise and remain standing until counted. Those opposed will rise and remain standing until counted.

A division was had. Seven Senators having voted in the affirmative, and seventeen Senators having voted in the negative, the motion to Recede and Concur did not prevail.

The PRESIDENT: Is it now the pleasure of the Senate that the Senate adhere?

The motion prevailed.

Non-concurrent Matter

Bill, "An Act Providing a Bond Issue in the Amount of One Hundred Seventy - Five Thousand Dollars for Docking Facilities at Matinicus Island." (S. P. 374) (L. D. 1284)

In the Senate May 20, 1969, Passed to be Engrossed as Amended by Committee Amendment "A" (S-160).

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" (S-160) and House Amendment "A" (H-372) in non - concurrence.

Thereupon, on motion by Mr. Hoffes of Knox, the Senate voted to Recede and Concur.

Non-concurrent Matter

Resolve, Authorizing the Estate of David L. Hilton, Formerly of Wells, Maine, to Sue the State of Maine. (S. P. 209) (L. D. 618)

In the Senate May 13, 1969, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-346) in non - concurrence.

Thereupon, on motion by Mr. Logan of York, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Revising the Maine Mining Law." (H. P. 339) (L. D. 448)

In the House May 16, 1969, Passed to be Engrossed.

In the Senate May 20, 1969, Passed to be Engrossed as Amended by Senate Amendment "A" (S-166) in non-concurrence.

Comes from the House, Passed to be Engrossed as Amended by Senate Amendment "A" (S-166) and House Amendment "A" (H-367) and House Amendment "B" (H-369) in non - concurrence.

Thereupon, on motion by Mr. Berry of Cumberland, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Amending the Municipal, Industrial and Recreational Obligations Act." (H. P. 599) (L. D. 780)

In the House, May 15, 1969, Passed to be Engrossed.

In the Senate May 19, 1969, Passed to be Engrossed in concurrence.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-374) in non - concurrence.

Thereupon, on motion by Mr. Moore of Cumberland, the Senate voted to Recede and Concur.

Communications

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

May 23, 1969

Hon. Jerrold B. Speers
Secretary of the Senate
104th Legislature
Sir:

The Governor of the State having returned to the House:

"An Act Repealing Provision for Student Tuition in Coordination of Public Higher Education" (H. P. 408) (L. D. 519) with his objections to the same, the House, on May 8, proceeded to vote on the question

"Shall the Bill become a law notwithstanding the objections of the Governor?"

A yea and nay vote was taken; 64 members voted in the affirmative and 77 in the negative, and accordingly the Bill failed to become a law and the veto was sustained.

Respectfully,
s BERTHA W. JOHNSON
Clerk of the House

Which was Read and Ordered Placed on File.

Committee Reports
House
Leave to Withdraw

The Committee on Judiciary on Bill, "An Act Relating to Evidence of Payment of Compensation or Medical Expenses in Civil Actions." (H. P. 954) (L. D. 1235)

Reported that the same be granted Leave to Withdraw.

The Committee on Labor on Bill, "An Act Repealing Exclusion of Seasonal or Casual Farm Laborers from Workmen's Compensation Law." (H. P. 1038) (L. D. 1363)

Reported that the same be granted Leave to Withdraw.

The Committee on Business Legislation on Bill, "An Act Creating the Uniform Consumer Credit Code." (H. P. 800) (L. D. 1231)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

Ought Not to Pass

The Committee on Judiciary on Bill, "An Act to Amend the Law Relating to the State's Right of Appeal." (H. P. 521) (L. D. 692)

Reported that the same Ought Not to Pass.

The Committee on Taxation on Bill, "An Act Relating to Refund for Malt Liquor Excise Taxes." (H. P. 785) (L. D. 1018)

Reported that the same Ought Not to Pass.

The Committee on Judiciary on Bill, "An Act Revising the Laws Relating to Disclosures of Debtors." (H. P. 893) (L. D. 1154)

Reported that the same Ought Not to Pass.

The Committee on Judiciary on Bill, "An Act Relating to Larceny by One Trusted with Property and Conversion by Insurance Agents." (H. P. 956) (L. D. 1237)

Reported that the same Ought Not to Pass.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

The Committee on Judiciary on Bill, "An Act to Provide for the Interception of Wire and Oral Communications." (H. P. 769) (L. D. 1002)

Reported that the same Ought Not to Pass.

Come from the House, Recommended to the Committee on Judiciary.

Which report was Read.

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

Mr. MILLS of Franklin: Mr. President and Members of the Senate: I think I can speak for the Committee in regard to its attitude towards this bill, and it isn't likely to be much different if we get it back again. I don't know whose idea this is to send it back to us, but I think we ought to accept the Ought Not to Pass Report. I move we accept the Ought Not to Pass Report.

The PRESIDENT: The Senator from Franklin, Senator Mills, moves that the Senate accept the Ought Not to Pass Report of the Committee in non-concurrence.

The Chair recognizes the Senator from York, Senator Logan.

Thereupon, on motion by Mr. Logan of York, tabled and tomorrow assigned, pending the motion by Mr. Mills of Franklin to Accept the Ought Not to Pass Report of the Committee.

Ought to Pass

The Committee on Highways on Bill, "An Act Increasing State Aid for Construction of Highways." (H. P. 32) (L. D. 33)

Reported that the same Ought to Pass.

The Committee on Judiciary on Bill, "An Act to Allow Corporations to Enter Into Partnership or Joint Venture Arrangements with Other Corporations." (H. P. 1191) (L. D. 1512)

Reported that the same Ought to Pass.

Come from the House, the reports Read and Accepted and the Bills Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills Read Once and tomorrow assigned for Second Reading.

**Ought to Pass
—As Amended**

The Committee on Claims on Resolve, to Reimburse Warren F. Chapman of Skowhegan for Well Damage by Highway Maintenance. (H. P. 406) (L. D. 517)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-360).

Comes from the House, the report Read and Accepted and the Resolve Passed to be Engrossed as Amended by Committee Amendment "A".

Which report was Read and Accepted in concurrence and the Resolve Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Resolve, as Amended, tomorrow assigned for Second Reading.

The Committee on Judiciary on Bill, "An Act Relating to Governmental Immunity in Civil Actions." (H. P. 557) (L. D. 738)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-366).

Comes from the House, the report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I wonder if some member of the Judiciary Committee would explain the purport of the Bill and the Amendment, and the effect it would have on the operation of our various government levels.

The PRESIDENT: The Senator from Cumberland, Senator Berry, has posed a question through the Chair which any Senator may answer or not, as he so desires.

