

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth  
Legislature*

OF THE

STATE OF MAINE

**Volume III**

June 17, 1969 to July 2, 1969

Index

**1st Special Session**

January 6, 1970 to February 7, 1970

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KENNEBEC JOURNAL  
AUGUSTA, MAINE

**SENATE**

Friday, January 16, 1970

Senate called to order by the President.

Prayer by the Rev. David Holroyd of Gardiner.

Reading of the Journal of yesterday.

**Joint Order**

Out of Order and Under Suspension of the Rules:

On motion by Mr. Hoffses of Knox,

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Monday, January 19, at 3 o'clock in the afternoon.

(S. P. 628)

Which was Read and Passed.

Under suspension of the rules, sent down forthwith for concurrence.

**Communications**

State of Maine

House of Representatives

Office of the Clerk

Augusta, Maine

January 15, 1970

Hon. Harry N. Starbranch

Secretary of the Senate

Sir:

The Speaker today appointed the following Conferees on the part of the House on the disagreeing action of the two branches of the Legislature on Bill "An Act relating to Hours of Sale under Liquor Laws" (S. P. 618) (L. D 1793)

Messrs. HICHENS of Eliot

FINEMORE

of Bridgewater

HAWKENS of Farmington

Very truly yours,

(Signed)

BERTHA W. JOHNSON

Clerk of the House

Which was Read and Ordered Placed on File.

**Committee Reports**

**Senate**

**Ought to Pass**

The Committee on Appropriations and Financial Affairs on Bill, "An Act to Amend Bond Issue Act as to Limitation of Interest on Bonds for York County Regional Vocational Education Center or Centers." (S. P. 627) (L. D. 1798)

Reported pursuant to Joint Order S. P. 622 that the same Ought to Pass.

Which report was Read.

On motion by Mr. Logan of York, tabled until later in today's session, pending Acceptance of the Committee Report.

**Second Readers**

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

**House**

Bill, "An Act to Enable the Town of Falmouth to Establish Sewer Service Charges." (H. P. 1428) (L. D. 1797)

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

**House - As Amended**

Bill, "An Act Relating to Fee for and Facilities of Class A Restaurants Serving Malt Liquor." (H. P. 1379) (L. D. 1728)

Which was Read a Second Time.

Mr. Boisvert of Androskoggin then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-367, was Read and Adopted.

The PRESIDENT: Is it now the pleasure of the Senate that this Bill, as amended, be passed to be engrossed in non-concurrence and sent down for concurrence.

On motion by Mr. Berry of Cumberland, a division was had. Fourteen Senators having voted in the affirmative, and sixteen Senators having voted in the negative, the Bill failed of Passage to be Engrossed in non-concurrence.

Sent down for concurrence.

**Orders of the Day**

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

Bill, "An Act Creating the Nonpublic Elementary Education Assistance Act." (H. P. 1395) (L. D. 1751)

Tabled—January 15, 1970 by Senator Katz of Kennebec.

Pending—Reference.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: In today's House Advance Journal there is a very lengthy report from the Supreme Judicial Court on questions pertaining to the constitutionality of the proposed legislation, and I am sure that we will all want a chance to digest this rather lengthy report. I would suggest this bill be tabled until the next legislative day.

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

Thereupon, on motion by Mr. Hoffses of Knox, tabled and tomorrow assigned, pending Reference.

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

House Report—Ought Not to Pass from the Committee on Taxation on Bill, "An Act Relating to the Taxation of Farm Machinery." (H. P. 1360) (L. D. 1689)

Tabled—January 15, 1970 by Senator Katz of Kennebec.

Pending—Acceptance of Report.

On motion by Mr. Barnes of Aroostook, the Bill was substituted for the report and the Bill Read Once.

Under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act Relating to Investment Fiduciaries Under State Retirement System." (S. P. 562) (L. D. 1637)

Tabled—January 15, 1970 by Senator Reed of Sagadahoc.

Pending—Motion by Senator Hanson of Kennebec to Indefinitely Postpone Bill and Reports.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Hanson.

Mr. HANSON of Kennebec: Mr. President and Members of the Senate: I wish to withdraw my motion for indefinite postponement of this bill and all accompanying

papers. I wish to speak to this motion.

The PRESIDENT: The Senator from Kennebec, Senator Hanson, withdraws his motion to indefinitely postpone the bill and report.

The Senator has the floor.

Mr. HANSON: Mr. President and Members of the Senate: I find that I was in error yesterday. I presented this bill for the Maine Principals Association, for the Retirees, and the Maine Teachers Association.

