

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fifth*

*Legislature*

OF THE

STATE OF MAINE

1971

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**HOUSE**

Wednesday, May 5, 1971

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Linwood Welch of Hallowell.

The journal of yesterday was read and approved.

**Papers from the Senate**

From the Senate: The following Communication: (S. P. 568)

STATE OF MAINE  
SENATE CHAMBER  
PRESIDENT'S OFFICE  
AUGUSTA, MAINE

April 29, 1971

Mr. Harry N. Starbranch  
Secretary of the Senate  
Augusta, Maine

Dear Mr. Starbranch:

The Committee on Reference of Bills has met and decided to extend the date by which all bills must be reported out of committee.

All bills and resolves must be reported from all committees by 5:00 p.m. on May 19, 1971.

Respectfully yours,  
(Signed)

KENNETH P. MacLEOD

Kenneth P. MacLeod, Chairman  
Committee on Reference of Bills  
Came from the Senate read and ordered placed on file.

In the House, the Communication was read and ordered placed on file in concurrence.

**Reports of Committees  
Ought to Pass in New Draft  
Tabled and Assigned**

Report of the Committee on Natural Resources on Bill "An Act Prohibiting the Sale or Use of Detergents Containing Phosphate" (S. P. 33) (L. D. 79) reporting same in a new draft (S. P. 564) (L. D. 1702) under title of "An Act Restricting the Sale or Use of Detergents Containing Phosphate" and that it "Ought to pass"

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read.

(On motion of Mr. Hardy of Hope, tabled pending acceptance of Report in concurrence and special-ly assigned for Friday, May 7.)

**Ought to Pass**

Report of the Committee on Appropriations and Financial Affairs reporting "Ought to pass" on Resolve Appropriating Funds for the Perambulation of the Maine-New Hampshire Boundary Line (S. P. 71) (L. D. 150)

Report of same Committee reporting same on Bill "An Act Providing Moneys for Eastern Regional Conference of the Council of State Governments to be Held in Maine in 1971" (S. P. 161) (L. D. 483)

Came from the Senate with the Reports read and accepted and the Bill and Resolve passed to be engrossed.

In the House, the Reports were read and accepted in concurrence, the Bill read twice, Resolve read once, and tomorrow assigned.

**Divided Report**

Majority Report of the Committee on Judiciary reporting "Ought not to pass" on Bill "An Act relating to Fees for Transcripts of Evidence Furnished by Official Court Reporters" (S. P. 252) (L. D. 759)

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
QUINN of Penobscot

— of the Senate.

Messrs. CARRIER of Westbrook  
LUND of Augusta

Mrs. BAKER of Orrington

Mr. PAGE of Fryeburg

Mrs. WHITE of Guilford

Messrs. HENLEY of Norway

HEWES of Cape Elizabeth

— of the House.

Minority Report of same Committee on same Bill reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was signed by the following members:

Mr. HARDING of Aroostook

— of the Senate.

Mrs. WHEELER of Portland

Messrs. KELLEY of Caribou

ORESTIS of Lewiston

— of the House.

Came from the Senate with the Minority Report accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House: Reports were read. On motion of Mr. Hewes of Cape Elizabeth, the Majority "Ought not to pass" Report was accepted in non-concurrence and sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Liquor Control reporting "Ought not to pass" on Bill "An Act Permitting the Liquor Commission to Issue Liquor Licenses to Public Golf Courses" (S. P. 450) (L. D. 1296)

Report was signed by the following members:

Messrs. SHUTE of Franklin  
FORTIER of Oxford  
— of the Senate.  
Messrs. MADDOX of Vinalhaven  
FAUCHER of Solon  
STILLINGS of Berwick  
BAILEY of Woolwich  
TANGUAY of Lewiston  
HAWKENS of Farmington  
GAGNON of Scarborough  
IMMONEN of West Paris  
— of the House.

Minority Report of same Committee reporting "Ought to pass" on same Bill.

Report was signed by the following members:

Mr. HOFFSES of Knox  
— of the Senate.  
Messrs. LIZOTTE of Biddeford  
SLANE of Portland  
— of the House.

Came from the Senate with the Majority Report accepted.

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Vinalhaven, Mr. Maddox.

Mr. MADDOX: Mr. Speaker, I move that we accept the Majority "Ought not to pass" Report.

The SPEAKER: The gentleman from Vinalhaven, Mr. Maddox moves that the House accept the Majority "Ought not to pass" Report in concurrence.

The Chair recognizes the gentleman from Westfield, Mr. Good.

Mr. GOOD: Mr. Speaker and Ladies and Gentlemen of the House: For the first time in my life I am going to talk on a liquor bill. In my estimation, the killing of this bill, the acceptance of the Majority Report, would discriminate against tourists and the people in

the State of Maine who cannot afford to join a private golf course. This bill would simply permit the public golf course to have the same kind of a license that the private club has now. I hope that you will vote against the Majority Report.

The SPEAKER: The pending question is on the motion of the gentleman from Vinalhaven, Mr. Maddox, that the House accept the Majority "Ought not to pass" Report in concurrence. The Chair will order a vote. All those in favor of accepting the Majority Report will vote yes; those opposed will vote no.

A vote of the House was taken. 63 having voted in the affirmative and 52 having voted in the negative, the motion did prevail.

#### Non-Concurrent Matter

Bill "An Act to Amend the Laws Relating to Forcible Entry and Detainer" (S. P. 229) (L. D. 675) on which the House accepted the Minority "Ought not to pass" Report of the Committee on Judiciary in non-concurrence on April 28.

Came from the Senate with that body voting to insist on its former action whereby the Majority Report reporting "Ought to pass" as amended by Committee Amendment "A" was accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House:

The SPEAKER: The Chair recognizes the gentlewoman from Guilford, Mrs. White.

Mrs. WHITE: Mr. Speaker and Members of the House: I move that the House recede and concur with the Senate whereby they accepted the Majority "Ought to pass" Report of the Judiciary Committee, and I would speak to my motion please.

The SPEAKER: The gentlewoman may proceed.

Mrs. WHITE: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Judiciary Committee I voted with those who felt that this bill, as amended by the committee, ought to be passed. Our laws relating to landlord-tenant relations were in essentially the same form as they now are when

Maine became a State in 1820. Yet we all recognize that the passing of 150 years has greatly changed Maine and many of our practices. I feel there is an obligation imposed upon this Legislature to re-examine our existing scheme of things from time to time and when we find it inadequate in light of modern problems, to amend it to make it serviceable.

The existing scheme of landlord-tenant law was found, after ample examination by the Attorney General's Committee on Landlord-Tenant Relationships, to be inadequate and in need of amendment. The Attorney General's Committee has been amply discussed in relation to other bills, so I will only say in that regard that this piece of legislation was agreed upon by each and every member of that Committee, landlords and tenants alike; and I am sure you will remember when those hearings were held. There was a great deal of publicity on them.

L. D. 675 provides the amendments necessary to make our existing statutes functional.

In the debate here last week, there was a misstatement relative to the effect of the first paragraph of this bill. The first paragraph is concerned with the lease-out, or so called straw lease. The misinterpretation probably was caused by the fact that there were two bills regarding lease-outs before the Judiciary Committee.

That other bill, L. D. 602, said that a 30-day notice was required to be given to a tenant in every lease and sale of property. That bill received a unanimous "Ought not to pass" Report from the Judiciary Committee and was thus killed.

This bill, however, does not do what L. D. 206 attempted to do. The straw-lease provisions of this bill do not apply to a bona fide, on the level, sale or lease of property, but only to those that are fake and made only to accomplish an eviction.

An illustration of what a straw-lease is will clarify this point. First, our present statutes require a 30-day eviction notice. However, if the original landlord sells or leases that building or apartment to a new owner, who thus becomes the new landlord, a Maine case says that

the 30-day eviction notice is not required of the new landlord. As a result of this unique posture of the law, a landlord who wants to get around the legal requirement that he give 30 days notice has only to follow the ensuing procedure.

He has his lawyer draw up a lease or a deed in which it appears that he is leasing or selling the premises to a new owner. Actually the sham new owner is usually a friend, or his secretary, and no sale or lease is actually contemplated between the two parties. This so-called new landlord then evicts the tenant without giving the 30-day notice. The fake or straw lease is then forgotten and destroyed and the original owner, who was the real landlord all the time, then rents the apartment to someone else.

All that L. D. 675 does is prevent this fraud from being used to get around our present law to evict a tenant. If the lease or sale to the landlord was real and bona fide this bill does not change the existing law one bit. I might note that this bill places the burden on the tenant to prove that this lease or sale is fake and made up only to cause his quick eviction.

In conjunction with this provision to eliminate the "straw lease" fraud, this legislation also recognizes that in certain instances the tenant, as a result of his own actions, should not be entitled to a full 30-day notice. Thus, this bill reduces the 30-day requirement to seven days if the tenant or his family (1) intentionally cause damage to the premises, (2) cause a nuisance, (3) violate the law in the premises or (4) fall 30 days or more behind in their rent.

Thus, it can clearly be seen that this bill does not interfere with any bona fide, legitimate rights of the landlord, but merely amends the present law to make it work on modern problems. I urge you to vote in favor of my motion to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker and Members of the House: I respectfully request a division. We accepted the Minority Report here the other day, then on the motion to

reconsider we held with the—  
(interrupted by Speaker)

I oppose the motion to recede and concur and hope that we will stand fast in our action the other day, that we can defeat this motion and then the motion to adhere will be voted upon I hope.

I believe very much in upgrading living conditions for tenants and I am voting for several bills that would go that way. But this particular bill makes a landlord have to have a tenant in his premises for a longer period of time than he wants to have him there. I believe in ownership of property and I think that when matters get to such an impasse that the landlord wants to get the tenant out he ought to be able to have an opportunity to do so within a reasonably short time.

Now the present law and the way the lady from Guilford indicates has been that way for a hundred and fifty years—it has been that way all my life certainly, is that a tenant can remain for at least seven days after having had notice, a hearing in court. It is just not a matter of evicting someone in seven days; there has to be notice given in court and then notice to the tenant, and it can string out two or three or four weeks, and judges use their discretion, they don't just throw somebody out for no reason at all within a very short period of time.

This particular bill would apply to a sale as well as to a lease, and it seems to me as I said the other day, using a car as an example; if you let me take your car and then you sell your car to someone else, you would want the other person to have use of that car. But if I say no, I want to use that car for 30 days before I turn it over to the new owner, that wouldn't be fair.

I am very much in favor of fair legislation and I think this particular bill is unfair. I hope you vote against the motion to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Call.

Mr. CALL: Mr. Speaker and Members of the House: First of all I concur wholeheartedly with the

gentleman from Cape Elizabeth, Mr. Hewes.

This bill says nothing about retaliation on the part of the tenant in regard to some reasonable renting restriction or request sought by the landlord. As in so much proposed legislation, this bill, despite provisions which indicate some relief for the landlord, the tenant is favored. Sentiment is usually on the side of the tenant in all these landlord-tenant matters.

Most tenants will leave soon and peaceably, when requested to do so for some good reason, realizing that the landlord's arguments are sound. The philosophy of this type of tenant seems to be that he shall not stay where he is not wanted. On the other hand, however, some tenants, though this type fortunately is in the minority, will stay as long as legal means will permit them to do so, and they may continue to damage the premises continuously until the day they must depart, and this has just been pointed out by various speakers. For this type of tenant there should be no remedy — not even any sympathy. Too many people are led to believe that most adverse situations that exist between tenant and landlord are the fault of the landlord and that is not always so.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Kelley.

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: I will have to take issue with my good friend, the gentleman from Cape Elizabeth, Mr. Hewes on this. The fact that he and I are divided on this problem will indicate that it probably is not a lawyer's bill.

The practice that this bill is directed towards is one that I will have to plead guilty to. The procedures that now go on and I practice is this. That is if a client comes in and wishes someone evicted from the premises for a good or bad cause I will make up a written lease to my secretary who in turn will start an action to immediately evict the person. This allows the client not to have to go through the 30-day notice pe-

riod. This is what this bill is directed towards.

This bill does not prohibit the landlord from selling or leasing his property if he wants to. The landlord can still make a valid lease if this bill goes into law. He merely cannot use a phony straw lease if his purpose is to cut short the 30-day notice period to the tenant, and to evict the tenant quickly.

The law states that a tenant must be given 30 days notice before he can be evicted. This bill enforces the existing law by doing away with the so-called phony straw lease. But this does not mean that the landlord cannot evict the "bad" tenant without waiting the 30-day period, because I will point out — if the tenant damages the premises, is 30 days or more behind in his rent, creates a nuisance or violates the law, under any of these situations the landlord can evict the tenant in 7 days and not the 30 as is now required by law.

Thus, this bill says that the good tenant, the tenant who does not violate the law, who is not behind in his rent, or who does not damage his landlord's property, shall be given the 30-days written notice before being forced into court. But the tenant who violates the law is to be given only seven days notice.

I would hope that the members of this House would not vote against this bill because on the surface it looks like a so-called landlord's or a tenant's bill. Look at the merits of the bill. The bill affords an excellent compromise between landlords and tenants, a compromise, as you know, which was reached after long negotiations among landlords and tenants on the Attorney General's Committee. It closes some loopholes in the 30-day notice requirements, which requirements are now a matter of state law, but it gives the landlord an additional remedy to evict a tenant in a hurry where the tenant damages the landlord's property.

Thus, this bill protects the good landlord and the good tenant. The

only persons who are restricted by this bill are those who attempt to violate the law.

Mr. Speaker, when the vote is taken I ask that it be taken by a roll call.

The SPEAKER: The Chair recognizes the gentlewoman from Guilford, Mrs. White.

Mrs. WHITE: Mr. Speaker and Members of the House: The preceding speaker proved to you that this was not a lawyer's bill. In view of the fact that he and I are of different political parties, it isn't a partisan bill. I would point out to this House that the bill came out of committee 9 to 4 "ought to pass."

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: I haven't been provided with any speech by anybody; as a matter of fact I wasn't even ready for this bill this morning. I thought this was taken care of as we did it last week some time. This House voted to accept the "Ought not to pass" Report and as such I think they indefinitely postponed the bill.

But anyway, we are back again here about certain—I claim that it is actually giving away to somebody, something which actually belongs to others. Now I want to clear one thing right off hand before I forget it. They say that this procedure is used by attorneys in their office to pass on to their secretary and use this as an eviction notice.

Now I ask about the lawyers in this House, if that isn't right how come they use what you call dummies to transfer actual deeds to land to their secretary in order to make it legal? This is actually the same procedure they are using to transfer land and other, in estates and all that stuff, and I think if one is legal the other should be too.