The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: Everyone probably knows, or anyone connected with the insurance business, I guess, knows, that

every vehicle operated by State employees on, for and in behalf of the State of Maine is covered by insurance, liability insurance. This bill would prevent an insurance company from raising the defense of governmental immunity. That is, the State of Maine doesn't have to carry that insurance, and it can let its employees drive at will over the State without any protection to those who might be injured because of their negligence. The insurance policy, however, steps in and takes the place of the liability that might otherwise not be there. This bill would strike out the immunity that the State of Maine has from suit on such occasions, and it would require the State, in effect, to have this insurance. It does it now on an optional basis, and it is so well recognized as something which the State ought to be doing that it has been generally adopted. However, the striking out of this immunity in regard to the operation of motor vehicles by State employees would mean that it was a necessary thing, as it has practically been adopted already.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: My attention was drawn, of course, to the original bill, and the original bill states that the defense of governmental immunity is abolished. This is a very significant step which was proposed by the original bill. It has been historically an aim of the Trial Lawyers Association to obtain the passage of legislation of this nature. After listening to the explanation of Senator Mills, wherein he said that "the State is carrying this insurance anyway," I come to the conclusion that the purpose of the amendment is to make the bill sugar-coated so that we will pass the bill with the amendment, and then two years later all we need to do is remove the amendment, put the bill back in its original shape, and the concept of governmental immunity being abolished will have become a realization. Consequently, I think

the decision that we are making is on the concept of governmental immunity. I invite your serious consideration to this and to the prospect that it opens up. I ask you to question in your own mind why this concept has been jealously guarded both at the State, county, municipal and the quasi - municipal level.

Needless to say, the real purpose behind the bill is to open up whole new avenues for law suits. There is absolutely no need at all for either the bill or the amendment. All our governmental agencies do carry, and quite properly so, as was stated, automobile insurance. This is basically, I think, a simple explanation of the bill, and I would hope that you would think it over. I will not make any motion at the present time, but I would like to have the members of the Senate think about it.

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

Mr. MILLS of Franklin: Mr. President and Members of the Senate: I take exception to all the things that the good Senator from Cumberland, Senator Berry, reads into the actions that come out of the Judiciary Committee. I will tell you frankly what did happen. The Committee wouldn't go along with that bill as it was written, and didn't believe that it was the time to strike down generally governmental immunity, but in this area of the operation of motor vehicles we felt that the State had recognized already that this shouldn't exist, and this law which we proposed here is giving recognition to a state of facts which we think the public generally expect of the State and want. With this Legislation the de-facto situation that is taking place because of the insurance coverage would be galvanized into law, where we feel it should be.

We think that the State would be just catching up with public opinion if it enacted this type of legislation. I would be happy to welcome the good Senator to our consultation with the Committee at any time he sees fit. It isn't dis-

concerting today, but sometimes it is when one is called to task rather suddenly on a bill that is one of 167 bills that may be coming out of the Committee. I would be glad to confer with him in chambers, in the corridor, or in the Committee room, and I am sure the rest of the Committee would, to explain any of these matters which seem to trouble him on the floor.

I would prefer that he not attribute motives to the Committee that don't exist.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I am very happy to discuss the merits or lack of merits of any of these bills right here on the open Senate floor, and this is the place it should be done. I just repeat that the amendment is absolutely needless because insurance cases are now taken care of by insurance policies. The basic bill is what we are discussing, and I would suggest that the ultimate end should be the defeat of the amendment and, if possible, the rise and fall of the bill on its own merits.

Now, to those of you who may not be overly familiar with the past history of this bill, the removal of governmental immunity will open up to law suits every single body in the State of Maine. Such law suits could be from an alleged tripping over a curbstone and twisting your ankle to drinking water that gave you a bad stomach ache and you had to go to the hospital. Such law suits are hard to defend, they are costly, they increase the cost of insurance, they increase the cost of administration of local government and State Government. Now these are the dangers inherent in this particular governmental immunity bill. This has been tried before historically in the legislature and it has been defeated. As a matter of fact, the more I think about this the worse I think the bill is, and I move it be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Berry,

moves that Bill, "An Act Relating to Governmental Immunity in Civil Action" (H. P. 557) (L. D. 738), be indefinitely postponed.

The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: I think I am the only lawyer left on the floor of the Senate this afternoon, including the other two members of the Judiciary Committee, and I would request that somebody put this matter on the table for a couple of days perhaps.

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

Thereupon, on motion by Mr. Hoffses of Knox, tabled and specially assigned for May 28, 1969, pending the motion by Mr. Berry of Cumberland to Indefinitely Postpone the Bill.

The Committee on Caims on Resolve, to Reimburse Elwood A. Jepson of Norridgewock for Well Damage by Highway Maintenance. (H. P. 623) (L. D. 811)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-361).

The Committee on Claims on Resolve, to Reimburse Doris Nankervis of Franklin for Well Damage by Highway Maintenance. (H. P. 854) (L. D. 1096)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-362).

The Committee on Legal Affairs on Bill, "An Act Amending the Waterville City Charter." (H. P. 958) (L. D. 1239)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-363).

Come from the House, the reports Read and Accepted and the Bill and Resolves Passed to be Engrossed as Amended by Committee Amendments "A".

Which reports were Read and Accepted in concurrence and the Bill and Resolves Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bill and Resolves, as Amended, tomorrow assigned for Second Reading.

Ought to Pass in New Draft

The Committee on State Government on Bill, "An Act Relating to Regional Planning." (H. P. 612) (L. D. 800)

Reported that the same Ought to Pass in New Draft Under New Title: "An Act Relating to Regional Planning and Establishing Regional Councils of Governments." (H. P. 1210) (L. D. 1539)

The Committee on Legal Affairs on Bill, "An Act Increasing Compensation of Councillors of Town of Mechanic Falls." (H. P. 1105) (L. D. 1424)

Reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1209) (L. D. 1538).

Come from the House, the reports Read and Accepted and the Bills, in New Draft, Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills, in New Draft, Read Once and tomorrow assigned for Second Reading.

Divided Report

The Majority of the Committee on Business Legislation on Bill, "An Act Relating to Strikes of Insurance Agents." (H. P. 1108) (L. D. 1429)

Reported that the same Ought to Pass.

Signed:
Senators:

LOGAN of York
LEVINE of Kennebec
BERRY of Cumberland

Representatives:

GAUTHIER of Sanford
CLARK of Jefferson
FECTEAU of Biddeford
SCOTT of Wilton

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:

Representatives:

SCOTT of Presque Isle
HARRIMAN of Hollis
TRASK of Milo

Comes from the House, the Majority Ought to Pass Report Read and Accepted and the Bill Passed to be Engrossed.

Which reports were Read.