At a meeting before the trustees of the board on January 8 a complete report on all of the legislation that would be coming before this session was presented to them. The trustees had no opposition in any way whatsoever. They were recently polled for the second time, and there is still no opposition from them in regards to this. It is the feeling of approximately 25,000 citizens which belong to these various organizations or associations which I named that if they could have the second fiduciary that possibly the fund could be earning them more money than what it now is.

Therefore, I hope that the bill, as amended, will pass.

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

Mr. LOGAN of York: Mr. President and Members of the Senate: I have made an effort to dig into the background of this investment policy of the Maine Retirement System. Apparently before 1967 the funds of the system were invested by the trustees themselves, that is, they acted as their own fiduciary.

In the fall of 1967, under present law, the trustees began the process of selecting a bank. Under the statute, they are limited to banks in New England and New York. They contacted the major banks in Massachusetts, New York and some fourteen or fifteen Maine banks, I am told. There was very little interest at that time among the Maine banks in this and eventually, of course, as you know, the First National of Boston was selected. What they did was ask

for proposals from the various banks, "Are you interested?" The ones that were interested said, "All right what kind of a deal do you have in mind here?" Then they interviewed them individually and eventually negotiated a contract with the First National.

I tried to find out if there were, in fact, I did find out if there were any statutory requirements, that is, such a percentage in bonds and this sort of thing, and there are none. The fiduciary operates, if I may quote the statute, "In its discretion within the framework of the general investment policy of the board of trustees." Then later on in the statute it says, under duties of the trustees, "Cause such funds to be invested and reinvested by a bank fiduciary in accordance with the prudent man rule; subject to the periodic approval of the banks' investment program by the trustees." The "prudent man rule" is a nebulous sort of thing which is constantly being redefined, but substantially it means 'blue chips', rock-bound blue chips. This is exactly what the fund has. I have a list of their holdings, and it breaks down into roughly three categories: Bonds, stocks and mortgages. It is quite an impressive portfolio, let me add, there are hundreds of investments in here, very heavily, of course, in utility bonds and this sort of thing.

If we went to a two bank or a multi-bank system, both of these banks would be operating under the same prudent man rule, and would be limited to the same list of securities. So we would have our multi-fiduciaries substantially buying and investing in the same thing. There is nothing wrong with this, I suppose, except it is not necessarily going to improve the performance at all, if they are going to be buying and selling the same thing. Furthermore, if we went to two fiduciaries, they would have to be in constant communication so that you didn't get in the position of one fund buying securities that the other one was selling. They would have to get together on this so that they both acted in the same fashion on the same securities.

I have also here the balance sheet for the fiscal year of 1969, and the value of the investment was \$150,500,000. The net increase in value of the investment for that year was \$15,420,000, that's increase in value. The earnings during the year were \$6,103,000, and the rate of yield was 4.36 per cent, which is not bad performance. The First National charged the Association during that same period \$69,052 for managing this fund. The charges are set on a sliding scale, depending on the amount of attention the various class of security requires.

Now, they keep talking about competition, and I am at a loss to see where this competitive factor comes in. Perhaps there could be improvements in the performance of the fund, but since both investment companies are bound by this "prudent man rule", they are going to be in generally the same type of thing, if not identical thing. Perhaps there could be a change in the fee scale, maybe they could get it lower, but this seems rather modest to me for the investment of a portfolio like this. But, in any event, under present law, if the Retirement system wishes to get out, if they think they can make a better deal, they may cancel this present contract on a 30-day written notice. As a matter of fact, the bank can too, so they are not locked into anything for any particular length of time.

I must admit that when the committee gave out its report it was largely on an intuitive basis because we felt we just didn't have enough information to act. However, having dug into it a little bit more, I am inclined to think now that probably we should not have two bank fiduciaries, because I think it is apt to create more confusion in the investments of these funds, and I just don't think there is redeeming merit to it. I would move that this bill and all accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from York, Senator Logan, moves that the Bill be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE of Kennebec: Mr. President and Members of the Senate: I would like to speak against the motion of the good Senator from York, Senator Logan. This country was founded on free enterprise. Free enterprise put us where we are. How can we tell if four and three-quarters per cent is good enough or not if there is nothing to compare it with. If you had more than one bank handling it, then you could have a comparison. This way we don't have any comparison whatsoever.

You are not taking any chances by changing the bill to allow them to use two banks. The only thing you are doing is giving them a chance to better themselves. This way they are at the status quo right now; they can only stay with one bank and there is nothing to compare with. If they had two banks that would handle the retirement system, at the last of the year they would have something to compare with. There is nothing to compare with now. So, I think it is wrong not to let them have two banks, and I would ask all members to vote against the motion of Senator Logan.