Now we have been told here that apparently this is a good bill; I don't believe it. Again what irks me the most about this is on the second line of the second paragraph, that it is a standard rule of procedure that if you are going to sue somebody or if you are go-

ing to bring an action against somebody you have to bring it on your own. And the second line says that "a complaint has been made in his behalf." In other words, I can hire certain people around here to actually put in a claim or an action against a person and this is actually the one that the landlord never faces, he never faces the accuser, he just faces either a group or his lawyer.

This thing here also, I still claim that the ones that push these bills do not own any property of their own, rentable property, so actually this is easy to give away the other people's property and their rights. I think that this—in fact it may be, I think that with all these bills that this would leave only, that the landlords will either find other means—and I know that they have other means to actually get by this law, or else it will make it harder for people of minimal means to actually have rents because it will require all kinds of deposit.

I submit to you that this is not a good bill and I hope that you vote against the motion to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Call.

Mr. CALL: Mr. Speaker and Members of the House: I am afraid that I must reply to the references that have been made to a lawyer's bill. You will recall that I called this bill or one like it a lawyer's bill, and naturally there were those who were not very happy about it. But let me just say this. That in his actions thus far in this House, the gentleman from Cape Elizabeth, Mr. Hewes, has shown to me that a lawyer can be a good fellow.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: We lawyers are always happy for any compliment we can receive.

Mr. Speaker and Ladies and Gentlemen of the House: I hope we don't have too many more of these matters because my seatmate and I have very interesting discussions during the debate. I am afraid that with all of the de-

bate that has gone on the House may lose sight of what is the basic problem that has prompted this legislation and what your Judiciary Committee has attempted to do to try to help solve the problem.

The basic problem is that our law provides a tenant may not be evicted with less than 30-days notice. However, he has been permitted by our courts to get around this by what is known as the straw lease. This bill seeks to avoid the mechanism of the straw lease through spelling out the procedures and the circumstances under which less than 30-days notice should be used.

I would like to call your attention to the committee amendment, which is under filing S-106, to indicate to you that the Judiciary Committee was regarding its responsibilities seriously and did not pass this bill out having no regard for the interests and rights of the landlord. S-106 spells out in greater detail the circumstances under which a landlord can evict a tenant in seven days, and these conditions include where it can be shown that the tenant or his family or invitee "has caused intentional and substantial damage to the demised premises," permitted a nuisance or permitted a violation of the law.

And the last provision is the most interesting to me, "or when the tenant is 30 days or more in arrears in payment of his rent." Now one of the complaints which your committee heard, and which many of us may hear, is the problems that landlords face with tenants who are in arrears. And I question in my own mind whether some of the people who are expressing opposition to this bill have studied this amendment carefully, because it does provide that where the tenant is 30 days or more in arrears the eviction can be upon seven days' notice.

So I would hope that the House would consider this bill carefully on its merits, together with this amendment, and recede and concur.

The SPEAKER: For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and vot-



ing. All members desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker and Members of the House: I would like to point out that there has been nothing said or indicated that this bill uplifts or improves the living conditions of anyone whatsoever; as a matter of fact, it keeps someone in property when they are not wanted there by the owner. At the hearing I want to report that there were only two witnesses in favor of it in addition to the sponsor, and there were nine that spoke against this bill.

The SPEAKER: The pending question is on the motion of the gentlewoman from Guilford, Mrs. White, that the House recede from its former action and concur with the Senate in accepting the "Ought to pass" Report on Bill "An Act to Amend the Laws Relating to Forcible Entry and Detainer," Senate Paper 229, L. D. 675. All in favor of receding and concurring will vote yes; those opposed will vote no.

#### ROLL CALL

YEAS — Ault, Baker, Bartlett, Bernier, Berube, Birt, Boudreau, Bragdon, Brown, Bustin, Churchill, Clemente, Collins, Conley, Cooney, Cottrell, Crosby, Cummings, Curtis, T. S., Jr.; Doyle, Drigotas, Farington, Finemore, Gagnon, Genest, Gill, Goodwin, Hall, Hancock, Haskell, Hayes, Herrick, Jutras, Kelleher, Kelley, P. S.; Kelley, R. P.; Keyte, Kilroy, Lawry, Lessard, Lewin, Littlefield, Lucas, Lund, Lynch, Maddox, Marsteller, Martin, McCloskey, McTeague, Millett, Morrell, Murray, Orestis, Page, Parks, Payson, Pontbriand, Porter, Rollins, Ross, Santoro, Shute, Simpson, T. R.; Slane, Smith, D. M.; Smith, E. H.; Stillings, Trask, Tyndale, Vincent, White, Wood, M. W.; Woodbury.

NAYS — Albert, Bailey, Barnes, Bedard, Berry, G. W.; Binnette, Bither, Bourgoin, Brawn, Bunker,

Call, Carrier, Carter, Clark, Curran, Cyr, Donaghy, Dow, Dudley, Dyar, Emery, D. F.; Evans, Fecteau, Fraser, Gauthier, Hawkins, Henley, Hewes, Hodgdon, Immonen, Kelley, K. F.; Lebel, Lee, Lewis, Lincoln, MacLeod, Mahany, Manchester, Marsh, McCormick, McKinnon, McNally, Mosher, Norris, Pratt, Rand, Rocheleau, Scott, Shaw, Silverman, Simpson, L. E.; Starbird, Theriault, Williams, Wood, M. E.

ABSENT — Berry, P. P.; Carey, Cote, Curtis, A. P.; Dam, Emery, E. M.; Faucher, Good, Hanson, Hardy, Jalbert, Lizotte, Mills, O'Brien, Sheltra, Susi, Tanguay, Webber, Wheeler, Whitson, Wight. Yes, 74; No, 55; Absent, 21.

The SPEAKER: Seventy-four having voted in the affirmative, fifty-five in the negative, with twenty-one being absent, the motion does prevail.

The Bill was then given its two several readings.

Committee Amendment "A" (S-106) was read by the Clerk and adopted in concurrence and the Bill assigned for third reading tomorrow.

#### Non-Concurrent Matter

Bill "An Act Providing Professional Immunity to Nurses in Emergency Cases" (H. P. 149) (L. D. 204) on which the House accepted the Minority "Ought to pass" Report of the Committee on Judiciary and passed the Bill to be engrossed as amended by House Amendment "B" on May 3.

Came from the Senate with the Majority "Ought not to pass" Report accepted in non-concurrence.

In the House: On motion of Mr. Haskell of Houlton, the House voted to insist and ask for a Committee of Conference.

#### Non-Concurrent Matter

Bill "An Act Providing for Records of Sales of Used Merchandise" (H. P. 490) (L. D. 631) on which the House accepted the Minority Report of the Committee on Judiciary reporting "Ought to pass" as amended by Committee Amendment "A", indefinitely postponed Committee Amendment "A" and passed the Bill to be en-

grossed as amended by House Amendment "A" on April 28.

Came from the Senate with the Majority "Ought not to pass" Report accepted in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Scott.

Mr. SCOTT: Mr. Speaker, I move that we recede and concur with the Senate.

Whereupon, Mr. Carter of Winslow moved that the House insist and ask for a Committee of Conference.

The SPEAKER: The motion in order is to recede and concur.

The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker and Members of the House: I ask for a division and I hope that the House would go along with me. We have passed this bill twice before and I would hope that you would stick with me and defeat the motion to recede and concur.

The SPEAKER: The pending question is on the motion of the gentleman from Wilton, Mr. Scott, that the House recede from its former action and concur with the Senate. All in favor of receding and concurring will vote yes; those opposed will vote no.

A vote of the House was taken.

39 having voted in the affirmative and 72 having voted in the negative, the motion did not prevail.

Thereupon, the House voted to insist and ask for a Committee of Conference.

#### Messages and Documents

The following Communication:  
The Senate of Maine  
Augusta, Maine

May 4, 1971

Hon. Bertha W. Johnson  
Clerk of the House  
105th Legislature  
Dear Madam Clerk:

The Senate has voted to Insist and join in a Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill, "An Act Establishing an Open Season on Moose" (H. P. 1287) (L. D. 1686). The President appointed the following members of the Senate to the Committee of Conference:

Senators:

ANDERSON of Hancock  
HOFFSES of Knox  
MINKOWSKY

of Androscoggin

Respectfully,

(Signed)

HARRY N. STARBRANCH

Secretary of the Senate

The Communication was read and ordered placed on file.

#### Orders

Mr. Cote of Lewiston presented the following Joint Order and moved its passage:

ORDERED, the Senate concurring, that the Legislative Research Committee be authorized and directed to study the subject matter of bills: AN ACT Prohibiting the Use of Certain Nonrefundable Beverage Containers, House Paper 940, Legislative Document No. 1299; AN ACT Relating to Sales of Beverages in Nonreturnable Bottles, House Paper 76, Legislative Document No. 149; and AN ACT Creating the Maine Litter Control Act, Senate Paper 262, Legislative Document No. 768; to determine whether or not the best interests of the State would be served by the adoption of such legislation; and be it further

ORDERED, that the Environmental Improvement, Park and Recreation and State Highway Commissions be directed to provide the Committee with such technical information and other assistance as the Committee deems necessary or desirable to carry out the purposes of this Order; and be it further

ORDERED, that, the Committee report the results of its study at the next regular session of the Legislature; and be it further

ORDERED, that copies of this Order be transmitted forthwith to said commissions upon joint passage as notice of the pending study. (H. P. 1303)

The Joint Order received passage and was sent up for concurrence.

#### House Reports of Committees Ought Not to Pass

Mr. Brawn from the Committee on Legal Affairs reported "Ought not to pass" on Bill "An Act Re-

vising the Laws Relating to Electricians" (H. P. 496) (L. D. 637)

Mr. Dow from the Committee on Veterans and Retirement reported same on Bill "An Act relating to State Retirement for Participating Local Districts" (H. P. 1205) (L. D. 1656)

In accordance with Joint Rule 17-A, were placed in the legislative files and sent to the Senate.

#### Leave to Withdraw

##### Covered by Other Legislation

Mr. Fecteau from the Committee on Legal Affairs on Bill "An Act relating to Bond, License Fee and Penalty for Misrepresentation as a Private Detective" (H. P. 913) (L. D. 1259) reported Leave to Withdraw, as covered by other legislation.

Report was read and accepted and sent up for concurrence.

#### Ought to Pass Printed Bills

Mr. Emery from the Committee on Legal Affairs reported "Ought to pass" on Bill "An Act to Correct an Ambiguity in Procedure for Recording Municipal Charters and Amendments" (H. P. 815) (L. D. 1088)

Mr. Jutras from the Committee on Veterans and Retirement reported same on Bill "An Act Eliminating Restriction on Unemployment Benefits for Military Retirees" (H. P. 623) (L. D. 833)

Same gentleman from same Committee reported same on Resolve Relating to Retirement and Pension of Norman F. Hanson of Elicot (H. P. 794) (L. D. 1070)

Reports were read and accepted, the Bills read twice, Resolve read once, and tomorrow assigned.

#### Ought to Pass with Committee Amendment

Mr. Lessard from the Committee on Health and Institutional Services on Bill "An Act Providing for Prescription of Generic Drugs Rather Than Brand Names" (H. P. 879) (L. D. 1200) reported "Ought to pass" as amended by Committee Amendment "A" (H-220) submitted therewith.

Mr. Brawn from the Committee on Legal Affairs on Bill "An Act

relating to Planning Board Vacancies" (H. P. 966) (L. D. 1326) reported "Ought to pass" as amended by Committee Amendment "A" (H-221) submitted therewith.

Mr. Emery from same Committee on Bill "An Act Revising the Harbor Master Law" (H. P. 1058) (L. D. 1449) reported "Ought to pass" as amended by Committee Amendment "A" (H-222) submitted therewith.

Mr. Fecteau from same Committee on Bill "An Act to Clarify the Law Relating to Nonvoters Speaking at Town Meetings" (H. P. 1075) (L. D. 1467) reported "Ought to pass" as amended by Committee Amendment "A" (H-223) submitted therewith.

Reports were read and accepted and the Bills read twice, Committee Amendment "A" to each was read by the Clerk and adopted, and tomorrow assigned for third reading of the Bills.

#### Divided Report Tabled and Assigned

Majority Report of the Committee on Legal Affairs reporting "Ought to pass" on Bill "An Act relating to Referendum for Local Housing Projects" (H. P. 261) (L. D. 350)

Report was signed by the following members:

Messrs. CURTIS of Bowdoinham  
SILVERMAN of Calais  
CROSBY of Kennebunk  
BRAUN of Oakland  
EMERY of Rockland  
GAUTHIER of Sanford  
COTE of Lewiston

—of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Messrs. KELLAM of Cumberland  
QUINN of Penobscot  
CLIFFORD

of Androscoggin

—of the Senate.

Messrs. FECTEAU of Biddeford  
SMITH of Dover-Foxcroft  
NORRIS of Brewer

—of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, I move that the House accept the Minority "Ought not to pass" Report.

The SPEAKER: The gentleman from Brewer, Mr. Norris, moves that the House accept the Minority "Ought not to pass" Report.

The Chair recognizes the gentleman from Auburn, Mr. Emery.

Mr. EMERY: Mr. Speaker and Members of the House: This bill was presented because public funds are involved in housing projects and whether these funds are on the local, state or federal level I believe that the people in the respective areas involved should have a vote on what, where or how their tax dollars are spent.

During the hearing on this bill most of the opposition came from one area, Bangor, and the fact that the Air Force had been there was mentioned and so forth. Today, I wonder, how active is the Air Force in Bangor?

Another question that came up there was the income of the various projects and the percentage returned to the communities, and during the course of the hearing apparently ten percent of the net income does return to the communities involved if the agreement originally made with the Urban Housing and Development was included.

In my area we have one of these projects at present; we have another one in sight. And many people have said that some of these projects are going to be located in areas which could be detrimental to the area because of the fact that the impact upon schools in the nearby areas would be terrible, in the sense that we would have to involve construction to take care of the overload. We would also have to possibly have more buses, bus these children to other schools.

I believe that if the people had a vote to vote down or to vote for these projects in that sense, that there may be prospects that these projects could be located in other sections of the particular town or area which would not be so detrimental to one section or the other.

I am not speaking against the merits of the project; I am speaking about the fact that funds would be involved.

When the public can't vote on these various matters I believe the state's rights are being usurped by the federal. I believe that the recent United States Supreme Court decision upholding the right of California to allow voting on this issue was because of this reason. There was mentioned the home rule and utilizing it in this respect to amend the various local charters. Home rule has not been used only in one instance in this state to my knowledge since it was accepted because of the fact there is too much red tape involved, it is too complicated.