On motion by Mr. Logan of York, the Majority Ought to Pass Report

of the Committee was Accepted in concurrence, the Bill Read Once and tomorrow assigned for Second Reading.

Divided Report

Five members of the Committee on Claims on Resolve, to Reimburse Elmer L. Rogers of Berwick for Well Damage by Highway Construction. (H. P. 719) (L. D. 937)

Reported in Report "A" that the same Ought to Pass as Amended by Committee Amendment "A" (H-359).

Signed:
Senator:

LOGAN of York

Representatives:

CROTEAU of Brunswick
SHELTRA of Biddeford
MARQUIS of Lewiston
CURTIS of Bowdoinham

Five members of the same Committee on the same subject matter reported in Report "B" that the same Ought Not to Pass.

Signed:
Senators:

QUINN of Penobscot
GORDON of Cumberland

Representatives:

LINCOLN of Bethel
QUIMBY of Cambridge
MORGAN of South Port-

land.

Comes from the House, Report "A", Ought to Pass as Amended, Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-359).

Which reports were Read.

On motion by Mr. Gordon of Cumberland, the Ought to Pass as Amended Report "A" of the Committee was Accepted in Concurrence and the Resolve Read once. Committee Amendment "A" was Read and Adopted in concurrence and the Resolve, as Amended, tomorrow assigned for Second Reading.

Conference Committee Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill, "An Act Regarding the Membership of School Committees and Boards of School Directors." (H. P. 1088) (L. D. 1342) ask leave

to report: that they are unable to agree.

On the Part of the House:

HICHENS of Eliot
MILLETT of Dixmont
CUMMINGS of Newport

On the Part of the Senate:

KATZ of Kennebec
STUART of Cumberland

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence.

Conference Committee Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill, "An Act Relating to Membership on the Board of School Directors." (H. P. 981) (L. D. 1265) ask leave to report: that the House recede from passage to be engrossed; recede from adoption of House Amendment "A" as Amended by House Amendment "A" thereto; recede from adoption of House Amendment "A" to House Amendment "A" and indefinitely postpone same; adopt House Amendment "A" and pass the Bill to be engrossed as amended by House Amendment "A"; that the Senate recede and concur with the House.

On the Part of the House:

FINEMORE of Bridge-
water
MILLETT of Dixmont

On the Part of the Senate:

MOORE of Cumberland
STUART of Cumberland
MARTIN of Piscataquis

Comes from the House, the report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-202).

Which report was Read and Accepted.

Thereupon, the Senate voted to Recede and Concur.

Leave to Withdraw

Mr. Duquette for the Committee on Appropriations and Financial Affairs on Resolve to Appropriate Funds for the Construction of an International Ferry Terminal at Portland, Maine. (S. P. 364) (L. D. 1246)

Reported that the same be granted Leave to Withdraw.

Mr. Mills for the Committee on Judiciary on Bill, "An Act to Abolish Imprisonment for Debt in Divorce Actions." (S. P. 334) (L. D. 1132)

Reported that the same be granted Leave to Withdraw.

Which reports were Read and Accepted.

Sent down for concurrence.

Ought Not to Pass

Mr. Kellam for the Committee on Legal Affairs on Bill, "An Act Amending the Charter of the City of Portland Relating to Civil Service Commission." (S. P. 269) (L. D. 907)

Reported that the same Ought Not to Pass.

Which report was Read and Accepted.

Sent down for concurrence.

Mr. Logan for the Committee on Business Legislation on Bill, "An Act Relating to the Small Claims Act." (S. P. 246) (L. D. 755)

Reported that the same Ought Not to Pass.

Which report was Read.

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

Mr. MILLS of Franklin: Mr. President and Members of the Senate: In regard to this bill - it is one that I introduced - you might call it a lawyers bill, and I can tell you that some lawyers do not like it. It went to the Business Legislation Committee, and apparently they don't like it either. I still like it, and I would like to tell you about it and see if I can't salvage a little something. This small claims act went into effect many years ago when I was first a member of the Legislature, and it had kind of rough going in order to be enacted.

It took the law practice away from the lawyers and gave it to the merchants. It gave them the chance to bring their small claims into court without the help of a lawyer. I supported it then and I support its extension now. I think it is too bad that a merchant with a large number of bills can't have

direct access to court when these matters, as we all know, are of such a routine nature.

It is the same reason I supported on this floor a little while ago the action which would allow a man to pay his own fine in minor matters when no great criminality is involved. Here the merchant has the chance to go to court and file his bills, sign some papers and have the debtor called into court. He pays a fee of three dollars, and the limit that he is allowed to sue on is one hundred fifty dollars. The fee for filing it is three dollars. There is one thing that is bothersome in the practice of this type of bill, this legislation, and that is that a debtor may be a mill hand or a day laborer somewhere, and he gets the summons, and gets it by certified mail, and it tells him to be in court on a certain day. Some people believe those things. I mean, they take them literally, and they take time off from their work and they go there to court and then, having appeared, the merchant—these things are also handled by lawyers, because sometimes it is the easiest way to handle your small claims, put them in the small claims court - the lawyer isn't present and no one else is present for the creditor, but the debtor is taking his time from his work and he shows up. He is told by the Clerk that it will be set for hearing at a later time, when actually it already has been set for that time. The poor fellow goes on his way and he doesn't feel that he can afford to take another half day off from his work, as the case may be, so he doesn't come the next time and he gets defaulted. That is just the same as though he were found guilty of course, only there wasn't any effort on the part of the plaintiff, the creditor, to get him in that position. So, as a sort of a fair play proposition, I put into this bill that whenever the plaintiff or his authorized attorney fails to appear on the day set for hearing, and the defendant does appear, the complaint shall be dismissed. Now, the plaintiff more often than not has a bundle of them in there, he has got a dozen perhaps, it is very important that he

be there, of course, but this debtor is only one, and if he does show up at the hearing, and he has been told by the court, certified mail, return receipt requested, to be there at that time, and it seems to me that he ought to have his day in court then and not have to come back, come back, and come back, and be subjected to this default situation that exists when he fails to come. Now, of course, if he doesn't come in the first place, why he is defaulted right then and there.

Then there is the part of the bill that I put in there that I don't like, and I would amend it if we can have a chance at it, and that is the part about the fee. On another bill that has been through here this year we have refused to raise the fee. This type of bill did go to Judiciary Committee. Now the figure I had in the bill was raised to five dollars. I don't think it needs to be raised to five dollars; I think it should stay at three dollars, where it is now. I would amend that out.