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

Mr. WYMAN of Washington: Mr. President and Members of the Senate: After listening to the debate on this, it seem to me that Senator Logan's motion is the best disposition of this bill. Now, we already have competition, because I am sure there are other banks. This is limited to New England and New York State, and I am sure there are other banks that would be very eager to get this account, and the board of trustees, as I understand it, have the authority to change from one bank to another within thirty days.

It doesn't seem to me that this is an area where we need too much competition because, in an effort to try to produce a better income, I can imagine where they may well stretch the rules of what the courts call a "prudent investor" or a "prudent man."

Also, it seems to me, they would have to work very closely together because one bank might very well buy, we will say, a thousand shares of X stock, and another bank, if they did not know what the first bank had bought, they might turn around and buy a thousand shares of the same stock, and it would be too much money invested in this one particular company. So, it would seem to me that we could let well enough alone and let the trustees move this around. If they think the First National Bank isn't giving them enough income, let them try some other bank in New England or New York.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from York, Senator Logan that Bill, "An Act Relating to Investment Fiduciaries Under State Retirement System," Legislative Document 1637, be indefinitely postponed. The Chair will order a division. As many Senators as are in favor of the motion of the Senator from York, Senator Logan, that this bill be indefinitely postponed will rise and remain standing until counted. Those opposed will rise and remain standing until counted.

A division was had. Fifteen Senators having voted in the affirmative, and fourteen Senators having voted in the negative, the motion prevailed and the Bill was Indefinitely Postponed.

Sent down for concurrence.

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

Bill, "An Act Relating to State-owned Motor Vehicles." (H. P. 1356) (L. D. 1685)

Tabled—January 15, 1970 by Senator Katz of Kennebec

Pending—Enactment.

On motion by Mr. Katz of Kennebec, retabled and tomorrow assigned, pending Enactment.

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

Bill, "An Act Relating to Appropriations and Allocations to

the Legislative Research Committee." (H. P. 1315) (L. D. 1644)

Tabled—January 15, 1970 by Senator Beliveau of Oxford.

Pending—Enactment.

On motion by Mr. Beliveau of Oxford, retabled and tomorrow assigned, pending Enactment.

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

Bill, "An Act To Pay for Fifty Per cent of Health Insurance Plans for State Employees Beginning July 1, 1970." (H. P. 1306) (L. D. 1620)

Tabled—January 15, 1970 by Senator Katz of Kennebec.

Pending—Passage to be Engrossed.

Which was Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

House Report — Ought to Pass as Amended by Committee Amendment "A", Filing H-637, from the Committee on Education on Bill, "An Act Increasing Interest Rates on Maine School Building Authority Bonds." (H. P. 324) (L. D. 1653)

Tabled—January 15, 1970 by Senator Dunn of Oxford.

Pending—Motion by Senator Dunn of Oxford to Indefinitely Postpone Bill and Report.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Gentlemen: You will recall yesterday we had a difference of opinion blow up, particularly on a committee amendment that sought to remove all interest rates from control of the Maine School Building Authority. At that time I suggested that perhaps we ought to take up the amendment separately from the bill.

Right at the moment there is a meeting of the Maine School Building Authority going on in the State Office Building, and Dr. Crockett, who is the Executive of the Maine School Building Authority, tells me that they have

the bond counsel with whom we work with us this morning, and it is based upon the bond counsel's evaluation of some very sticky business that this bill was introduced as emergency legislation, and it was presented to us rather uniquely, compared to some other bills, as a true emergency.

Now, the Maine School Building Authority, you will recall, was given in referendum, via a constitutional amendment, the credit of the State behind it. On tabled item No. 1, on Page 3 of today's calendar, we will shortly be discussing the implementation of the constitutional amendment. So, even though the people have voted that it is permissible for the Legislature to pledge the credit of the State, we haven't yet done so. In the meantime we have a very, very tenuous situation in Cape Elizabeth, among others, where the people of Cape Elizabeth have voted to go in to the Maine School Building Authority for construction. The people of Cape Elizabeth are heavily burdened by temporary borrowing and are waiting for the Maine School Building Authority to come up with the bonds. And there is very, very serious doubt in Room 124 of the State Office Building this morning as to whether bonds can be sold under existing law, and it was because of this that this bill was introduced.