There was also noise about having to reeducate the people if this legislation becomes law. When you speak of reeducating the people it sounds to me that some of this reeducation might be one of the Communist tactics that have been used in various countries, and I feel still that the voters should have this right, and if we give the voters this right this is the only good way of showing that we believe in democracy.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McCloskey.

Mr. McCLOSKEY: Mr. Speaker, I have some questions concerning this bill, concerning my local area of Bangor. Also the Supreme Court has recently made a decision concerning voters and housing projects, voting on them, and I have some questions about this Supreme Court decision. So I wish that somebody would table this for one legislative day so I can get some information on this bill.

Whereupon, on motion of Mr. Cote of Lewiston, tabled pending the motion of Mr. Norris of Brewer that the House accept the Minority "Ought not to pass" Report and tomorrow assigned.

#### Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to pass" on Bill "An Act to Set Reasonable Fees for Recording and Issuing Certain Documents" (H. P. 1031) (L. D. 1418)

Report was signed by the following members:

Messrs. QUINN of Penobscot  
CLIFFORD  
of Androscoggin  
— of the Senate.  
Messrs. CROSBY of Kennebunk  
EMERY of Rockland  
SMITH of Dover-Foxcroft  
BRAUN of Oakland  
FECTEAU of Biddeford  
NORRIS of Brewer  
— of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Mr. KELLAM of Cumberland  
— of the Senate.  
Messrs. COTE of Lewiston  
SILVERMAN of Calais  
GAUTHIER of Sanford  
CURTIS of Bowdoinham  
— of the House.

Reports were read.

On motion of Mr. Norris of Brewer, the Majority "Ought to pass" Report was accepted.

The Bill was given its two several readings and tomorrow assigned.

#### Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to pass" on Bill "An Act to Incorporate the Town of Ogunquit" (H. P. 1091) (L. D. 1498)

Report was signed by the following members:

Mr. KELLAM of Cumberland  
— of the Senate.  
Messrs. BRAUN of Oakland  
NORRIS of Brewer  
GAUTHIER of Sanford  
CURTIS of Bowdoinham  
COTE of Lewiston  
CROSBY of Kennebunk  
— of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Messrs. QUINN of Penobscot  
CLIFFORD  
of Androscoggin  
— of the Senate.  
Messrs. EMERY of Rockland  
SMITH of Dover-Foxcroft  
FECTEAU of Biddeford  
SILVERMAN of Calais  
— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, I move that the House accept the Majority "Ought to pass" Report.

The SPEAKER: The gentleman from Brewer, Mr. Norris, moves that the House accept the Majority "Ought to pass" Report.

The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen of the House: I hope that you will vote against this motion. Since I come from Bath, Maine which is in Sagadahoc County, I suppose you wonder why I am sticking my neck into the affairs of York County. My forebears came from Kennebunk. I have an aunt and uncle living on Summer Street there; their house has been in the family for seven generations. My sister lives across the street. My grandfather was the only doctor in Kennebunk and his home is where the Kennebunk Inn is now. I used to go there for a month each summer and for those of you who play golf I have a record on the Arundel golf course that probably will never be broken. When I was fifteen years of age I played 108 holes in one day— three 18 holes in the morning and three in the afternoon.

However, this alone does not qualify me to speak either for Wells or Ogunquit. But there is another situation in my county which is just exactly the same. Within the boundaries of the Town of West Bath lies the Birch Point Village Corporation. West Bath collected all their taxes and then paid back to Birch Point sixty per cent to take care of roads, police and so forth. This is exactly what Wells does now with Ogunquit.

Last year the gentleman from Bowdoinham, Mr. Curtis put in a bill to reduce this percentage and to counter this act I put in a bill to increase the percentage. Both received "Ought not to pass" Reports. This year Mr. Curtis put in a bill to do away with Birch Point Village Corporation, but the interested parties came to a meeting of the mind and the Curtis bill was withdrawn, and we have al-

ready passed as an emergency measure a bill allowing the Birch Point Village Corporation to keep its identity, elect any officials they want, set their zoning ordinances, have their own harbor master, and such important things.

West Bath will now keep all of the money, which I think Wells wants to do, and they will take care of all Birch Point's needs including roads, police, schooling and so forth. I think that this would be a splendid solution for Wells and take this same course and I think that we should defeat this bill and put an amendment on the next one coming up.

The SPEAKER: The Chair recognizes the gentleman from Dover-Foxcroft, Mr. Smith.

Mr. SMITH: Mr. Speaker and Members of the House: It is with some hesitation that I get involved in this, but as a member of the Legal Affairs Committee I find myself really compelled by conscience to say something about it. So I rise also to oppose the motion of the gentleman from Brewer, Mr. Norris, that the Majority "Ought to pass" Report be accepted.

It seems to me that there are several compelling reasons why the Majority Report ought not to be accepted, and why this Legislature should not allow the Village of Ogunquit to secede from the Town of Wells.

First the Legislature should understand fully that to allow the Village of Ogunquit to break away from the Town of Wells will have a serious and adverse effect upon the school children of that town. Ogunquit, although occupying less than 10 per cent of the total land area of Wells, contains 40 per cent of the value of that town. To allow Ogunquit to secede would erode 40 per cent of the tax base of Wells and make it much more difficult to operate the educational facilities of Wells. The great losers of such an action would be the school children of Wells.

Second, I am strongly opposed to accepting the Majority Report because of precedent that would be set as Mr. Ross indicates. If the Legislature were to sanction Ogunquit's request, what would it

say when other similarly wealthy areas of certain towns came for authority to break away from the poorer areas in the towns that they are now associated with? I am sure that a certain section of my own home town would like nothing better than to rid itself of the responsibilities of raising taxes to help certain other poorer areas of the town. I am sure, for instance, that perhaps International Paper Company or Great Northern would jump at the chance to break away from the towns in which their mills are located and form self-governing tax shelters where there would be no responsibility to help support the local community.

I am sure that in each of your home towns there would be a certain high value section that would like to take its wealth and provide only for itself and tell the less-valuable sections of the town to provide for themselves. We all recognize what a foolhardy action this would be.

Third, I am opposed to accepting the Majority Report because the referendum which would be the final determining factor as to whether or not Ogunquit would actually break away from Wells, as provided in this L. D., would permit only the residents of Ogunquit to vote on the question. I believe that if such an action is to be taken it at least ought to be done in such a manner that the residents of the entire town are allowed to vote on the question. To say that secession may occur simply by a certain percentage affirmative vote of that portion of the town that wishes to secede is a blatant abridgment of the rights of the other citizens of the town.

Fourth, we should recognize that a large percentage of the inhabitants of Ogunquit are not people who were originally from Maine. For the most part, it was clear from the public hearing held on this bill, that the vast majority of the people pushing for secession were people from outside the state who have bought valuable property in Ogunquit and in some instances have taken up permanent residence in Ogunquit. I do not believe we should prevent

wealthy out-of-state interests purchasing valuable Maine property, but I do believe that if these people are going to purchase the most valuable, elegant, scenic, and luxurious portions of the Maine coast they should fully expect to help support Maine education and to help Maine, as do our own natives, in providing an adequate and increasingly better education at the primary and secondary level for all our students.

It seems to me only too clear that what the residents of Ogunquit want is simply to move into Maine, buy our best property, and then rid themselves of any corresponding responsibility to the community or to the state. And I can not say that I blame them; I would do the same probably if I lived in Ogunquit in the same situation. If they can hornswoggle the Legislature and the people into swallowing this sort of fraud then maybe they deserve it.

But let the record show that from this time forth this legislator stood firmly against this outrage.

In summary, Mr. Speaker, I would simply say that for the sake of the school children of Wells I ask this Legislature to vote against the Majority Report to prevent the establishment of a dangerous precedent of which Mr. Ross spoke. I would make the same request. And to repudiate this unfair referendum scheme set up in this, I would request voting against the Majority Report. And to insure that the Maine coast continues to provide the tax base for the benefit of Maine people, I ask you to vote against this Majority Report.

And when the vote is taken Mr. Speaker, I ask that it be taken by the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from North Berwick, Mr. Littlefield.

Mr. LITTLEFIELD: Mr. Speaker and Ladies and Gentlemen of the House: Inasmuch as I sponsored this L. D. and inasmuch as I represent both the Town of Wells and the Ogunquit Village Corporation, you can see that I am caught in a real dilemma. However, after extensive soul-searching I am convinced that we

would be doing a disservice, and I reiterate, a disservice to both the Town of Wells and the Ogunquit Village Corporation by passing this bill. I ask you all in good conscience to vote with me "ought not to pass" and when the vote is taken I request it be done by the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Fecteau.

Mr. FECTEAU: Mr. Speaker and Ladies and Gentlemen of the House: The record of this Legislature so far has been to uphold the separation of towns and cities; that is what I was told this morning. And I agree with Mr. Smith, that if there was a referendum covering the two towns I would say well let's pass it and let it go to the people of these two towns.

I heard over last weekend that in my section there seemed to be a group that was watching for this bill. So to help the situation in my area I hope that we all vote for this bill not to pass.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Santoro.

Mr. SANTORO: Mr. Speaker, Ladies and Gentlemen of the House: I am rising today in favor of this bill 1498. I fell in love with Ogunquit twelve years ago and I bought myself a home around Perkins Cove for the purpose of enjoying my summers there and eventually retire there. I have enjoyed those twelve years at Ogunquit and its beautiful cove, and I have enjoyed its people, permanent residents and visitors. I am amazed at how progressive people are in their determination to improve the area, in everyone that I know.

Ogunquit has gone a long ways in increasing its financial status to a high standard. It is about time that it becomes free and a town by itself. I have nothing against Wells. I have also some land to develop there and I consider myself a taxpayer there. But Ogunquit is in my heart and I believe that in due time and the proper settlement, financial, educational and otherwise, both towns can be free and happy.

I want to go on record to favor the separation and I urge every-

one to vote with me, on freedom of choice and freedom of Ogunquit.

Mr. Bartlett of South Berwick moved the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question it must have the consent of one third of the members present and voting. As many as desire that the previous question be entertained at this time will vote yes; those opposed will vote no.

A vote of the House was taken.

The SPEAKER: A sufficient number having voted in the affirmative, the previous question is entertained. The question now before the House is, shall the main question be put now?

The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker and Ladies and Gentlemen of the House: For the past three or four days I have been concerned about the number of previous questions that are approved by us in this body in shutting off debate. I am concerned that all the issues are not being discussed. Speaking for myself on this one question, I personally do not know yet how I am going to vote. I would hope that both sides would be given an opportunity to express their views on this legislation because I happen to feel that it is of great importance to the people of both Ogunquit and Wells.

And so I would ask you to vote against putting the main question now.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Members of the House: I concur completely with the gentleman from Eagle Lake, Mr. Martin. I am always also reluctant to see that the previous question requested when I feel that there are those who wish to be heard on the subject. I think that we have plenty of time to thoroughly debate these things and I hope you will vote against the motion for the main question.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, I concur with the two previous speakers. I think this is an important problem and I think that everyone who has an interest should be heard on it.

The SPEAKER: The question before the House now is, shall the main question be put now? The Chair will order a vote. If you are in favor of the main question being put now you will vote yes; if you are opposed you will vote no.

A vote of the House was taken. 11 having voted in the affirmative and 109 having voted in the negative, the main question was not ordered.

The SPEAKER: The Chair recognizes the gentlewoman from Bangor, Mrs. Doyle.

Mrs. DOYLE: Mr. Speaker, I would like to pose a question through the Chair to any one who may answer.

The SPEAKER: The gentlewoman may pose her question.

Mrs. DOYLE: I am very curious as to why we do not have a complete committee report on this, an apparently important L. D. There are only nine people who signed this report.

The SPEAKER: The Chair would advise the gentlewoman and the members of the House that it is not necessary that members of committees sign all reports.

The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, in response to that question, I would think that the remainder of the report is on the other page, on page six.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Silverman.

Mr. SILVERMAN: Mr. Speaker, they are both looking at the wrong report, it is the one before that one.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker, I move that this bill and all of its accompanying papers be indefinitely postponed and when this vote is taken I request the yeas and nays.

The SPEAKER: The pending question now before the House is



on the motion of the gentleman from Bath, Mr. Ross, that both Reports and Bill be indefinitely postponed.

The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker and Ladies and Gentlemen: Before this vote is taken, I would like to give you a little lineup of what has occurred along our Atlantic coast. In the old days of the horse drawn carriage it was Pride's Crossing, Beverly Farms in Manchester, the Gold Coast in Massachusetts. With the advent of the automobile it became Bar Harbor. With the advent of the aeroplane it has been coming up the coast and this is another one of those things where the wealthy do not want to reside with the poor.

The SPEAKER: The Chair recognizes the gentleman from Oakland, Mr. Brawn.

Mr. BRAUN: Mr. Speaker and Members of the House: I served on this Legal Affairs Committee too and I heard the whole story and I pity these people in Ogunquit. They have been fenced in there for a long while. They pay more schooling than anyone else, they pay a higher taxation. Their places are taxed higher in valuation, which they told us. They have their own school for their lower grade, they have their own policeman, they have their fire department. So they are not holding to the other at all.

Now the only argument that we heard in our committee was they could not maintain their school or their roads up in Wells if they were taken away. This I cannot believe. I live in the Town of Oakland, which was West Waterville. Waterville said if Oakland was to divide from them they would suffer. I would like to ask them today, after these years, if they think either one of them suffered. It has turned out wonderful. And I think if a man and his wife are fighting to the point where they can't get along, then they should have a divorce, and I shall definitely go along with the "ought to pass."

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker and Ladies and Gentlemen: I will be very brief, but this is a resort area and the area of Ogunquit who at this time provide all of their services, all of their own services, every one except for schools. They provide all of their own services except the schools and for the collection of taxes and administration. For this reason and because of the geographical location — and it really doesn't make any geographical problem, I voted on the side for this to pass.

I will have something to say on the other bill presently, but I do think that this could be accomplished. I think rather than having them get sixty percent of the money back now, that if they got one hundred percent they could handle their own schooling and it wouldn't put really a burden on the Town of Wells.

The SPEAKER: The Chair recognizes the gentleman from Dover-Foxcroft, Mr. Smith.

Mr. SMITH: Mr. Speaker and Members of the House: I couldn't disagree more with the gentleman from Brewer, Mr. Norris. He seems to be concerned in this instance, or at least in these few words that he just said to us, with the people of Ogunquit. And those people I can tell you I am not particularly concerned with; I think they are going to hold their own and be very well taken care of regardless of which way it goes.