But the other thing that is in here that is of some importance is raising the limit from one hundred dollars to one hundred fifty dollars. Well, that is only taking into account really the inflation that has taken place since this small claims legislation first was enacted. I can't say accurately when it was, but I would guess it was 1941. It was while I was here, and I was here in 1939, 1941, and 1947. It might have been 1947, but it was a long time ago anyway and a lot of inflation has taken place since then. So, if it was good for one hundred dollars when it was first enacted, it seems to me that it is good for one hundred fifty today, and it would benefit merchants and creditors generally to that greater extent; it could be increased.

I would invite the attention of my good friend, Senator Berry, to this legislation. He was on that Business Legislation Committee that voted 10-1 against it. I wish he would tell us why, because I have been explaining to him all winter why I voted in Judiciary on certain matters, now here is

one for him. I am going to move, Mr. President, that the bill be substituted for the report.

The PRESIDENT: The Senator from Franklin, Senator Mills, moves that the Bill be substituted for the report on Bill, "An Act Relating to the Small Claims Act" (S. P. 246) (L. D. 755).

The Chair recognizes the Senator from York, Senator Logan.

Mr. LOGAN of York: Mr. President and Members of the Senate: I would like, if I may, to lay out the thinking of the Business Legislation Committee on this matter. This bill, in essence, is one of a number that I mentally classified as a euphemism. A euphemism, as you know, is something that seems like what it isn't. For example, a young man went in to buy some life insurance, and on the application it asked from what his father died. It just so happened that his father has just been hung. Well, he didn't want to put this down, so after mature consideration, he wrote that his father had died of a broken neck suffered in a fall when a platform on which he was standing collapsed at a public function.

Well, this bill would seem at first glance to be a matter of tit for tat, sauce for the gander, and one would be led to wonder why a court could be set up in such a manner that the plaintiff would not be required to show up and the defendant would. Well, here seems to be the situation: the people that are the clientele of the small claims court are generally those that owe money to shopkeepers and the small business people. I have been advised that in 99 per cent of the cases they really owe the money. Consequently, most of them simply do not show up for these hearings almost as a matter of course. Now, let us say you are a shopkeeper in your hometown, perhaps run a corner grocery store, and you have money out on credit. Let's say some fellow runs up a bill of ten dollars and then just doesn't come in any more and he doesn't answer your letters. This is the usual run of things. You would like to collect that, you feel you have it coming to you.

Now, if this legislation is passed, you would almost feel required to either close up shop and go into small claims court yourself or to hire counsel to represent you because, if you don't, you run the risk of losing your money. Well, now what is it going to cost you to have a lawyer show up in a small claims court? Probably twenty-five dollars. Are you going to want to spend twenty-five dollars to collect a ten dollar debt? Are you, for that matter, going to want to spend twenty-five dollars to collect a twenty-five dollar debt? So, the effect of this legislation, as we saw it, would be that anyone that owed less than twenty-five dollars would be substantially free and clear.

Now, I could probably paint a very grim picture of the effect this would have on the credit policy of the small businessman. I know if I were a small businessman, and this bill passed, I would collect everything I could before anyone found out about it. I think, substantially, the feeling of the Business Legislation Committee was that the small debtor has just as much right to collect his little debts as the big boys do. Thank you, Mr. President.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I suppose my defense against Senator Mills's thought was that I probably wasn't at the hearing or I would have seen the error of my ways. I do feel the bill is a good bill. I do feel that what is good for the plaintiff is good for the defendant, and vice-versa.

I am diametrically opposed to Senator Logan's thinking in this particular regard. The existing law says that when the defendant fails to show up, the plaintiff gets an automatic judgment. It seems only fair to say that if the plaintiff doesn't show up the defendant would at least get his case dismissed.

I don't agree with Senator Mills that the fee should stay at three

dollars. I am sure it has been at three dollars a long time, and a mere two dollar increase in cost for the entry fee seemed to be quite warranted. I share his feeling that one hundred fifty dollars is a realistic limit today to replace a former one hundred dollar limit which had been in existence a long time. So I would support Senator Mills's position on this matter.

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

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: I sponsored a similar bill such as this that would have raised the fee from three dollars to five dollars, and I am quite sure that was the only aspect I was concerned with at that particular time, although I wouldn't have objected to the amount of the addendum being increased if someone thought it should be. I believe that bill got all the way to the enactment stage before it got shot down by my buddy across the room, with the thought that it was going to be taken care of in this particular bill. It looks as if possibly both of us were sort of taken back a bit. I had anticipated this bill would go to Judiciary, and consequently be in good hands, and I pretty much dispelled it from my mind from then on.

I believe the argument of Senator Logan is somewhat fallacious in relation to this man having to come in to protect his debt. The truth of the matter is that most of these are done in great volume, a great number of debts are at one time submitted. They are not always 100 per cent correct. I think that we sometimes tend to believe that all the merchants' bills are accurate, but that is not necessarily true. If a debtor does come in, obviously he disputes the bill, and he may very well be completely right. If he is here, and the creditor is not, I believe it is only fair that the bill should be dismissed. The bill doesn't say whether dismissal is going to be with prejudice. I would presume that the court would have discretion in a case where the merits of a claim might warrant that it

would just be a matter of the creditor bringing his suit again, and the next time planning on being there, and accepting his loss of the three dollars, or four or five dollars, whatever it might be, presuming the statute of limitations has not run.

I would hope the body would see fit to enact the part as to the five dollars, and particularly the section having to do with the dismissal of the case, and if they wish to raise the addendum to one hundred fifty, I think that would be all right too. I believe the history of this is that it started out at something like thirty dollars or so for a two-dollar fee, I think it went to one hundred, with a three-dollar fee, maybe something like twenty years ago. I did have some figures on this three or four months back, but I do not have them with me today. I really feel that the bill should go right through the way it is. If a man wants to take up the court's time to sue for a debt, it almost seems to me it should carry its own weight. The five dollars is probably no more than what it costs to run this suit into court, so I would hope that we would just pass the bill the way it is.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Logan.

Mr. LOGAN of York: Mr. President and Members of the Senate: If there is anyone in the Senate who would like to come forward and help me debate these three very articulate gentlemen, I wouldn't mind if they so indicated. I still tend to put myself in the position of the ma and pa grocer who has the ten-dollar debt that he wants to collect. Once again, under this legislation, he would have to retain counsel to collect it. I don't think he should be denied the ability to collect his debt. Thank you, Mr. President.

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

Mr. BARNES of Aroostook: Mr. President and Members of the Senate: I rise, not to support or oppose this bill, but I would like to direct a question to Senator Logan. If he knows of any attorney

he could get to represent you in a small claims court, or any other court, for a fee of twenty-five dollars, I would like to have his name.