I would ask you, Gentlemen, to separate these two problems. If you object to the removal of all interest limitation, attack the amendment but, in any event, may I ask your consideration to pass the bill so that this temporary borrowing that is going on and is such a burden to Cape Elizabeth, and also other communities in the State, can be relieved and we can indeed issue bonds.

I want to point out to the gentlemen of the Senate that the Maine School Building Authority has had a long and a very well respected career, that it is a conservatively oriented group, it has an excellent reputation in the field and it has an excellent reputation with its clients, which are the small towns and others who have

gone to it when they needed help for building schools. As a matter of fact, I think that probably in this organization, the Maine School Building Authority, there is a great potential hope for the future for reducing the cost of school construction in the State. So, Mr. President and Gentlemen, I hope that the motion to indefinitely postpone the bill and all its accompanying papers is defeated, and that the bill does get its first reading. Then at the time the amendment subsequently comes up for reading we can further discuss the blanket removal of all restrictions. I would ask for a division.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Dunn.

Mr. DUNN of Oxford: Mr. President and Members of the Senate: I talked in the corridor this morning with the Treasurer of the State about the bill that the Senator from York, Senator Logan, has tabled until later today. We were talking about something else, but he did not mention in any way the provision that was changing the interest rate from 5 per cent to 7 per cent, so apparently the 7 per cent figure was all right. There was no comment on it at all. Now, next Thursday, I believe, bids are being opened on a \$23,000,000 bond issue.

My stand is that I believe at this time the 7 per cent is still all right; otherwise, I would say that perhaps the best thing to do is remove the limitation altogether. But the bill sets it from 7 to 9. Maybe I misinterpreted the bill; I didn't understand there was another position. The provision in it was to make a change to make bonds salable, other than the interest rate. I thought the main purpose was to change the interest rate on it. But I still believe we are all right at 7 per cent, and I would suggest that it would not do any harm if we waited to see what happened next week when they open the bids on the bond issues that are coming up.

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

Mr. MOORE of Cumberland: Mr. President and Members of the

Senate: On Page 1, Item 6-1, that was tabled until later in today's session, on the York County Regional Vocational Education Center, this bill is requesting that their interest rate be increased from 6 per cent to 7 per cent. Now, under the bill that we are discussing today it already is 7 per cent, and they would like to increase it to 9 per cent. Now, these are tax-exempt bonds, and the credit of the State is behind it so they would be triple A rated, I suppose. We are still rated as triple A; I don't know for how long, but we are at present.

Now, as the Senator from Kennebec, Senator Katz has said, they are having a meeting of the Maine School Building Authority at ten o'clock and discussing this. I think that this should be tabled until this discussion is over with, and possibly until we can see what the bids are on the bonds next week. I do not believe that we should go over 7 per cent on tax-exempt bonds.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: The discussion by the Maine School Building Authority has already taken place on this subject, and it was because it has taken place that the Governor was asked to approve this as emergency legislation in his call and, as I recall it, it is in his call. This is only a committee report, and the bill has a long, long road before it gets enacted into law. I would ask the Senate to vote on it this morning, hopefully, and if there are any further developments, certainly we can face them as they occur.

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

Mr. LOGAN of York: Mr. President, I tabled, of course, Item 6-1 on that York County business because I felt that both that and what we are discussing now should be taken as a unit. To my knowledge, we have in this Legislature three bills concerning ceilings on bond interest, and it is a vexing problem.



Item 6-1 seeks to raise the interest ceiling from 5 per cent to 7 per cent. Item 7 on the table seeks to raise it from 7 per cent to 9 per cent, or possibly remove it altogether. Business Legislation has a municipal bond bill which calls for removal of the ceiling.

Now, from talking to people who are involved in our sale of Maine bonds, these are almost always put out on a competitive bid basis. The exception is for exceedingly short-term borrowings of perhaps sixty days where the Treasurer's Office feels that they can negotiate a better arrangement than they can on a bid basis. This bond market is an extremely fluid and complex situation. Probably 7 per cent, under present conditions, is a reasonable limit, probably. But whether it will hold up for another year or not, I don't know. Who knows? Probably removing the ceiling entirely is a reasonable act, since they do get competitive bids and the price is driven to the bottom. I think probably what it comes down to is how much faith we have in our officials, and that is rather a subjective matter. In any event, something has to be done, and I would support the proposal of Senator Katz that these items be moved along and we can make our judgment at some later time. Thank you, Mr. President.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Oxford, Senator Dunn, that House Paper 324, Legislative Document 1653, Bill, "An Act Increasing Interest Rates on Maine School Building Authority Bonds," be indefinitely postponed. A division has been requested. As many Senators as are in favor of the motion to indefinitely postpone the bill and report will rise and remain standing until counted. All those opposed will rise and remain standing until counted.