But it is the people, particularly the children of Wells, that I am concerned about. I did ask some of the very persuasive and powerful lobbyists from the other side to provide me with figures clearly indicating that the Town of Wells would not suffer if forty percent of its tax base was eroded; and they said they were going to do it, but they haven't been back since.

The SPEAKER: For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. All members desiring a roll call will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed

a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Bath, Mr. Ross that both Reports and Bill "An Act to Incorporate the Town of Ogunquit," House Paper 1091, L. D. 1498, be indefinitely postponed. If you are in favor of indefinite postponement of both Reports and Bill you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEA — Albert, Ault, Baker, Bartlett, Bedard, Bernier, Berry, G. W.; Berube, Birt, Bither, Boudreau, Bragdon, Bunker, Carey, Carter, Collins, Cooney, Cyr, Dam, Donaghy, Dow, Doyle, Dyar, Emery, D. F.; Evans, Fecteau, Genest, Gill, Good, Hardy, Haskell, Hawkens, Hayes, Henley, Herrick, Immonen, Jutras, Kelley, R. P.; Lawry, Lebel, Lee, Littlefield, Lucas, Lund, Lynch, MacLeod, Maddox, Manchester, Marsh, Marstaller, Martin, McCloskey, McKinnon, McTeague, Millett, Mills, Morrell, Mosher, Murray, Orestis, Page, Payson, Porter, Pratt, Rocheleau, Ross, Scott, Sheltra, Shute, Silverman, Simpson, L. E.; Smith, D. M.; Stillings, Susi, Vincent, Williams.

NAY — Bailey, Barnes, Binnette, Bourgoin, Brawn, Brown, Call, Carrier, Clark, Clemente, Conley, Cote, Cottrell, Crosby, Cummings, Curran, Curtis, T. S. Jr.; Drigotas, Dudley, Emery, E. M.; Farrington, Finemore, Fraser, Gagnon, Gauthier, Goodwin, Hall, Hancock, Hewes, Kelley, K. F.; Kelley, P. S.; Keyte, Lessard, Lewin, Lewis, Lincoln, Mahany, McNally, Norris, O'Brien, Parks, Pontbriand, Rand, Rollins, Santoro, Shaw, Simpson, T. R.; Slane, Smith, E. H.; Starbird, Tanguay, Theriault, Trask, White, Wight, Wood, M. W.; Wood, M. E.; Woodbury.

ABSENT — Berry, P. P.; Bustin, Churchill, Curtis, A. P.; Faucher, Hanson, Hodgdon, Jalbert, Kelleher, Kilroy, Lizotte, McCormick, Tyndale, Webber, Wheeler, Whitson.

Yes, 76; No, 58; Absent, 16.

The SPEAKER: Seventy-six having voted in the affirmative, fifty-eight in the negative, with sixteen

being absent, the motion does prevail.

Sent up for concurrence.

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Legal Affairs reporting "Ought to pass" on Bill "An Act to Amend the Ogunquit Village Corporation Charter to Equitably Allocate School and Other Common Costs with the Town of Wells" (H. P. 1092) (L. D. 1480)

Report was signed by the following members:

Messrs. QUINN of Penobscot

CLIFFORD

of Androscoggin

— of the Senate.

Messrs. SILVERMAN of Calais

SMITH of Dover-Foxcroft

PECTEAU of Biddeford

EMERY of Rockland

NORRIS of Brewer

— of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Mr. KELLAM of Cumberland

— of the Senate.

Messrs. BRAWN of Oakland

GAUTHIER of Sanford

CURTIS of Bowdoinham

COTE of Lewiston

CROSBY of Kennebunk

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, I move that the House accept the Majority "Ought to pass" Report and would speak briefly to my motion.

The SPEAKER: The gentleman from Brewer, Mr. Norris moves that the House accept the Majority "Ought to pass" Report.

The gentleman may proceed.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen: I feel somewhat like Dickens did when he wrote the "Tale of Two Cities" this morning. I have signed the Majority Report on both of these bills. Now I think I should explain, and very shortly, why I did. I felt that the tax situation, as far as the schools go, should be certainly

more fairly assessed and appropriated to the Town of Wells. I mean they are being asked to — the Town of Wells from the Village Corporation. As it is now, sixty cents on every tax dollar is going back to the Village Corporation, so the Town of Wells as it exists now is trying to educate the children from the Ogunquit area on forty cents and I think that this is an unfair appropriation.

And that is the reason I signed "ought to pass" on both reports, with the idea of leaving it to the decision of the Legislature and to the decision of the people. If they didn't want to allow them to secede as it was put, then at least they be required to pay their fair share toward education.

Whereupon, on motion of Mr. Ross of Bath, tabled pending the motion of Mr. Norris of Brewer that the House accept the Majority "Ought to pass" Report and specially assigned for Friday, May 7.

**Divided Report  
Tabled and Assigned**

Majority Report of the Committee on Public Utilities reporting "Ought not to pass" on Bill "An Act Creating the Power Authority of Maine" (H. P. 721) (L. D. 966)

Report was signed by the following members:

Mr. MOORE of Cumberland  
—of the Senate.  
Messrs. WILLIAMS of Hodgdon  
MOSHER of Gorham  
RAND of Yarmouth  
TYNDALE  
of Kennebunkport  
SHUTE  
of Stockton Springs  
BARTLETT  
of South Berwick  
—of the House.

Minority Report of same Committee reporting "Ought to pass" on same Bill.

Report was signed by the following members:

Messrs. MARCOTTE of York  
VIOLETTE of Aroostook  
—of the Senate.  
Mr. EMERY of Auburn  
Mrs. BERUBE of Lewiston  
Messrs. CONLEY  
of South Portland

MARSH of Hampden  
—of the House.

Reports were read.

(On motion of Mr. Porter of Lincoln, tabled pending acceptance of either Report and tomorrow assigned.)

**Divided Report  
Tabled and Assigned**

Majority Report of the Committee on State Government on Bill "An Act to Increase Housing and Meal Allowances for Members of the Legislature" (H. P. 544) (L. D. 716) reporting same in a new draft (H. P. 1302) (L. D. 1709) under title of "An Act to Increase Compensation for Members of the Legislature" and that it "Ought to pass"

Report was signed by the following members:

Messrs. WYMAN of Washington  
JOHNSON of Somerset  
—of the Senate.  
Mrs. GOODWIN of Bath  
Messrs. COONEY of Webster  
FARRINGTON  
of Old Orchard Beach  
STARBIRD  
of Kingman Township  
STILLINGS of Berwick  
MARSTALLER

of Freeport  
CURTIS of Orono  
—of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Mr. CLIFFORD  
of Androscoggin  
—of the Senate  
Messrs. DONAGHY of Lubec  
HODGDON of Kittery  
—of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Curtis.

Mr. CURTIS: Mr. Speaker, I request that this lie on the table for two legislative days pending acceptance of either Report.

Mr. Gill of South Portland requested a division.

The SPEAKER: The gentleman from Orono, Mr. Curtis moves that L. D. 1709 be tabled and specially assigned for Friday, May 7, pend-

ing acceptance of either Report. All in favor of this matter being tabled will vote yes; those opposed will vote no.

A vote of the House was taken. 65 having voted in the affirmative and 53 having voted in the negative, the motion did prevail.

#### Divided Report

Majority Report of the Committee on Veterans and Retirement reporting "Ought to pass" on Bill "An Act relating to Benefits for Widows of Coastal Wardens and Fish and Game Wardens" (H. P. 217) (L. D. 284)

Report was signed by the following members:

Mrs. CARSWELL  
—of Cumberland  
Messrs. ANDERSON of Hancock  
BERNARD  
—of Androscoggin  
—of the Senate.  
Messrs. JUTRAS of Sanford  
THERIAULT of Rumford  
Mrs. LINCOLN of Bethel  
Messrs. VINCENT of Portland  
LEWIN of Augusta  
SIMPSON of Millinocket  
HAYES of Windsor  
—of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Messrs. DOW of West Gardiner  
CURTIS of Bowdoinham  
PRATT of Parsonsfield  
—of the House.

Reports were read.

On motion of Mrs. Lincoln of Bethel, the Majority "Ought to pass" Report was accepted.

The Bill was read twice and tomorrow assigned.

#### Third Reader Tabled and Assigned

Bill "An Act to Incorporate the Town of Carrabassett Valley" (S. P. 448) (L. D. 1294)

Was reported by the Committee on Bills in the Third Reading and read the third time.

(On motion of Mr. Dyar of Strong, tabled pending passage to be engrossed and specially assigned for Friday, May 7.)

#### Passed to Be Engrossed

Bill "An Act Providing Educational Assistance for Certain Widows, Wives and Children of Veterans and Wives and Children of Prisoners of War" (S. P. 560) (L. D. 1700)

Bill "An Act relating to Voters Resigning or Removed from the Voting List" (S. P. 561) (L. D. 1701)

Bill "An Act relating to Definition of Construction under Board of Construction Safety Rules and Regulations" (H. P. 152) (L. D. 207)

Were reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed and sent to the Senate.

#### Amended Bills Tabled and Assigned

Bill "An Act Creating the Cobossee Watershed District" (S. P. 202) (L. D. 587)

Was reported by the Committee on Bills in the Third Reading and read the third time.

(On motion of Mr. Dow of West Gardiner, tabled pending passage to be engrossed and specially assigned for Friday, May 7.)

#### Tabled and Assigned

Bill "An Act relating to the Regulation of Private Detectives" (S. P. 344) (L. D. 984)

Was reported by the Committee on Bills in the Third Reading and read the third time.

(On motion of Mr. Martin of Eagle Lake, tabled pending passage to be engrossed and specially assigned for Friday, May 7.)

Bill "An Act Creating the Maine Health Facilities Authority" (H. P. 1189) (L. D. 1664)

Was reported by the Committee on Bills in the Third Reading and read the third time.

Mr. Stillings of Berwick offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-224) was read by the Clerk and adopted and the Bill passed to be engrossed as amended by Committee Amendment "A" and House Amendment "A" and sent to the Senate.

### Passed to Be Enacted Emergency Measure

An Act to Authorize the Hallowell Water District to Collect and Treat Sewage (S. P. 452) (L. D. 1375)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of same and one against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

### Emergency Measure

An Act Creating an Advisory Commission for the Study of Public Support for Post-secondary Education in Maine (S. P. 473) (L. D. 1492)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 99 voted in favor of same and 18 against.

Whereupon, Mr. Ross of Bath requested a roll call.

The SPEAKER: For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. All members desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Dixmont, Mr. Millett.

Mr. MILLETT: Mr. Speaker and Ladies and Gentlemen of the House: About a week ago this bill failed of enactment also and I did a very poor job of explaining it at that time. It went to the other body and came back here with an amendment saying that the State would not be obligated in any way financially in support of this study.

Now just briefly to explain the purpose of the bill, it is to create an Advisory Commission solely for the purpose of studying the

present method of public support, and when you talk public support you are talking financial assistance in support of higher education here in Maine, at the public level. Now the Commission would actually study the entire field of public tax support for higher education with a view toward coming up with a more efficient way than our present way of high subsidization of the University of Maine system.

Now we are all aware of the fact that tuition levels are the purview of the Board of Trustees of the super university system, and they have been reluctant of course from public pressure to raise tuition rates on a realistic level. And I don't propose that that is the purview of this Legislature either. However, I think a study could probably better provide information as to whether or not increases in tuition or alternate methods of providing public funds in support of higher education would be feasible.

For those reasons and with the guarantee that no state funds are involved here, I can see no harm in this Commission and I really feel that it could provide some working information for future decisions by this Legislature.

The SPEAKER: The pending question is enactment. This being an emergency measure it requires a two-thirds affirmative vote of the entire elected membership of the House. All in favor if its enactment as an emergency measure will vote yes; those opposed will vote no.

### ROLL CALL

YEA — Albert, Ault, Bailey, Baker, Barnes, Bartlett, Bernier, Berry, G. W.; Berube, Bither, Boudreau, Bourgoin, Bragdon, Brown, Bunker, Bustin, Carrier, Churchill, Clark, Clemente, Collins, Cooney, Cottrell Cummings, Curran, Curtis, T. S., Jr.; Cyr, Dam, Dow, Doyle, Drigotas, Dyar, Evans, Farrington, Fecteau, Finmore, Fraser, Genest, Good, Goodwin, Hall, Hancock, Haskell, Hawken, Hayes, Herrick, Hewes, Hodgdon, Immonen, Kelley, P. S.; Kelley, R. P.; Kilroy, Lawry, Lebel, Lee, Lewin, Lewis, Littlefield, Lucas, Lund, Lynch, Mac-

Leod, Maddox, Mahany, Marsh, Marsteller, Martin, McCloskey, McCormick, McKinnon, McTeague, Millett, Mills, Morrell, Murray, Norris, O'Brien, Orestis, Payson, Pontbriand, Porter, Pratt, Rocheleau, Rollins, Ross, Santoro, Scott, Shaw, Sheltra, Shute, Silverman, Simpson, L. E.; Simpson, T. R.; Slane, Smith, D. M.; Smith, E. H.; Stillings, Tanguay, Trask, Tyndale, Vincent, Williams, Wood, M. W.; Wood, M. E.; Woodbury.

**NAY** — Bedard, Binnette, Birt, Brown, Call, Carey, Conley, Cote, Donaghy, Dudley, Emery, D. F.; Emery, E. M.; Gauthier, Hardy, Henley, Jutras, Kelleher, Kelley, K. F.; Keyte, Manchester, McNally, Page, Parks, Rand, Starbird, Theriault, Wight.

**ABSENT**—Berry, P. P.; Carter, Crosby, Curtis, A. P.; Faucher, Gagnon, Gill, Hanson, Jalbert, Lessard, Lincoln, Lizotte, Mosher, Susi, Webber, Wheeler, White, Whitson.

Yes, 105; No, 27; Absent, 18.

The **SPEAKER**: One hundred five having voted in the affirmative, twenty-seven in the negative, with eighteen being absent, the bill is passed to be enacted as an emergency measure. It will be signed by the Speaker and sent to the Senate.

#### **Emergency Measure**

An Act Making Additional Appropriations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1971 (S. P. 556) (L. D. 1694)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of same and 11 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### **Emergency Measure**

An Act relating to Change of Name of the Arthritis Foundation, Pine Tree Chapter, Inc. (H. P. 959) (L. D. 1320)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The **SPEAKER**: The Chair recognizes the gentleman from Norway, Mr. Henley.

Mr. **HENLEY**: Mr. Speaker, I would like to inquire through the Chair of anyone who can tell me why this is an emergency measure, please.