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

Mr. MILLS of Franklin: Mr. President and Members of the Senate: It gets awfully tiresome around here, every time there is a bill in here that lawyers seem to favor, to have it turned into a mercenary motive. I want to tell the Senator from York, Senator Logan, that there isn't the slightest taint of that in my thinking as to this legislation. I don't want to go to court for any small claims merchant. I know that he can go up there and he can record his appearance very simply. I ran one of these courts for four years, and I liked this small claims law and I used it. I used it in our court, and we used it to great benefit of the merchants in our area. It was just about sixty-six and two-thirds per cent effective. Now, most of these bills get paid after that notice goes out. That is, when they are going to be paid. They are notified on that notice that they can go around and pay the bill, plus the three-dollar fee, and that closes the matter. That is what happens to most of the bills that are due.

Now, where there is an exceptional one, where the debtor feels he is being put upon - it is very, very seldom that that occurs, but it does once in a while - and he takes off and goes into court, he is asking for his day in court and, of course, he should be given the same treatment that the fellow on the other side is given.

I want to tell you, Senator, and anybody else, that there is no motivation here to get any representation in court or any twenty-five dollars. I go to court a good many times for twenty-five dollars. The fees are cheaper up our way, I can tell you, Senator. Maybe up in Aroostook County they are a lot more than that, but we go to court for nothing a good many times too when the occasion arises.

The PRESIDENT: The pending question before the Senate is the

motion of the Senator from Franklin, Senator Mills, that Bill, "An Act Relating to the Small Claims Act," Senate Paper 246, Legislative Document 755, be substituted for the report. As many Senators as are in favor of substituting the bill for the report will say "Yes"; those opposed, "No."

A viva voce vote being taken, the motion prevailed and the Bill was Substituted for the Report.

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

Ought to Pass in New Draft

Mr. Wyman for the Committee on Taxation on Bill, "An Act to Give Relief to Elderly Persons from the Increasing Property Tax." (S. P. 283) (L. D. 916)

Reported that the same Ought to Pass in New Draft Under Same Title. (S. P. 474) (L. D. 1550)

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

Final Report

The Committee on Claims submitted its Final Report.

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Logan.

Mr. LOGAN of York: Mr. President, before the gavel falls and the Committee on Claims of the 104th Legislature passes into limbo, I would like to recognize the members of this Committee with whom it has been my privilege to serve, From the Senate: Senator Quinn of Penobscot, Senator Gordon of Cumberland. From the House of Representatives: The able and delightful Chairwoman, Representative Lincoln of Bethel, Representative Quimby of Cambridge, Representative Curtis of Bowdoinham, Representative Croteau of Brunswick, the conscientious and gracious Representative Morgan of South Portland, Representative Sheltra of Biddeford, and Representative Marquis of Lewiston.

Throughout the session this Committee has worked together in harmony, and in mutual trust and respect, toward the common goal

of making right the State's abuses of its citizens. Thank you, Mr. President.

The PRESIDENT: Is it the pleasure of the Senate to accept the report of the Committee?

Thereupon, the Report of the Committee was Accepted.

Sent down for concurrence.

Second Readers

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

House

Bill, "An Act to Exempt Unremarried Widows of Certain Paraplegic Veterans from Property Taxation." (H. P. 1206) (L. D. 1533)

Bill, "An Act Relating to Liability of Landowners to Operators of Snow Traveling Vehicles." (H. P. 285) (L. D. 361)

Bill, "An Act Relating to Trial and Ratio Evidence in Appeals for Abatement of Property Taxes." (H. P. 449) (L. D. 572)

Bill, "An Act Relating to Admission to the Pineland Hospital and Training Center." (H. P. 550) (L. D. 729)

Bill, "An Act Revising the Short Form Deeds Act." (H. P. 556) (L. D. 737)

Bill, "An Act Appropriating Funds for the Operation of the Maine Mining Commission." (H. P. 882) (L. D. 1141)

Bill, "An Act to Make Allocations from Bond Issue for Construction and Equipment of Pollution Abatement Facilities." (H. P. 1187) (L. D. 1511)

Bill, "An Act to Authorize the Town of Swan's Island to Form a School Administrative District." (Emergency) (H. P. 1082) (L. D. 1403)

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

Bill, "An Act Revising the Motor Vehicle Dealer Registration Law." (H. P. 1185) (L. D. 1506)

Which was Read a Second Time.

On motion by Mr. Hoffses of Knox, tabled and tomorrow assigned, pending Passage to be Engrossed.

House - As Amended

Bill, "An Act Relating to Boilers and Unfired Steam Pressure Vessels." (H. P. 1100) (L. D. 1417)

Resolve, to Reimburse William E. Hodgdon of Embden for Well Damage by Highway Maintenance. (H. P. 263) (L. D. 339)

Resolve, to Reimburse Tilton Davis of Solon for Damage by Highway Construction. (H. P. 264) (L. D. 340)

Bill, "An Act Revising Certain Probate Laws." (H. P. 522) (L. D. 693)

Resolve, to Reimburse Irving M. Greenleaf of Rome for Well Damage by Highway Maintenance. (H. P. 596) (L. D. 777)

Bill, "An Act Relating to the Men's and Women's Correctional Centers." (H. P. 934) (L. D. 1195)

Which were Read a Second Time and Passed to be Engrossed, as Amended, in concurrence.

Senate

Bill, "An Act Providing for a Legislative Program Evaluation Division." (S. P. 385) (L. D. 1297)

(On motion by Mr. Hoffses of Knox, tabled and tomorrow assigned, pending Passage to be Engrossed.)

Bill, "An Act Relating to Comparative Negligence in Civil Actions." (S. P. 89) (L. D. 251)

(On motion by Mr. Berry of Cumberland, tabled and tomorrow assigned, pending Passage to be Engrossed.)

Bill, "An Act Relating to County Advisory Organizations." (S. P. 118) (L. D. 328)

(On motion by Mr. Wyman of Washington, temporarily set aside.)

Resolve, Proposing an Amendment to the Constitution to Provide for Direct Initiative to Amend the Constitution. (S. P. 239) (L. D. 714)

Bill, "An Act Concerning Admissibility of Hospital Records and Copies of Records as Evidence." (S. P. 104) (L. D. 317)

(On motion by Mr. Conley of Cumberland, tabled and specially assigned for May 28, 1969, pending Passage to be Engrossed.)

Resolve, to Reimburse Clyde Rollins of Rumford for Damage by

Highway Construction. (S. P. 132) (L. D. 416)

Bill, "An Act Appropriating Funds to Establish Renal Dialysis Centers." (S. P. 292) (L. D. 972)

Bill, "An Act Relating to Juvenile Offenses." (S. P. 404) (L. D. 1357)

Bill, "An Act to Correct Errors and Inconsistencies in the Fish and Game Laws." (S. P. 464) (L. D. 1543)

Which were Read a Second Time and, except for the tabled matters, Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the matter set aside at the request of Mr. Wyman of Washington: Bill, "An Act Relating to County Advisory Organizations," (S. P. 118) (L. D. 328).