A division was had. Six Senators having voted in the affirmative, and twenty-one Senators having voted in the negative, the motion did not prevail.

Thereupon, the Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once.

Committee Amendment "A", Filing No. H-637, was Read and Adopted and, under suspension of the rules, the Bill, as Amended, given its Second Reading and Passed to be Engrossed in concurrence.

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

Bill, "An Act Imposing a Tax on the Unorganized Territory Within the Maine Forestry District for Spruce Budworm Control." (H. P. 1317) (L. D. 1646)

Tabled—January 15, 1970 by Senator Cianchette of Somerset.

Pending—Enactment.

On motion by Mr. Katz of Kennebec, retabled and tomorrow assigned, pending Enactment.

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

Bill, "An Act Clarifying and Correcting an Omission in the Charter of the Town of Gorham, and the Town of Winslow." (H. P. 1345) (L. D. 1674)

Tabled—January 15, 1970 by Senator Tanous of Penobscot.

Pending—Enactment.

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

Mr. TANOUS of Penobscot: Mr. President, I have an amendment which is now being reproduced upstairs. I wonder, if we do go an extra ten minutes or so, perhaps if it was tabled until later in today's session, we could dispose of it. If not, then perhaps Monday.

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

Thereupon, on motion by Mr. Hoffses of Knox, retabled and tomorrow assigned, pending Enactment.

The President laid before the Senate the matter tabled earlier in today's session, by Mr. Logan of York: Bill, "An Act to Amend Bond Issue Act as to Limitation of Interest on Bonds for York County Regional Vocational Education Center or Centers" (S. P. 627) (L. D. 1798), pending Acceptance of the Ought to Pass Report of

the Committee on Appropriations and Financial Affairs.

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

Mr. LOGAN of York: Mr. President and Members of the Senate: Here we are again with bond interest ceilings. Now, our action, as I understand it, on Item 7, what we did by adopting the amendment was to take the ceiling off bond interest rates, and one would be led to believe that this was the true intention of the Senate. However, to use the expression of my distinguished colleague from Oxford, Senator Beliveau, the bill proceeded "with the speed of running native" here, and not with exactly due deliberation. I am going to ask that Item 7 be held because I want to be sure, for my own committee's benefit, that this is what we really wanted, no limit, and I would hope that someone would table this item until the next legislative day until we all can be sure that we want no limit. Thank you, Mr. President.

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

Thereupon, on motion by Mr. Duquette of York, tabled and tomorrow assigned, pending Acceptance of the Committee Report.

The PRESIDENT: Yesterday the Senator from Oxford, Senator Dunn, raised a question relative to Joint Rule 16, as to whether the Senate was following proper procedures in following out the directives of that rule. The Chair has done some fairly exhaustive investigation into past parliamentary history on this joint rule and current practice. The Chair would like to inform the Senate that the second paragraph of Joint Rule 16 has not been followed as it should be by the various committees that have fiscal matters before them.

The chairmen of all committees will be informed in writing by the Chair by Monday that they are to

follow Joint Rule 16, with particular reference to the second paragraph, to the letter; That every bill or resolve referred to them carrying an appropriation of money will be sent to the Committee on Appropriations and Financial Affairs, where a log will be kept.

An informal tabulation is kept at the present time by the Assistant Legislative Finance Officer, who is also Clerk of the Appropriations Committee, but it is going to be more formalized and followed, as Joint Rule 16 says.

The third paragraph of Joint Rule 16 at the present time, the Chair feels, needs no change, but further investigation and further study and research is going to be done on it. Thank you.

The Senate is proceeding under Orders of the Day.

On motion by Mr. Hoffses of Knox, the Senate voted to take from the table the first tabled and unassigned matter: House Report — Ought to Pass from the Committee on Education on Bill, "An Act to Authorize the Insurance of the Payment of Revenue Bonds of the Maine School Building Authority" (H. P. 1305) (L. D. 1618).

Tabled—January 8, 1970 by Senator Hoffses of Knox.

Pending—Acceptance of Report.

Thereupon, the Ought to Pass Report of the Committee was Accepted in concurrence and the Bill Read Once.

Under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed in concurrence.

(Off Record Remarks)

The Adjournment Order having been returned from the House, Read and Passed in concurrence, on motion by Mr. Hoffses of Knox, adjourned until Monday, January 19, 1970, at three o'clock in the afternoon.