The **SPEAKER**: The gentleman from Norway, Mr. Henley, poses a question through the Chair to any member who may answer if they choose.

The Chair recognizes the gentleman from Bath, Mrs. Goodwin.

Mrs. **GOODWIN**: Mr. Speaker and Ladies and Gentlemen of the House: The Arthritis Foundation at one time had its headquarters in Portland and basically served the Greater Portland area. They have now moved their headquarters to the City of Bath, and they are serving the entire State of Maine.

However, there is some confusion in Bath because the headquarters for the Pine Tree Society for Crippled Children and adults is also located in Bath. Therefore, the Arthritis Foundation, Pine Tree Chapter, would prefer to be called the Arthritis Foundation, Maine Chapter to avoid any confusion with the Pine Tree Society.

Thereupon, this being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### **Passed to Be Enacted**

An Act relating to Board of Examiners for the Examination of Applicants for Admission to the Bar and Applicants for Such Examination (S. P. 178) (L. D. 530)

An Act Creating Oxford County Commissioner Districts (S. P. 270) (L. D. 798)

An Act Creating the Cumberland County Recreation Center (S. P. 404) (L. D. 1221)

An Act to Adopt a State of Maine Code of Military Justice (S. P. 441) (L. D. 1279)

An Act to Require Notice to Public Utilities of Certain Excavations (S. P. 549) (L. D. 1688)

An Act to Revise the Pharmacy Laws (H. P. 453) (L. D. 608)

An Act relating to Increases in School Assessments in School Administrative Districts (H. P. 702) (L. D. 945)

An Act to Authorize Cumberland County to Raise Money for Court House Capital Improvements and New Construction (H. P. 735) (L. D. 997)

An Act to Provide Retirement Benefits for Certain State Employees (H. P. 832) (L. D. 1123)

An Act Increasing Certain Fees for Deputy Sheriffs (H. P. 1070) (L. D. 1462)

An Act to Provide for Thirty Day's Notice When a Nursing Home is Being Voluntarily Closed (H. P. 1116) (L. D. 1535)

An Act relating to the Retail Sale of Wine in Department Stores (H. P. 1171) (L. D. 1630)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

#### Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

Bill "An Act to Pay One Hundred Percent of Health Insurance Plans for State Employees" (H. P. 364) (L. D. 471)—In House, Indefinitely Postponed in non-concurrence. — In Senate, passed to be engrossed as amended by Senate Amendments "A" (S-110) and "B" (S-128)

Tabled—May 3, by Mr. Porter of Lincoln.

Pending—Further consideration.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. Porter.

Mr. PORTER: Mr. Speaker, I move the House recede and concur.

The SPEAKER: The gentleman from Lincoln, Mr. Porter, moves the House recede and concur.

The Chair recognizes the gentleman from Norway, Mr. Henley.

Mr. HENLEY: Mr. Speaker and Ladies and Gentlemen of the House: I am not going to debate this all over again. It has been debated twice. You all know my feelings in the matter, as I have stated before. On the 29th of April,

on the historic 100th roll call, this House defeated this measure, and indefinitely postponed it 73 to 65.

I shall oppose, and I ask for a division — I shall oppose the move to recede and concur. And those of you who care to go along with me, or if you wish to change your mind, so do. But I cannot. I feel that to change our minds now is vacillating, and I hope that you will go along with me in refusing to recede and concur, and then I will ask to adhere.

Mr. Ross of Bath requested a roll call.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. McTeague.

Mr. McTEAGUE: Mr. Speaker and Members of the House: I think that we are all aware that the state pays approximately \$6 —if I am off a bit I hope someone would correct me — on the employees' portion of Blue Cross -Blue Shield. I think you are also aware that there are basically three standard level Blue Cross-Blue Shield plans, and I think they probably have letters for special designations, but for simplicity perhaps we can call them the minimum, the median, and the maximum plan. It is my understanding that the plan involved here is the minimum plan.

Further, as you know, there is a different rate for the single man, and for the family man, the family man, of course, paying a higher rate because his wife and children are also insured.

There has been some talk in the past about comparing the state payment of 50% to what the situation is in private industry. And it has been suggested, and I believe it is probably true, that in private industry it is customary for the employer to pay 50% of the health insurance premium, and for the employee to pay 50%. But with this difference in private industry. I believe that most private employers do not deal with the minimum plan as we do for state employees, rather they deal most often with the median plan, which of course costs more, and in some cases with the maxi-

mum plan. Furthermore, I believe it is almost uniform for private employers who do have this understanding with their employees to pay 50% not only of the employees' cost, but 50% of the cost of a family plan.

In reality, even if this legislation is enacted and survives the Appropriations table, we still will be providing for the married state employees something less than a 50% subsidy for their health insurance plan. And we will be offering our employees only the lower or the median plan.

It has been also said before, and I personally think it is a good argument, that this is a way to give an increase to state employees and not have the need to pay any federal income tax on it, so the employees will get all of the benefit of the increase.

We have gone through the arguments about remaining flexible and letting this go to the Appropriations table, because we do not yet know at what level, if any at all, there will be an adjustment in the salaries.

I think though one of the strongest reasons for going along with this is this. We talk about percentage increases; we talk about one step, moving up one grade; and we are talking about raises for people that are making \$15,000 or \$20,000 a year in the state service. This is the type plan that helps the man that needs it most and deserves it most. The man who is making \$4,500 or \$5,000 or \$6,000 or \$7,000 a year.

I hope that you will vote to go along with the motion of the Assistant Majority Leader, and that we will be able to keep this bill alive and send it to the Appropriations table.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker and Ladies and Gentlemen of the House: I voted against this the other day because I was concerned about funds. But due to the fact that it is going to the Appropriations table and will be worked out there I am going to go along

this morning and recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Oakland, Mr. Brawn.

Mr. BRAWN: Mr. Speaker, I would like to ask a question of anyone who would like to answer it.

The SPEAKER: The gentleman may pose his question.

Mr. BRAWN: Is this just going to pay for the employee or is it going to pay for him and his entire family through this plan?

The SPEAKER: The gentleman from Oakland, Mr. Brawn, poses a question through the Chair to any member who may answer if they choose.

The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: Mr. Speaker and Members of the House: The proposal would pay for the employee, but not for his family.

The SPEAKER: The yeas and nays have been requested. For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. All members desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Lincoln, Mr. Porter, that the House recede from its former action and concur with the Senate on Bill "An Act to Pay One Hundred Percent of Health Insurance Plans for State Employees," House Paper 364, L. D. 471. If you are in favor of receding and concurring you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEAS — Albert, Ault, Bailey, Baker, Barnes, Bedard, Bernier, Berry, G. W.; Berube, Birt, Bither, Boudreau, Bourgoin, Brown, Bunker, Bustin, Churchill, Clark, Clemente, Collins, Cooney, Cote, Cottrell, Cummings, Curran, Curtis, T. S., Jr.; Dam, Dow, Drigotas, Dyar, Emery, D. F.; Evans, Far-



rington, Fecteau, Finemore, Fraser, Genest, Gill, Good, Goodwin, Hall, Hancock, Haskell, Hawken, Hayes, Herrick, Hodgdon, Immonen, Kelleher, Kelley, P. S.; Kelley, R. P.; Keyte, Kilroy, Lawry, Lebel, Lessard, Lewin, Lincoln, Littlefield, Lucas, Lund, Lynch, MacLeod, Maddox, Mahany, Manchester, Marsh, Marsteller, Martin, McCloskey, McKinnon, McTeague, Millett, Mills, Morrell, Mosher, Murray, Norris, O'Brien, Orestis, Page, Parks, Pontbriand, Porter, Pratt, Rand, Rollins, Ross, Santoro, Scott, Shaw, Sheltra, Shute, Silverman, Simpson, L. E.; Simpson, T. R.; Slane, Smith, D. M.; Smith, E. H.; Stillings, Tanguay, Theriault, Tyndale, Vincent, White, Wood, M. W.; Wood, M. E.; Woodbury.

**NAYS** — Bartlett, Binnette, Brawn, Call, Carey, Carrier, Carter, Cyr, Doyle, Dudley, Emery, E. M.; Gauthier, Henley, Hewes, Jutras, Kelley, K. F.; Lee, McCormick, McNally, Payson, Rocheleau, Starbird, Trask, Wight, Williams.

**ABSENT** — Berry, P. P.; Bragdon, Conley, Crosby, Curtis, A. P.; Donaghy, Faucher, Gagnon, Hanson, Hardy, Jalbert, Lewis, Lizotte, Susi, Webber, Wheeler, Whitson.

Yes, 108; No, 25; Absent, 17.

The **SPEAKER**: One hundred eight having voted in the affirmative, twenty-five in the negative, with seventeen being absent, you have voted to recede and concur.

The Chair laid before the House the second tabled and today assigned matter:

**HOUSE REPORT** — Leave to Withdraw — Committee on State Government on Bill "An Act to Create a Commission to Prepare a Revision of the Motor Vehicle Laws" (H. P. 1182) (L. D. 1636)

Tabled — May 3, by Mr. Hodgdon of Kittery.

Pending — Acceptance.

On motion of Mr. Hodgdon of Kittery, the Report was accepted and sent up for concurrence.

The Chair laid before the House the third tabled and today assigned matter:

**HOUSE DIVIDED REPORT** — Majority (10) "Ought not to pass"

— Minority (3) "Ought to pass"  
— Committee on Labor on Bill "An Act relating to Disqualification of Benefits under the Employment Security Law" (H. P. 597) (L. D. 792)

Tabled — May 3, by Mr. Kelleher of Bangor.

Pending — Motion of Mr. Good of Westfield to accept Majority Report.

The **SPEAKER**: All in favor of accepting the Majority "Ought not to pass" Report will say aye; those opposed no.

A viva voce vote being taken, the motion did prevail.

Sent up for concurrence.

The Chair laid before the House the fourth tabled and today assigned matter:

**HOUSE DIVIDED REPORT** — Majority (8) "Ought to pass" — Minority (5) "Ought not to pass" — Committee on Labor on Bill "An Act relating to Apprentices Preference to Maine Workmen and Contractors" (H. P. 853) (L. D. 1166)

Tabled — May 3, by Mr. Good of Westfield.

Pending — Acceptance of either Report.

The **SPEAKER**: The Chair recognizes the gentleman from Westfield, Mr. Good.

Mr. **GOOD**: Mr. Speaker, Ladies and Gentlemen of the House: I had a meeting yesterday with Miss Martin, the Commissioner of Labor and Industry, and Mr. Dorsky, the labor representative, on this bill, and they both agreed that the bill in its present form was unworkable. However, they both seemed to think the intent was noble.

I have checked with the Senate Chairman of the Labor Committee and he and I decided that if we recommit this bill to the Labor Committee we could come up with something workable and agreeable to all concerned. And I promise if we do this, it will in no way delay our work.

The Labor Committee now is at long last in full swing. We turned out 17 bills last night after six o'clock, and by one week from tomorrow we will have finished all our work, including this bill, L. D. 1166.

I move that this bill be recommitted to the Committee on Labor.

Thereupon, the Reports and Bill were recommitted to the Committee on Labor and sent up for concurrence.

The Chair laid before the House the fifth tabled and today assigned matter:

HOUSE DIVIDED REPORT — Report "A" (6) "Ought to pass" in new draft — Report "B" (6) "Ought to pass" in new draft — Committee on State Government on Resolution Proposing an Amendment to the Constitution to Provide for an Environmental Bill of Rights (H. P. 751) (L. D. 1020) — Report "A" new draft — (H. P. 1300) (L. D. 1705) under same title — Report "B" new draft (H. P. 1301) (L. D. 1706) under new title — "An Act Providing for a Declaration of Policy Concerning the State's Environment."

Tabled — May 3, by Mr. Marsteller of Freeport.

Pending — Motion of Mr. Norris of Brewer to accept Report "B".

The SPEAKER: The Chair recognizes the gentlewoman from York, Mrs. Brown.

Mrs. BROWN: Mr. Speaker and Members of the House: The State Government Committee, as you can see, has come out with a split report — 6 to 6. Report "A" supports a constitutional amendment for an Environmental Bill of Rights which was my original proposal to the committee. Report "B" recommends a statutory expression of an environmental policy which is meaningless and doesn't accomplish the original intent of the bill at all.

The newly aroused concern with our environment embraces all ages and people in all walks of life. The question is, just how long will this concern last? How much staying power do we have here to deal with the long-term grubby business of cleaning of our environment and providing protection for the future? We already, here in this legislative body, have begun to assume that just because we passed some far-reaching legislation only two years ago that we can relax, even though much of

this legislation is languishing in preliminary implementation or is being tested in our courts.

If a better environment is passed down to future generations it will be because we have the values, the guts, and the willingness to take far-reaching actions and to accept new concepts today. This is why I seek to have this legislative body support an amendment to our Constitution for an Environmental Bill of Rights.

I feel this constitutional amendment for a clean environment can create a long-term perspective, new attitudes, new goals and a new climate for private citizens, private enterprise, and all levels of government in continuing efforts to combat the deterioration of our environment.

Secondly, it establishes a clear public right that the court must recognize. Every time the courts determine the constitutionality of a particular law, the wetlands bill, coastal conveyance, site location, they test it against existing constitutional standards. These standards are presently directed toward preserving the rights of private property. There is no constitutional provision defining the scope of the public's right.

Our Constitution gives us the right to defend liberty and property, to worship whomever we see fit, to freely speak our minds, to trial by jury, to equal protection under the laws, but it does not give us the right to clean air, pure water or a healthy environment. The growing realization that continuing degradation of our environment violates important public rights demands that philosophical environmental goals be spelled out in our Constitution.

The purpose of a constitutional amendment is to give a court a constitutional yardstick by which to judge legislative enactments and act of individuals. Any time pollution does cause harm to another person, the courts must weigh the harm against the polluter's constitutional right to reasonable use of the land. I repeat, the Environmental Bill of Rights would give the public the benefit of a constitutional standard which the court must balance against the land-

owner's right to use of his property. Historically, in the past, the law has tended to treat man's environment as his to exploit; but when these violations become a threat to the public as a whole, then one must look to new concepts.

Over a dozen other states have passed constitutional amendments calling for clean air, pure water and preservation of the natural environment. Among them are Pennsylvania, Virginia, New York and Illinois.

If this were made a mere policy in our statutes as is suggested in Report "B", it would not have the effect of establishing a constitutional standard. The court is left with just another statute. Right now we have similar policy statements in the statutes embodied in the statement of purpose in such laws as the Wetlands Act, Coastal Conveyance, Site Location and Air Quality. Report "B" accomplishes nothing that we don't already have; it is a mere pretense. A constitutional recognition of a public right has far greater legal and moral stature than a public law.