The same Senator then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-174, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

Senate - As Amended

Bill, "An Act Providing Notice or Severance Pay by Employers." (S. P. 156) (L. D. 474)

Which was Read a Second Time.

(On motion by Mr. Hoffses of Knox, tabled and specially assigned for May 28, 1969, pending Passage to be Engrossed.)

Bill, "An Act to Conform the Statutes to the Rules of Civil Procedure." (S. P. 168) (L. D. 542)

Which was Read a Second Time and Passed to be Engrossed, as Amended.

Sent down for concurrence.

Enactors

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

An Act Appropriating Funds to Aid in Constructing a School Building in Danforth. (S. P. 310) (L. D. 1025)

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

An Act Providing for Area Directional Signs on Maine Turn-

pike for Hancock and Washington County Areas. (S. P. 375) (L. D. 1285)

An Act Relating to Increased Board Payments for State Wards. (H. P. 620) (L. D. 808)

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

An Act Relating to Jurisdiction of Probate Court in Adoption Cases. (H. P. 690) (L. D. 890)

An Act Appropriating Funds to Defray Part of Cost of Radio Homing Beacon at Norridgewock Airport. (H. P. 914) (L. D. 1175)

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

An Act Reallocating Certain Bond Issue Funds for Norridgewock Airport. (H. P. 939) (L. D. 1200)

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

An Act to Create a School Administrative District in the Town of Sanford. (H. P. 1065) (L. D. 1394)

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

An Act Revising the Laws Relating to Physicians and Surgeons. (H. P. 1188) (L. D. 1507)

An Act Relating to Lack of Privity as a Defense in Action Against Manufacturer, Seller or Supplier of Goods. (H. P. 1195) (L. D. 1516)

An Act Relating to Short Term Permits for Trucks to Haul Loads. (H. P. 631) (L. D. 819)

(On motion by Mr. Hoffses of Knox, tabled and tomorrow assigned, pending Enactment.)

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

Resolve, to Reimburse Julia Junkins of South Portland for Damage to Property. (H. P. 1078) (L. D. 1401)

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

Bond Issue

An Act Providing a Bond Issue in the Amount of Two Hundred and Ten Thousand Dollars for Construction of Necessary Added Facilities at Camp Waban, York County (H. P. 949) (L. D. 1227)

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

Orders of the Day

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

Bill, "An Act Relating to Expenditures from Aeronautical Funds." (H. P. 72) (L. D. 72).

Talbed — May 21, 1969, by Senator Katz of Kennebec.

Pending — Enactment.

On motion by Mr. Hoffses of Knox, retabled and specially assigned for May 28, 1969, pending Enactment.

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

Bill, "An Act Relating to Damage to Private Water Supplies Resulting from Alteration of Highways." (H. P. 445) (L. D. 569)

Tabled — May 22, 1969 by Senator Katz of Kennebec.

Pending — Passage to be Engrossed.

On motion by Mr. Hoffses of Knox, retabled and specially assigned for May 28, 1969, pending Passage to be Engrossed.

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

An Act Relating to Truth in Packaging. (H. P. 951) (L. D. 1230)

Tabled — May 22, 1969 by Senator Logan of York.

Pending — Enactment.

Thereupon, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

HOUSE REPORTS — from the Committee on Health and Institutional Services on Bill, "An Act Relating to Welfare Assistance."

(H. P. 687) (L. D. 918). Majority Report, Ought to Pass; Minority Report, Ought Not to Pass.

Tabled — May 22, 1969 by Senator Stuart of Cumberland.

Pending — Motion by Senator Greeley of Waldo to Accept the Minority Ought Not to Pass Report.

On motion by Mr. Stuart of Cumberland, retabled and specially assigned for May 28, 1969, pending the motion by Mr. Greeley of Waldo to Accept the Minority Ought Not to Pass Report of the Committee.

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

SENATE REPORT — from the Committee on Highways on Bill, "An Act Providing for a Feasibility Study for a High Level Bridge or Vehicular Underwater Tunnel Across Fore River." (S. P. 416) (L. D. 1391). Ought to Pass in New Draft under New Title (S. P. 472) (L. D. 1544) Bill, "An Act Providing for a Feasibility Study of Alternative Methods for Crossing Fore River."

Tabled — May 23, 1969 by Senator Sewall of Penobscot.

Pending — Acceptance of Report.

On motion by Mr. Sewall of Penobscot, retabled and specially assigned for May 28, 1969, pending Acceptance of the Committee Report.

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

SENATE REPORTS — from the Committee on Appropriations and Financial Affairs on Bill, "An Act to Authorize General Fund Bond Issue in Amount of Fifty Million Dollars for Planning, Construction and Equipment of Pollution Abatement Facilities." (S. P. 343) (L. D. 1209). Majority Report, Ought to Pass as Amended by Committee Amendment "A" Filing S-190; Minority Report, Ought Not to Pass.

Tabled — May 23, 1969, by Senator Sewall of Penobscot.

Pending — Motion by Senator Berry of Cumberland to Accept Majority Ought to Pass Report as

Amended by Committee Amendment "A" Filing S-190.

Thereupon, the Ought to Pass as Amended Report of the Committee was Accepted and the Bill Read Once. Committee Amendment "A", Filing No. S-190, was Read and Adopted and the Bill, as Amended, tomorrow assigned for Second Reading.

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

SENATE REPORTS — from the Committee on State Government on Resolve, Proposing an Amendment to the Constitution Pledging Credit of the State for Guaranteeing Portions of Certain Home Mortgages and Housing Development. (S. P. 390) (L. D. 1315). Majority Report, Ought Not to Pass; Minority Report, Ought to Pass.

Tabled — May 23, 1969 by Senator Wyman of Washington.

Pending — Motion by Senator Katz of Kennebec to Accept the Minority Ought to Pass Report.

On motion by Mr. Wyman of Washington, retabled and tomorrow assigned, pending the Motion by Mr. Katz of Kennebec to Accept the Minority Ought to Pass Report of the Committee.

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

Bill, "An Act Regulating Snowmobiles." (S. P. 455) (L. D. 1501)

Tabled — May 23, 1969 by Senator Reed of Sagadahoc.

Pending — Adoption of Senate Amendment "C", Filing S-180.

Thereupon, Senate Amendment "C" was Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

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

Bill, "An Act Redefining the Bounds of Merrymeeting Bay Game Sanctuary." (H. P. 815) (L. D. 1054)

Tabled — May 23, 1969 by Senator Hoffses of Knox.