Lastly, but most important, this constitutional amendment calling for an Environmental Bill of Rights should go to the people to be voted on. We are slowly becoming aware that the social and economic wellbeing of the people of our state is closely related to the condition of the environment we live in. The people have a fundamental interest in the development of our state. They should have a vote on the public's right to a clean environment. Under a mere policy statement in our statutes they will have no vote.

I urge you to vote against Report "B" and support Report "A".

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. Farrington.

Mr. FARRINGTON: Mr. Speaker and Ladies and Gentlemen of the House: If this Legislature is really concerned with an Environmental Bill of Rights, they will support Report "A". If they would like to give lip service to an Environmental Bill of Rights, they should vote for Report "B", which as a statute can be readily repealed at a special or regular session.

The Attorney General's office informs me that by placing this as an addition to Article I, Section 1 of the Constitution under the Declaration of Rights, it will not open a Pandora's box as far as civil suits are concerned. Those seeking relief will still be referring to specific statutes which, as you know, are detailed and quite unlike the Constitution which delineates a broad outline of citizen rights, governmental structure, etcetera.

If you will quickly read the five lines of L. D. 1705 and read Section 1 of Article I of our Constitution, you will readily see that we are only bringing Section 1 up to date at a period in our history when if pollution doesn't cease we won't be around to enjoy life, liberty, and happiness.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker and Ladies and Gentlemen of the House: I rise today to support the motion to accept Report "B". We have had several allegations of what this does and does not do and whether we will live or will not live.

But actually Report "B" would place in our statutes a statement of Legislative policy as to protection of our air, waters, lands and other natural resources from pollution. Placing such a statement in our statutes does not, of course, repeal or alter in any manner, the goals and standards established by the Legislature as being not only desirable but also necessary.

It does, however, place in the statutes a statement of policy by this legislative branch of government which has been charged with developing that policy. As my attorney friends might say, they can be used as an aid to statutory interpretations in the event the court should be confronted with an ambiguity.

Report "B" also represents taking the so-called environmentalists at their word. In our committee one of their members stated that L. D. 1020 would constitute a mere statement of legislative policy and not give citizens the right to sue the industries, municipalities and

other citizens for infringing on the assorted right of absolutely pure air and pure water.

Report "B" makes just such a statement of legislative policy. It does so without exposing Maine people and businesses who are complying with our environmental standards and classifications to those suits, for supposedly infringing on a constitutional right to have absolutely pure air and water. In supporting Report "B" I express strong opposition to Report "A".

If such a Constitutional Amendment were to be adopted — and by the way this would require one more thing that we send to the people, that they tell us that they would like to have decided for ourselves. There would be nothing less than chaos develop from this, for the order we have established legislatively in our system of environmental controls, I submit that such a substitution would impede rather than assist the attainment of these environmental goals.

In 1967 the 103rd Legislature reclassified our major rivers from "D" to Class "C". Class "C" waters among other things are generally defined as waters of such quality as to be satisfactory for recreational boating and fishing, for a fish and wildlife habitat, and other uses, except potable water supplies and water contact recreation.

A step-by-step schedule was established for the construction of facilities necessary to attain Class "C" on our major waterways. Since 1967 Maine industries, at the expense of millions, have been building pollution treatment facilities to attain the standards prescribed by the Legislature. For example: In my own Washington County, our major industry, which employs directly over 1,000 people and has a payroll annually of \$7.5 million, has placed its pollution control facilities in operation last September, six years ahead of schedule.

The point of this very sketchy review of our water pollution law is that when attainable environmental goals and known standards

for achievement of those goals are established, as a matter of legislative policy, industry will work toward these goals.

Legislative policy has been established. The Chairman of the EIC has stated publicly that industry has committed itself to this clean-up and that the goal is being achieved.

Environmental policy must continue to concentrate on problems and solutions of environmental policy, but environmental policy should not be thrown to the winds of Environmania. Environmania has been described in the editorial pages of the Bangor Daily News as "a condition that is marked by an excess of emotionalism — and an unfortunate tendency to seek a scapegoat rather than solution."

I urge you to support the motion to accept Report "B" and affirm our legislative commitment to an orderly solution of our environmental problems.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Mrs. Goodwin.

Mrs. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I rise to oppose the motion to accept Report "B". To add a declaration of policy to the statutes would be redundant and meaningless. I would like to read a few short paragraphs from Title 38 of the Revised Statutes.

"It shall be the duty of the commission, exercising the police powers of the State, to control, abate and prevent the pollution of the air, waters, coastal flats and prevent diminution of the highest and best use of the natural environment of the State.

The commission shall make recommendations to each Legislature with respect to the control, abatement and prevention of pollution of the air, waters, coastal flats and other aspects of the natural environment within the State for the benefit of the citizens of this State."

Another section: "The Legislature finds and declares that air pollution exists with varying degrees of severity within this State; that such air pollution is potentially and in some cases actually dangerous to the health of the citi-

zenry, often causes physical discomfort.

The Legislature by this chapter intends to exercise the police power of the State in a coordinated state-wide program to control present and future sources of emission of air contaminants to the end that air polluting activities of every type shall be regulated in a manner that reasonably insures the continued health, safety and general welfare of all the citizens of the State; protects property values and protects plant and animal life."

If we are really serious about the inherent right of Maine citizens to a clean environment, then we should make it a part of the Constitution. And if we are interested in only a tokenism, then we should do nothing at all because the statutes are already full of tokenism and the rivers are still full of garbage.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Members of the House: I didn't have anything prepared to say on this matter, but I feel somewhat obliged to make some comments in regards to it.

I feel that we are now riding a very high wave of this environmental thing, and it is probably good. However, more careful thought, a little more time, we may find that many of the things that we are talking about now in the way of correcting our environment that will not appear to us to be practical.

I think what I am trying to say is that I do not feel that it will be wise for this body, who makes very careful decisions, to submit to the people at this time, when, we will say, these environmental questions are riding the wave of popularity, nobody thinks otherwise and that this is the thing to do. I fear that they might, because of the timing, they might put into the Constitution things that we would definitely regret after a more careful look.

I think that this Legislature would be well advised not to attempt to submit this to the

people as a constitutional amendment at this time. And I hope that you will vote for Report "B".

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I think when we hear about the Bill of Rights, we automatically envision a lengthy, complicated document. As it has been mentioned, it is only five lines long, and I believe it should be entered into the record of this debate. It reads, "The people have an inherent right to clean air, pure waters, enjoyment of adequate public lands, water, other natural resources and to reasonable quietude. The government of the State shall guard and conserve these inherent rights from pollution and impairment for the benefit of all the people, including generations yet to come."

I for one agree with this statement as an expression of his constitutional right. I for one would like to know if the people of Maine agree with me, and would urge defeat of the motion to accept Report "B" and subsequently ask our citizens or give them the opportunity to speak on this important question.

When the vote is taken, Mr. Speaker, I would ask for a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Emery.

Mr. EMERY: Mr. Speaker, Ladies and Gentlemen of the House: I am in a rather unusual position because I don't really care for either report. I like the wording of the Constitutional Amendment. I think it states the desired policy very nicely. But I agree with the gentleman from Perham, Mr. Bragdon, that I don't believe that the Constitution is the proper place for this declaration of policy.

Now on the other hand, I do not like Report "B" at all; I don't like the wording. I question in the first line what the words develop and utilize are going to mean in the final analysis if this is passed. I am not so sure that it should

be our intention to develop and utilize some of the lands that hopefully this is aimed at. I would like to see some of the wildlands in the State of Maine protected entirely from development and utilization. I don't know exactly what effect that particular wording would have if the bill was passed.

I do, however, believe that the State ought to set down a definite statement of policy, definite requirements, and definite standards. But it bothers me a little bit that members of the legislature and people throughout the state who are seriously concerned with the environment are more anxious to amend the Constitution or include in the statutes a very broad and essentially meaningless statement of policy rather than get down to the specifics that we need.

I would much rather see definite action taken by the Legislature, either in reclassifying bodies of water or streams in various parts of the state that would protect these specifically from specific abuses. I would also like to see the EIC set down very definite standards so that in the future when cases go to court, they will know exactly what they are going to do, what standards will apply in what places, and how the environment is going to relate to industry.

Now as I said, I prefer the wording of the Constitutional Amendment, but I can't agree that this statement belongs in the Constitution. And since I can't vote for Report "B", I don't know what I am going to do when the vote is taken. I certainly don't want to go on record as being opposed to the principles set down here. Consequently, I wish I had another choice. I am not going to move indefinite postponement because this would certainly go down in the record that I was definitely opposed to environmental legislation. But all I will say is, I wish I had the opportunity to vote otherwise.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: Mr. Speaker, Ladies and Gentlemen of the House: I

can appreciate the puzzlement of the good gentleman from Rockland, but I think if we would consider more carefully the words that were spoken here by Representative Brown, we might find the answer to this puzzle. Because I would suggest to members of the House that if we add these words to the Constitution, the effect of it will be more than just putting some nice sounding words into the Constitution. I think we should all have in mind that the Constitution is the framework against which our statutes are measured. And we all have been told time and again that various statutes that we have passed in this session and in previous sessions have been and are going to be tested in the courts as to their constitutionality.

Now I would suggest to this House that adding these words to the Constitution is vital, if we are to insure that our courts do not erode the principles that we are writing into our statutes. But up to this point we do not have any yardstick dealing with the issue of environmental concern against which our statutes can be tested, just as our statutes are tested against the traditional standards of deprivation of property without due process and that sort of test.

And so, I would suggest to the gentleman from Rockland and to all of you here that this is more than just some sweet sounding words that we ought to add. It will provide a meaningful measuring stick, a meaningful standard that we ought to have in our State Constitution. And I therefore hope that you will vote against Report "B", which I would suspect is really an effort on somebody's part just not to be against everything; and I think it really doesn't do very much, and it may actually do a little bit of harm, as is suggested by the gentleman from Rockland, in terms of talking about developing resources. So I would hope that the House would vote against Report "B" and act favorably upon Report "A".

The SPEAKER: The Chair recognizes the gentleman from Berwick, Mr. Stillings.

Mr. STILLINGS: Mr. Speaker, Ladies and Gentlemen of the House: As a signer of Report "B", I would ask, of course, that you vote in favor of the motion to accept that report.

The gentleman from Lubec, Mr. Donaghy, has indicated that the environmentalists represented to the State Government Committee at the hearing, that they were seeking, by this proposed Constitutional Amendment, a mere expression of legislative intent. I suggest, ladies and gentlemen of the House, that expressions of legislative intent are best made by the Legislature. Report "B" makes just that statement and puts it in our statutes.

I am supporting Report "B" because I firmly believe that there is a fundamental error in the approach taken by Report "A".

By establishing in the Constitution the standard of absolutely pure air and water, we would be rejecting the orderly, systematic approach to the problems of the environment established by this and past legislatures. We would lose the balance wheel whereby the demand for clean water is weighed against available technology, economics, and our duty to provide a business climate in which our people can earn a decent living.

The dangers of the hit and miss approach to the environment are obvious. Although a retreat to the Garden of Eden might have a certain nostalgic appeal, we must remember that in that garden there is no means of gainful employment, unless perhaps it is picking apples, and we have been told at this session that that is not very profitable these days.

I think that inserting this clause in our Constitution would seriously hamper Maine's ability to attract and retain industry. Any industry wanting to locate or expand in Maine must, of course, be willing to meet Maine's air and water quality standards. If Report "A" is accepted, however, such an industry would be subject to suit for infringing an alleged right to absolutely pure air and absolutely pure water, even though comply-

ing with all statutory requirements.

One can imagine the effect this would have on a potential employer. Hasn't Maine had enough difficulty in attracting potential employers without requiring such an employer to consider not only Maine's tax climate and labor situation, but the potential costs and harassment of having to defend suits based on asserted rights to pure air or water?

I find myself quite often in disagreement with some of the editorials that appear in our Portland papers, but I read one that appeared in the Portland Evening Express on March 27, 1971, and I would like to read that editorial into the record. And I will read it completely so I won't be accused of reciting out of context. It is entitled, "Legislature Should Say 'No'."

"We don't blame the Maine pulp and paper industry for stoutly opposing the proposed constitutional amendment, heard Thursday by the legislative State Government Committee, that would have given Maine citizens the inherent right to 'clean air, pure water, reasonable silence, and a healthful environment.'"

The industry people made the claim, a difficult one to dispute, that this amendment would lead to countless suits by 'pollution chasers.' And surely with this sort of legislation on the books, it would put the state at a competitive disadvantage in attracting new industry.

Regardless of what Mr. Horace A. Hildreth Jr. says, this is not just a 'general expression of philosophy' which could not be used as the basis for litigation. If this 'inherent right' is rooted in the Maine constitution, it can be defended in the courts just as the right of free speech and jury trial and other constitutional rights are judiciable. Moreover, there is a companion bill that would give persons the right to sue alleged polluters without even having to prove special damages.

Finally, there is the problem of the definitions found in the proposed amendment, which we trust will not get the necessary two-thirds vote in the legislature. What

is 'clean air,' anyway? What is 'clean water' — must it be Class A, under the classification laws, or would a court say that B-1 water is sufficiently clean to satisfy the constitution? And what judge is ready to define 'reasonable silence?' As Richard Whiting of the Oxford Paper Company said, this is opening up Pandora's box with a vengeance."

I believe that the approach taken by Report "A" would, as the editorial says, benefit only pollution-chasing lawyers and would substitute a no-standard, no-rule approach to pollution control subject to the interpretation of every court in the state.

I urge you to vote to accept Report "B".

The SPEAKER: The Chair recognizes the gentlewoman from York, Mrs. Brown.

Mrs. BROWN: Mr. Speaker and Members of the House: I would like to try to rebut a few of the remarks of Mr. Stillings. In the first place, if states like Illinois, New York, Pennsylvania, have passed a similar kind of phraseology, they certainly have industries that they should have been worried about too, if these devastating effects were going to happen there. This has not taken place. There have not been frivolous suits.

I would also read to you Article I of the Declaration of Rights. I read this to you because these are goals of our society; none of them have been attained completely. They are goals. "All men are born equally free and independent, and have certain natural inherent and inalienable rights." We haven't found all the answers to these and we haven't given everybody all these rights. We have been striving to do this.

This is what my Environmental Bill of Rights strives to do. I do not see how, when it states in our statutes that your pulp companies who are on these streams that we have reclassified can believe that a court would entertain a suit if they have complied with the law by 1976. If they haven't, then they should be brought into court.

The other thing I would like to speak to is Mr. Bragdon's fear that we are doing this in a mo-

ment of emotion. I wonder what would have happened if we had waited at the time of our first Bill of Rights, or our own Declaration of Rights here, for everybody to have stopped worrying about their religious and their personal freedoms. We would have had no Bill of Rights. So I say to you that we should, when people have a deep interest in this, consider this as a very legitimate thing to be a part of our Constitution.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I am not puzzled by these reports. I am a bit amazed. I believe that Report "A", I can't even stretch my imagination far enough to think this could begin to get two thirds, so I am not too concerned with that. I believe it couldn't get any vote with the people, and it certainly couldn't get two thirds of this House.

Now as for Report "B", I don't feel it is necessary. I don't think it does anything, any better in improvement than what we now have. As a matter of fact, from what you have already been told I think it may even make it worse. So far as I am concerned, I think we would be doing the people of the State of Maine a great favor if we were to knock off both "A" and "B" and we would live the way we are now.

And if these people are having so much trouble with the environment there, I might suggest that they probably better move to the island of Goona Goona or some place like that, because there are certain people in this state that do have to work for a living and they do have industry. And industry does have to have smoke and does have to have water. And as long as these people are in great numbers in this state they do have to have jobs, and so forth.

It seems to me these environmentalist people are few in number and it would be easier for them — and they seem to most of them have money — it would seem to me it would be easier for them to find a nice location where there was just birds and bees on



some remote island like Goona Goona, than it would be to move all these people that are working in these industries that do depend on this to raise their family and so forth.

So I hope in the final analysis that the intelligent people in this House will do away with both of these reports.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. Farrington.

Mr. FARRINGTON: Mr. Speaker and Ladies and Gentlemen of the House: I think Mrs. Brown has really hit it right on the head when she said that these are goals. They are definitely goals, and she read Article I, Section I, and if you will just quickly breeze through the addition we are putting into the Constitution in Report "A", I think you will see that these are definitely goals to be attained.

And in answer to Mr. Stillings and Mr. Donaghy, I listened to the same testimony and read that same editorial, so I left the House for about a half an hour to go down to the Attorney General's office, because I had some of the same doubts. And they assured me down there that people who use that type of an argument would simply be trying to kill the bill.

Report "B" is not doing any more than what we have now. If people are really concerned with the government taking an interest in alleviating some of the people that we have in our society now, environmental problems, they would go for Report "A", and this would give the courts at least some basis, a policy that they can fall back on and test our statutes. So I urge you to vote for Report "A" if you are really concerned with the environment.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker and Ladies and Gentlemen of the House: I am quite disturbed over this whole thing. As far as I can see, each individual in this House has been living in pollution since they were born. We are sitting here in this House in pollution. The mere fact that we sit so close together, which is in complete disregard of

what we demand for our school children in school. This thing has gone way beyond what we expected in the last session.

I could go on and downgrade this bill and find the faults that are necessary to convince you. I won't attempt to do it. I simply move indefinite postponement of the Resolution and all its papers.

The SPEAKER: The pending question now is the motion of the gentleman from Eastport, Mr. Mills, that both Reports and Resolution be indefinitely postponed.

The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Ladies and Gentlemen of the House: Before the vote is taken I would like to question the remark that was made that other states have adopted this form of legislation. And New York State was mentioned as one, and I can see why they have adopted it. But I question that there are no frivolous suits in any of the states regarding pollution in its various forms.

This week Consolidated Edison of New York has undertaken an extensive advertising program to persuade all of its customers, residential and industrial, to reduce their use of power. And why? Because Con Edison cannot build a power plant in its area. No one wants it. And I am sure we will have the same effect in Maine.

The SPEAKER: The pending question is on the motion of the gentleman from Eastport, Mr. Mills, that both Reports and Resolution be indefinitely postponed. The yeas and nays have been requested. For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. All members desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Eastport, Mr. Mills, that both Reports and Resolution Proposing an Amendment

to the Constitution to Provide for an Environmental Bill of Rights, House Paper 751, L. D. 1020 be indefinitely postponed. If you are in favor of indefinite postponement you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

**YEA** — Albert, Bedard, Bernier, Berry, G. W.; Berube, Binnette, Birt, Bither, Boudreau, Bourgoin, Bragdon, Brawn, Bunker, Call, Carey, Carrier, Churchill, Clark, Conley, Cote, Cottrell, Curran, Cyr, Drigotas, Dudley, Emery, D. F.; Emery, E. M.; Evans, Fecteau, Fraser, Gauthier, Genest, Hall, Hancock, Hardy, Hawkens, Henley, Herrick, Immonen, Jutras, Kelley, P. S.; Keyte, Lawry, Lebel, Lee, Lincoln, Lynch, Manchester, Martin, McKinnon, McNally, Mills, Mosher, Norris, O'Brien, Page, Pontbriand, Rand, Rocheleau, Rollins, Santoro, Scott, Shaw, Shute, Simpson, L. E.; Smith, D. M.; Theriault, Trask, White, Wight, Williams.

**NAY** — Ault, Bailey, Baker, Barnes, Bartlett, Brown, Bustin, Carter, Clemente, Collins, Cooney, Crosby, Cummings, Curtis, T. S., Jr.; Dam, Donaghy, Dow, Doyle, Dyar, Farrington, Finemore, Gagnon, Gill, Good, Goodwin, Haskell, Hayes, Hewes, Hodgdon, Kelleher, Kelley, K. F.; Kelley, R. P.; Kilroy, Lessard, Lewin, Littlefield, Lucas, Lund, MacLeod, Maddox, Mahany, Marsh, Marstaller, McCloskey, McCormick, McTeague, Millett, Morrell, Murray, Orestis, Parks, Payson, Porter, Pratt, Ross, Sheltra, Silverman, Simpson, T. R.; Slane, Smith, E. H.; Starbird, Stillings, Tyndale, Vincent, Wood, M. W.; Wood, M. E.; Woodbury.

**ABSENT** — Berry, P. P.; Curtis, A. P.; Faucher, Hanson, Jalbert, Lewis, Lizotte, Susi, Tanguay, Webber, Wheeler, Whitson.

Yes, 71; No, 67; Absent, 12.

The **SPEAKER**: Seventy-one having voted in the affirmative, sixty-seven in the negative, with twelve being absent, the motion to indefinitely postpone does prevail. It will be sent up for concurrence.

Mr. Ross of Bath presented the following Joint Resolution and moved its adoption:

#### Order Out of Order

**WHEREAS**, the members of this Legislature are saddened to learn of the death of a longtime friend and associate, Howard E. Kyes of Wilton; and

**WHEREAS**, Howard Kyes possessed in great abundance many rare qualities, some of which, including civic mindedness and promotion of community, marked him a leader among men; and

**WHEREAS**, he has won, on the basis of many years of outstanding service, the affection, gratitude and admiration of all who knew him and whose lives he enriched; and

**WHEREAS**, May 3, 1971 marked the termination of his remarkable earthly career but retracts not from the place he holds in the hearts of those he served so industriously, efficiently and unselfishly during his lifetime; now, therefore, be it

**RESOLVED**, that the members of the One Hundred and Fifth Legislature, now assembled in regular session, speaking personally and on behalf of this Legislature and the citizens of Wilton and the State of Maine, join in expressing heartfelt sympathy to the family of the late Howard E. Kyes and our deep understanding to others who share in the loss; and be it further

**RESOLVED**, that a suitable copy of this resolution be transmitted forthwith to said family in honor of his memory. (H. P. 1304)

The Joint Resolution was taken up out of order by unanimous consent, read and adopted and sent up for concurrence.

Mr. Scott of Wilton was granted unanimous consent to address the House.

Mr. **SCOTT**: Mr. Speaker and Ladies and Gentlemen of the House: On behalf of the family of Howard Kyes I want to thank you for this kind expression of sympathy. I know my wife, Maxine, will appreciate this recognition of her father, and I thank you very much.

The Chair laid before the House the sixth tabled and today assigned matter:

An Act to Create the Bangor Parking Authority (H. P. 890) (L. D. 1229)

Tabled—May 3, by Mr. Kelleher of Bangor.

Pending—Passage to be enacted. (Emergency)

On motion of Mr. Norris of Brewer, retabled pending passage to be enacted and specially assigned for Friday, May 7.

The Chair laid before the House the seventh tabled and today assigned matter:

An Act relating to School Construction Aid (S. P. 152) (L. D. 421)

Tabled—May 3, by Mr. Martin of Eagle Lake.

Pending—Passage to be enacted.

On motion of Mr. Marsteller of Freeport, retabled pending passage to be enacted and tomorrow assigned.

The Chair laid before the House the eighth tabled and today assigned matter:

An Act relating to Definition of Retail Sale under Sales and Use Tax Law (H. P. 898) (L. D. 1218)

Tabled—May 3 by Mr. Martin of Eagle Lake.

Pending—Passage to be enacted.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Collins.

Mr. COLLINS: Mr. Speaker, I move that this bill together with all accompanying papers be indefinitely postponed, and would speak to my motion.

The SPEAKER: The gentleman from Caribou, Mr. Collins, moves that L. D. 1218 be indefinitely postponed. The gentleman may proceed.

Mr. COLLINS: Mr. Speaker and Ladies and Gentlemen of the House: This bill which was heard before the Taxation Committee has not been debated on the floor at any time, and it now appears before us for enactment. While some of you are familiar with it, I am sure that some may not be well acquainted with it. The title of the Bill, "An Act relating to Definition of Retail Sale under Sales and Use Tax", certainly doesn't tell very much about it.

What the bill does is to exempt from the sales tax electricity when it is used in an electrolytic process for the manufacture of tangible personal property for

later sale. Now the present law does exempt tangible personal property which becomes an ingredient, or is consumed in the manufacture of a product which is to be later resold.

At the moment, this legislation is directed toward the benefit of Sobin Chlor-Alkali Company who produce chlorine and caustic soda. Salt and water are combined with direct current electricity which changes the ingredients into chlorine, caustic soda, and hydrogen.

Now the proponents of this legislation present a logical case when they ask that electricity that is consumed electrolytically to create a manufactured product be considered a raw material and not be subject to the sales tax. However, the existing law concerned itself only with tangible personal property incorporated into a manufactured product and not electricity in any form.

Now after having listened to the Aid to the Elderly bills, and listened to other needs of the state with respect to funds, I am confident that the Legislature will provide some relief in these particular areas, and that it will cost real money. Now if we pass the bill now before us it will result in a loss of revenue to the state of \$115,000 per year. I am not at all sure that we can stand to lose this revenue.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker and Ladies and Gentlemen of the House: I have been tabling this particular item in order to find out what the State of Maine was getting itself involved in. I had no intention of making a motion to indefinitely postpone, and I was not aware that the gentleman from Caribou was going to do it. I thought that before we passed this bill for final enactment, that we ought to know that perhaps we are opening the door to something in the future.

Under existing law you will find, at the present time, that both fuel and electricity are taxed when going to a manufacturing operation. The question was asked to the Bureau of Taxation,

“What would happen if the exemptions were removed for everyone dealing with any product which uses fuel and electricity?”

And let me read what they say. “It is estimated that the yearly sales and use revenue on the sale of fuel and electricity to manufacturers would be in the vicinity of \$2 million per year. Under sales and use tax law, all fuels, as well as electricity used in manufacturing, are subject to the tax. The most common types of fuel would be oil, coal and gas. Fuel and electricity are generally used in manufacturing as a source of heat for drying, cooking, et cetera, and as a source of energy to power motors or machines.”

Now obviously this bill does not go that far. It merely says that when electricity is used for one particular purpose, obviously referring to the plant in Orrington, but what I am concerned about and what perhaps we ought to think about before we finally enact this bill today, is whether or not next trip around if we give them this privilege, whether some other industry will be back and suggest to us that they also ought to be exempted. And what I am saying is that if we exempt all of them that use electricity and fuel, then we will lose a total of \$2 million per year.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: This bill seemed to be going along quite well in this body, and it appears to me that there has been some organized opposition to it.

This involves an industry in a small community; it employs 55 people. It gives these people an excellent living; and this industry uses, mind you, \$6,000 worth of electricity a day. That is more than the average home would use in sixty or seventy years. It is not an unreasonable request, to have this exemption made. It had an excellent hearing in Taxation — I was down there. There was a Majority Report come out on it. And if I can remember correctly, there was absolutely no objection

to the bill when it was heard, not even from the Taxation Department.

So I hope this morning that we continually pass this bill, and I oppose the motion of the good gentleman from Caribou, Mr. Kelley, and I ask for a division when it is taken.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Morrell.

Mr. MORRELL: Mr. Speaker and Members of the House: There seems to me there is another principle here, and I rise in support of Mr. Collins for indefinite postponement.

Sitting on the Taxation Committee, you quickly become aware of the fact that there is an endless parade of people and organizations that come before the committee asking for an exemption. And one of the real dilemmas is that, unfortunately for the State of Maine, many of these things make a lot of sense. But from a practical standpoint, if we entertained them all, I think at the present time if we totalled the present requests for relief or exemptions, they would total in excess of a million dollars. And we would quickly get to the point where we have to make a major increase in the existing taxes or institute a new tax source.

Now I think that we somewhere along the line have to be much more orderly than to entertain particularly one of this scale as an individual case. We have already had a manufacturer of molybdenum, which is an extremely fine wire used in lamps, state to me that if this passes, this exemption, this company would quickly come forward to request the same exemption having to do with the electricity used in the manufacturing process.

So I submit to you that we could really open the box if we passed this kind of legislation. And I would hope that you would go along with the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen of the House: As one of the signers of the "Ought to pass" Report, I think I should say a word or two. I spent twenty years in the manufacturing business. We used heavy and very large, expensive machine tools. We had to pay a use tax on those. We paid a sales tax on all of the electric power we used. However, the materials that we used up in the manufacture of our products were exempt.

Now this corporation is a very strange operation. They will continue to pay for the electricity to heat their plant and to power their machines. But the electricity used up in this electrolytic process is just exactly like the raw materials you use in other types of business. So I think it is logical to treat this bill like other raw material bills, and I have no idea how it would fare once it reached the Appropriations table, but I certainly think it should end up there.

The SPEAKER: The Chair recognizes the gentlewoman from Orrington, Mrs. Baker.

Mrs. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 1218 is a bill that deals with the definition of retail sale under the Sales Tax Law. I shall try, as briefly as possible, to explain the purpose of the bill and to show you the justice of passing it.