Pending — Adoption of Senate Amendment "A", Filing S-189 to

House Amendment "A", Filing H-328.

Mr. Hoffses of Knox then moved the pending question.

Thereupon, Senate Amendment "A" was Adopted. House Amendment "A", as Amended by Senate Amendment "A" thereto, was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

SENATE REPORT — Ought Not to Pass from the Committee on Inland Fisheries and Game on Resolve, Relating to Ice Fishing in East Grand Lake in Aroostook and Washington County. (S. P. 206) (L. D. 615)

Tabled — May 23, 1969 by Senator Hoffses of Knox.

Pending — Acceptance of Report.

Mr. Wyman of Washington then moved the pending question.

Thereupon, the Ought Not to Pass Report of the Committee was Accepted.

Sent down for concurrence.

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

SENATE REPORT — Ought Not to Pass from the Committee on Inland Fisheries and Game on Resolve Relating to Ice Fishing in Spednic Lake, Washington County. (S. P. 207) (L. D. 616)

Tabled — May 23, 1969 by Senator Hoffses of Knox.

Pending — Acceptance of Report.

Thereupon, the Ought Not to Pass Report of the Committee was Accepted.

Sent down for concurrence.

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

Bill, "An Act Relating to Time of Payment of Salaries of Members of the Legislature." (H. P. 1008) (L. D. 1310)

Tabled — May 23, 1969 by Senator Wyman of Washington.

Pending — Passage to be Engrossed.

On motion by Mr. Wyman of Washington, retabled and specially assigned for May 28, 1969, pending Passage to be Engrossed.

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

HOUSE REPORT — from the Committee on Liquor Control on Bill, "An Act Relating to Retail Sale of Wine." (H. P. 1041) (L. D. 1371) Majority Report, Ought to Pass in New Draft Under Same Title (H. P. 1181) (L. D. 1502); Minority Report, Ought Not to Pass.

Tabled — May 23, 1969 by Senator Hoffses of Knox.

Pending — Motion by Senator Barnes of Aroostook to accept the Minority Ought Not to Pass Report.

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

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I wish to speak in opposition to the motion of my friend, the Senator from Aroostook, Senator Barnes, on L. D. 1371, "An Act Relating to Retail Sale of Wine."

This is one of the most sensible and practical bills we have had this session relative to the field of Liquor Control. I call your attention to two or three features of this measure. First, it is permissive legislation that would go to local option in the general election in 1970, at which time the voters of each municipality would have the opportunity to reject or favor the sale of wine in their community.

Second, the operation would be similar to that involved with malt beverages. In other words, wines would be sold through grocery stores, and not the State stores. Now, the wines we are talking about are those of 14 per cent alcoholic volume or less. They are considered table wines, and not the so-called fortified wines.

The State of Vermont has recently done this, and now has somewhere in the vicinity of 1,200 items for selection. In contrast,

Maine has, I believe, fifty-one table wine listings. A Vermont enforcement official has indicated to the Subcommittee on Liquor Control during the legislative research that there were no additional problems upon the adoption of this program. It is considered that kids apparently prefer beer, and the so-called winos prefer stronger wine.

At the present time these wines take twelve per cent of the shelf space of the Liquor Commission, and produce less than two per cent net profit to the State.

I just submit that these are some of the reasons for us to consider the passage of this legislation, and I hope that the motion of the Senator from Aroostook does not prevail.

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

Mr. BARNES of Aroostook: Mr. President and Members of the Senate: I am not going to belabor this matter, however, I would ask for a division, and I would request when the vote is taken that it be taken by the Yeas and Nays.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE of Somerset: Mr. President and Members of the Senate: I would like to concur with the remarks made by Senator Conley. I believe that this being left to local option, with only the table wines being offered, that it would assist the Liquor Commission in their handling of the products. I don't think there is that much difference between beer and this type of wine, and I hope that the motion would not prevail.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Aroostook, Senator Barnes, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Retail Sale of Wine." A roll call has been requested. In order for the Chair to order a roll call, under the Constitution, it requires the affirmative vote of one - fifth

of those Senators present and voting. Will all those Senators in favor of a roll call rise and remain standing until counted?

Obviously, more than one - fifth having arisen, a roll call is ordered. The pending question is the motion of the Senator from Aroostook, Senator Barnes, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Retail Sale of Wine." A "Yes" vote will be in favor of accepting the Minority Ought Not to Pass Report of the Committee; a "No" vote will be opposed.

The Secretary will call the roll.

Roll Call

YEAS: Senators Anderson, Barnes, Dunn, Greeley, Hoffses, Logan, Peabody, Reed and Wyman.

NAYS: Senators Berry, Boisvert, Cianchette, Conley, Duquette, Gordon, Hanson, Katz, Kellam, Letourneau, Martin, Mills, Minkowsky, Moore, Sewall, Stuart, Tanous and President MacLeod.

ABSENT: Senators Beliveau, Bernard, Levine, Quinn and Violette.

A roll call was had. Nine Senators having voted in the affirmative, and eighteen Senators having voted in the negative, with five Senators absent, the motion did not prevail.

Thereupon, the Majority Ought to Pass in New Draft Under Same Title Report of the Committee was Accepted in concurrence, the Bill in New Draft Read Once and tomorrow assigned for Second Reading.

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

Bill, "An Act Revising the Law Regulating the Alteration of Wetlands." (S. P. 470) (L. D. 1528)

Tabled — May 23, 1969 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

Mr. Logan of York then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-191, was Read and Adopted.

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

Mr. BERRY of Cumberland: Mr. President, I am still working on an amendment, and I would appreciate it if somebody would table this bill for a day or two.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Sewall.

Thereupon, on motion by Mr. Sewall of Penobscot, retabled and specially assigned for May 28, 1969, pending Passage to be Engrossed.

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

Bill, "An Act Relating to Approval of Refuse Disposal areas, in our local municipalities, Tabled — May 23, 1969 by Senator Mills of Franklin.

Pending — Passage to be Engrossed.

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

Mr. MILLS of Franklin: Mr. President, I move that this Bill and all its accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Franklin, Senator Mills, moves that Bill, "An Act Relating to Approval of Refuse Disposal Areas," be indefinitely postponed.

The Chair recognizes the same Senator.

Mr. MILLS: Mr. President, in support of my motion, I want to call to the attention of the good Senators here that in our local areas, in our local municipalities we have reached heights in the development of refuse areas. I call to your attention Kennebunk and what it has done in the area of dump improvement. It gained, I think, nationwide acclaim for its local management of its home-town dump. Following that notice, and following that example from the southwestern part of the State —

The PRESIDENT: The Chair would interrupt the Senator and apologize to the Senator, but the Senator's motion would be out of order. The last action taken on this bill was on your motion to indefi-

nately postpone the bill, which did not prevail. The bill was then tabled pending passage to be engrossed. The motion is out of order since there has been no intervening business taken place on the bill.

Mr. MILLS: I see, Mr. President. Well, we will try to kill it another way. The pending question, Mr. President, is what, please?

The PRESIDENT: It is pending passage to be engrossed.

The Chair would inform the Senator that he can ask for a division on the engrossing of the bill.

Mr. MILLS: Thank you, Mr. President. I won't elaborate any more on this except to say that this is an Augusta dump control measure that the municipalities of the State don't need. They don't have to tell us down here in Augusta where and when we can establish a dump. We dump pretty well on our own.

Down in York County Senator Logan's people have gotten nationwide acclaim for what they have done. Following their example, Farmington has a dump that has greatly improved the last two or three years. The only thing wrong about it is that they don't give the man who looks after it a decent hovel to live in. But the rats are cleaned up, it is solid soil, the papers aren't flying around any more, so I think when local municipalities have made that progress that we shouldn't be discouraged and we shouldn't discourage home rule in the matter of dump control in this way.

I invite your attention to the statement of purposes here. It is the way they always get off the ground when they want something, some high-falutin' language. "the legislature intends by enacting this chapter to establish minimal control of solid waste disposal for the purpose of eliminating unnecessary threats to public health, safety and welfare." We can do that on our own, Mr. President. We don't have to have a license, and that is what you would have to have. You would have to get your license down here, and the town fathers would have to wait for Augusta to tell them where they could put the dump,

and when, and all that sort of thing. They have got lots of brains down here in the Department of Health and Welfare, but we have got some left at home, and we don't need this piece of legislation.

I ask for a division on the next action, Mr. President, and hope that it will stop the forward progress of this nefarious bill.

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

Mr. CONLEY of Cumberland: Mr. President, I have been so moved by the remarks of the Senator from Franklin, Senator Mills, that if this bill does fail to pass engrossment I will move that it be indefinitely postponed.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: In the midst of this torrent of oratory here, I wonder if a few little gentle words of light might be cast upon the subject. I would point out to the members of the Senate that L.D. 1517 is a redraft of the original L. D. 957. It represents a distinct compromise by municipalities, by industry, and by those who are interested in seeing good conservation legislation placed upon the books.

The bill applies only to municipal dumps, and no others. We have removed from the bill the requirement that there must be daily sanitary land fill placed upon the day's operations and, in essence, all we are doing here is putting on the very needy and commendable legislation that would require the locations of future dumps and significant expansion of existing dumps be approved by the Department of Health and Welfare.

This doesn't seem to be too much to ask for when we are faced with constantly increasing pollution in our State today. In an effort to compromise the situation, we have conceded these several points which I have enumerated to you. It amounts to a very significant and practical grandfather clause. It seems only right that future

dumps be located so that they are not going to contaminate our ground water, our streams and our ponds, and that they be so sited insofar as is possible to keep our pollution to a minimum. I hope you would support the motion that this bill be passed to be engrossed.

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

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: I was looking at this bill just prior to Senator Berry's getting up to explain it, and saw that the word "person" means municipal corporation. I believe he covered that pretty well, and that the only one that it is going to apply to is a municipal corporation. In other words, when it says, "No person shall be able to operate," and so forth, "a dump," it doesn't mean a person at all in the ordinary sense; it means a municipal corporation. Now, it sort of struck me as to what would happen, I wonder, if a town applied and didn't get the permit, and then just allowed someone else to create a dump of their own and maybe sublet something or sell them their trash. I would like to have the good Senator sort of explain how this is going to correct all the difficulties he has described, if it can be circumvented by means of having private dumps rather than municipal dumps?

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

Mr. BERRY of Cumberland: Mr. President, I think that Senator Kellam has explained and answered his own query, that it cannot be circumvented that way, and that a municipal corporation is the target of the legislation, quite properly.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I have been in East Millinocket for fourteen years, and this somewhat reminds me of the town meeting that we usually have, because we spend at least an hour discussing the rubbish situation in

the town. I am sure that many, many small communities do the same and, you know, they have very little to discuss lately, and I think we ought to leave them something to talk about at their town meetings. So, I would support the position of Senator Mills. Thank you.

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

Mr. HOFFSES of Knox: Mr. President and Members of the Senate: I think perhaps one of the matters which this piece of legislation is supposed to cover and to control is the pollution of bodies of water, rivers, streams and so forth. It would seem to me that if a municipality, whose dump is polluting waters, that it would be a responsibility of that municipality to correct it and to change their dump location, or perhaps it might come under the jurisdiction of the Air and Water Pollution Board, rather than the Health and Welfare. I feel that I would want to support the position of Senator Mills in this matter.

The PRESIDENT: Is the Senate ready for the question? The Chair will order a division. As many Senators as are in favor of Bill, "An Act Relating to Approval of Refuse Disposal Areas," being passed to be engrossed will stand and remain standing until counted. All those opposed will rise and remain standing until counted.

A division was had. Eight Senators having voted in the affirmative, and nineteen Senators having voted in the negative, the Bill failed of Passage to be Engrossed.

Thereupon, on motion by Mr. Conley of Cumberland, the Bill and accompanying papers were indefinitely postponed in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act Increasing Mileage Allowance for State Employees on State Business." (H. P. 308) (L. D. 395)

Tabled — May 23, 1969 by Senator Mills of Franklin.

Pending — Passage to be Engrossed.

Mr. Sewall of Penobscot then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-192, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

On the disagreeing action of the two branches of the Legislature on Resolve, Proposing an Amendment to the Constitution to Provide for Temporary Assignments of Justices of the Superior Court to the Supreme Judicial Court, (S. P. 171) (L. D. 545), the President appointed the following Conferees on the part of the Senate:

Senators:

TANOUS of Penobscot
VIOLETTE of Aroostook
BELIVEAU of Oxford

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Relating to Molesting Game Animals by Snowmobiles," (H. P. 890) (L. D. 1149), the President appointed the following Conferees on the part of the Senate:

Senators:

BARNES of Aroostook
BERNARD of Androscoggin
MARTIN of Piscataquis

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Relating to Contracts for Support," (H. P. 863) (L. D. 1105), the President appointed the following Conferees on the part of the Senate:

Senators:

MILLS of Franklin
QUINN of Penobscot
KELLAM of Cumberland

(Off Record Remarks)

On motion by Mr. Hoffses of Knox,

Adjourned until 9 o'clock tomorrow morning.