The bill at this time is of primary benefit to one industry in Maine, although it would benefit others to come. This industry, Sobin Chlor-Alkali, is located in Orrington and is an important industrial addition to my town. It is a good, clean industry which does not ask any favors of the town. It employs 55 people, with an expenditure contributed to the Maine economy of over \$3 million annually. It produces chlorine and caustic soda, chemicals which are important to many industries, in large quantity — about 10 tank car loads a day.

The manufacturing process is very simple in principle. Electricity is passed through a solution of salt water, breaking apart the

elements of salt, sodium, and chlorine, which are refined and combined into the finished products. The use of electricity in this way is called electrolysis, the word used in L. D. 1218 to describe the process.

Here is the distinction between this use of electricity and other ordinary uses of it. Electricity used for heat and to run motors and for lights in manufacturing, represents, in a way, the final use of the electricity. This ordinary use of electricity in connection with any manufacturing process is indirect at best. In an electrolytic process, on the other hand, the use of electricity is direct. The electricity is actually consumed directly in the manufacturing process.

Mr. Speaker and members, you may be aware of the fact that other things consumed directly in a process for the manufacture of personal property for later sale are exempt from sales tax. For example, I am told that in the manufacture of paper, the sales of such things as pulp, wood and chemicals, and even felts and lubricants are not taxable because these things either become ingredients of the paper or are consumed or destroyed in the process of making the paper.

Now here is a product — electricity — used and consumed just as directly in the manufacture of a product for later sale as pulp, wood, chemicals and lubricants are; yet it is subject to tax, and these things, pulp, wood, chemicals, and so forth are not. That is why this bill which would change that is fair.

This use which Sobin Chlor-Alkali makes of electricity to separate the elements of salt from one another by electrolysis represents a new and different use of electricity which was undoubtedly not anticipated when the sales tax law was drafted some years ago.

Again, L. D. 1218 says simply that electricity used directly in this manufacturing process, not, it should be emphasized, electricity used even by Sobin for such things as running motors or lights, but only electricity directly used and separately metered in the electrolytic manufacturing process should

be treated just like other major items of personal property are treated which are used up directly in the making of personal property for later sale.

This bill means much to Sobin Chlor-Alkali in particular, and indirectly it means much to many other industries in Maine, especially paper companies which directly benefit from the lessened freight they must pay for the chlorine and caustic soda they use in their process, whether or not they purchase these items from Sobin, by the way. I am told that these freight savings to Maine industry amount to \$1 million per year.

This bill has broad support from many sections of the state. It has the sanction of Ernest Johnson, the State Tax Assessor, as an administratively feasible bill.

There is precedent, too, for a sales tax exemption which primarily benefits one company. In 1965 and 1967, the legislature passed bills to exempt from sales tax certain materials purchased for the construction and repair of ships, helping primarily Bath Iron Works in competition with out-of-state boat builders. This bill does not ask for as much. It does not ask for favored treatment, only equal treatment.

But we do not need to look for any reasons beyond the bill itself to justify it. This is a fair bill. It merely treats this Maine industry, based on this special use of electricity, the same way that all other Maine industry is treated. While there will be some reduction in revenue to the State — \$77,000 in 1971-72 and \$115,000 in 1972-73, the bill would eliminate an injustice in the way this one industry is treated. The bill is fair. The bill will benefit Maine industry in several important ways. And I think that some of the statements that have been made here today saying that other industries will be in and ask for exemptions of the ordinary use of electricity are simply red herrings, adding to the cost of this Legislature.

Mr. Speaker, I hope that members will vote against the indefinite postponement of L. D. 1218, and when the vote is taken I ask for a division.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker and Members of the House: Like the gentleman from Bath, Mr. Ross, I signed the "Ought to pass" Report. After listening to the opponents and the proponents of the bill, I thought it was a very fine bill and very just.

One thing I might mention that hasn't been mentioned today, and to shorten it up, all of the products from this plant are used in the State of Maine, and I believe most of it goes to Old Town, so therefore we are holding it in the state, we are holding the business in the state and we are giving the railroads — this is all done by rail — we are giving the railroad something to hold onto. And I hope you will go along with the "ought to pass" and vote against the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McCloskey.

Mr. McCLOSKEY: Mr. Speaker, Ladies and Gentlemen of the House: I am a member of the Taxation Committee and a signer of the "Ought not to pass" Report, and I therefore support the motion of the gentleman from Caribou, Mr. Collins, that this bill be indefinitely postponed.

The industry that we are talking about is in my area, and I am concerned about this industry. I asked the man who is the executive head of this industry whether the benefits to the company, in terms of exemptions of sales tax, would be passed on to the consumer or to the worker, and he assured me that they would not. Also, the committee asked the gentleman if the industry would be critically hurt if they did not gain this exemption. They also assured us that this wasn't the case.

I think we are talking about a loss of revenue, and that is the problem that we are confronted here with today. We are talking about \$115,000 this year, and since the cost of electricity is going up that means that the exemption will be greater in the future.

The gentleman from Brunswick, Mr. Morrell, also pointed out that he knew of at least one case where another industry would qualify for this exemption. So I think in this year and in this time, we cannot afford \$115,000, even though this industry might present a fairly logical case. The money is too much.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I could concur wholeheartedly with the gentlewoman from Orrington, Mrs. Baker. I definitely believe that this is a raw material, as the other speakers have said. And I would hope that you would vote against indefinite postponement and pass this bill to be enacted and let it go to the Appropriations table and take its chances along with the other pieces of legislation that are going there.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker and Members of the House: I was one of the signers of the "Ought to pass" Report. Now I am going to be very brief. I think you have all heard from both sides and especially from Mrs. Baker, the sponsor of this bill.

In the Taxation hearing, I did interpret the remarks made by the gentleman from Sobin Industries as saying that this would be of benefit to their company and that their company is operating very close now as far as the margin. The other thing they brought out was that to produce the same product, the next place to buy this would be in the State of New Jersey. This would increase the cost of freight rates to the present industries in the state which use their materials, which is mainly the paper companies.

Now Mrs. Baker has brought out the fact that there are 55 people employed in this plant, with an annual payroll of approximately \$3 million a year. I submit to you people that \$115,000 of tax relief, should this bill go beyond the Ap-

propriations table, is not too much for the consideration of \$3 million in a payroll in the state.

What is being speculated as to bills being introduced in the future? This has no bearing on this. There is nothing before us now in this legislation, in this session, that asks for any other industry to be exempt from this. And I say that we shouldn't at this time think of what is going to be presented. Let us act on the bill that is before us. This is a good bill, it does deserve passage; and this company does deserve the benefits of just what the other companies derive out of the sales use tax law.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Cottrell.

Mr. COTTRELL: Mr. Speaker and Members of the House: I must say that this petition for an exemption is the most equitable and logical exemption that we could possibly make. The only question is, can you afford it this year? I voted that this bill—my committee vote was that this bill should pass, and you have to decide whether or not you can afford it.

I feel very sympathetic towards this industry. And it also brings to mind the fact that our sales tax structure in relation to manufacturing should have a definite overhauling.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Morrell.

Mr. MORRELL: Mr. Speaker and Members of the House: Just to clear a couple of points. At no time in the hearing did this company infer that if they did not get this there would be any danger of their going out of business. They are a division of a major, national concern. We did ask them if they could break out some of their P. and L. figures on this division. We did get a reproduction of a comment about how close to the wire this particular division was, but we got no real, concrete P. and L. figures to indicate any serious condition with the company or with the division.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Silverman.

Mr. SILVERMAN: Mr. Speaker, I would like to ask a question through the Chair.

The SPEAKER: The gentleman may pose his question.

Mr. SILVERMAN: How do other states treat this form of manufacturing in their sales tax laws, states where this same type of product is produced?

The SPEAKER: The gentleman from Calais, Mr. Silverman, poses a question through the Chair to anyone who may answer if they choose.

The Chair recognizes the gentleman from Orrington, Mrs. Baker.

Mrs. BAKER: Mr. Speaker, I have a statement from the company that says, "Our nearest competitors are located in states that do not tax electricity consumed in the electrolytic process." And I do not have a list of those states right here, but I believe it to include New York and New Jersey, their nearest competitors.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Drigotas.

Mr. DRIGOTAS: Mr. Speaker and Members of the House: I too signed the "Ought not to pass" Minority Report. I did it for this reason, because before the Taxation Committee at this session, we had so many worthwhile bills to help the elderly, I wonder where that money is coming from. We constantly see our tax base eroded. If I have got the figure correctly from the Minority Leader of the House, this will involve eventually something like \$2 million. And \$2 million is the price tag of either one of seven or eight bills that we have before us for relief of the elderly.

I do hope you vote against this measure.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Collins.

Mr. COLLINS: Mr. Speaker and Members of the House: I would first like to correct Mr. Kelleher's wording of the gentleman who

made the motion, it was the gentleman from Caribou, Mr. Collins and not Mr. Kelley.

Secondly, I should like to point out to you two or three of the exemption problems that perhaps you might consider when you vote on this particular issue. For example, we have before us a bill that would provide for exemption of gas when used for fuel or heat. Now at the present time, in the present law, we do exempt fuel oil when it is used for the same purpose. So I can assure you that the people that asked to have gas exempt for a very similar purpose make a very good argument. And this is in an instance where it would affect a great number of people. And yet the committee saw fit not to entertain this exemption.

Now I submit that this exemption that we are talking about today is a very special interest, limited type of exemption that favors one particular industry in the State of Maine at the moment and will, in time, favor others. And it is going to cost the state a lot of money if we decide to act favorably upon this legislation.

So I should advise you in closing that it is to your best interest to vote for the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: To answer Mr. Morrell's question, I can speak for the community of Brewer about a subsidiary of a large national corporation, and when the going got tough, they pulled out and were gone. So this can happen anywhere.

I would go on further to say that ninety percent of the products produced here are used by the Maine paper industry. There is a serious worldwide shortage of these products. The source of supply is vital, very vital to our paper industry, and there are no other chlorine producers in the State of Maine. Our nearest competitors are located in states that do not tax electricity consumed in the electrolytic process.



The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Bernier.

Mr. BERNIER: Mr. Speaker and Members of the House: It seems to me that today the question is not whether we can afford this exemption but whether it is legal and justified. We are the judges of whether they are legally exempt from this taxation, and from the debate I should think that they are. Whether we can afford it or not is not the question.

Mr. Drigotas of Auburn requested a roll call vote.

The SPEAKER: The yeas and nays have been requested. For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. All members desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Caribou, Mr. Collins, that An Act relating to Definition of Retail Sale under Sales and Use Tax Law, House Paper 898, L. D. 1218, be indefinitely postponed. If you are in favor of indefinite postponement you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEA — Bartlett, Bedard, Berry, G. W.; Binnette, Bither, Bourgoin, Bragdon, Call, Clark, Collins, Cooney, Crosby, Doyle, Drigotas, Emery, D. F.; Emery, E. M.; Evans, Farrington, Fecteau, Fraser, Gauthier, Genest, Good, Goodwin, Henley, Kelley, P. S.; Lebel, Lesnard, Lucas, Mahany, Manchester, Marsh, Martin, McCloskey, McKinnon, McTeague, Morrell, Orestis, Page, Parks, Rand, Rocheleau, Scott, Slane, Smith, E. H.; Stillings, Theriault, Vincent, Wight, Woodbury.

NAY—Albert, Ault, Bailey, Baker, Barnes, Bernier, Berube, Birt, Boudreau, Brawn, Brown, Bunker, Carey, Carrier, Carter, Clemente, Conley, Cote, Cottrell, Cummings, Curran, Curtis, T. S., Jr.; Cyr, Dam, Donaghy, Dow, Dyar, Fine-more, Gagnon, Gill, Hall, Hancock,

Hardy, Haskell, Hawkens, Hayes, Herrick, Hewes, Hodgdon, Immonen, Jutras, Kelleher, Kelley, K. F.; Kelley, R. P.; Keyte, Kilroy, Lawry, Lee, Lewin, Lewis, Lincoln, Littlefield, Lizotte, Lund, Lynch, MacLeod, Maddox, Marsteller, McCormick, McNally, Millett, Mills, Mosher, Murray, Norris, O'Brien, Payson, Pontbriand, Porter, Pratt, Rollins, Ross, Santoro, Shaw, Shelta, Shute, Silverman, Simpson, L. E.; Simpson, T. R.; Trask, Tynedale, White, Wood, M. W.; Wood, M. E.

ABSENT — Berry, P. P.; Bustin, Churchill, Curtis, A. P.; Dudley, Faucher, Hanson, Jalbert, Smith, D. M.; Starbird, Susi, Tanguay, Webber, Wheeler, Whitson, Williams.

Yes, 50; No, 84; Absent, 16.

The SPEAKER: Fifty having voted in the affirmative and eighty-four having voted in the negative, with sixteen being absent, the motion does not prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. (Later Reconsidered)

The Chair laid before the House the ninth tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (12) "Ought to pass" with Committee Amendment "A" (H-196); Minority (1) "Ought not to pass" — Committee on Health and Institutional Services on Bill "An Act to Improve the Efficiency and Fairness of the Local Welfare System" (H. P. 741) (L. D. 1003)

Tabled—May 3, by Mr. Norris of Brewer.

Pending—Motion of Mrs. Payson of Falmouth to accept Majority Report.

The SPEAKER: The Chair recognizes the gentlewoman from Falmouth, Mrs. Payson.

Mrs. PAYSON: Mr. Speaker, I would like to raise a point of order, please. Do I debate this after the vote on accepting the Majority Report?

The SPEAKER: The gentlewoman may proceed.

Mrs. PAYSON: Mr. Speaker and Members of the House: Before the debate on this bill is launched, I would like to report to you what

happened in committee on this particular bill. The committee report was signed out twelve "ought to pass" and one "ought not to pass."

Before the committee signed out this bill, I checked with the city welfare director and a gentleman who directs welfare in a town. Both of them felt that this bill was acceptable as amended. However, I did not contact anyone in a small town. Some of the members of the House representing smaller towns feel that the passage of this bill will present real problems to them. We did not know their feelings at the time that the committee reports were signed, and I hope you will take this into consideration and listen carefully to the debate which is coming up.

The SPEAKER: The Chair recognizes the gentlewoman from Newport, Mrs. Cummings.

Mrs. CUMMINGS: Mr. Speaker and Members of the House: I come from an extremely small town, and we don't consider this is going to be bad at all. I checked with the selectmen and they figure that this is exactly what they have been looking for for a long time, that it at last gives them the rights of setting up their own regulations as to who and who is not going to be eligible for welfare. They are looking forward to the passage of this bill.

I did not check just with one town, but with several towns of similar size. And I think that it is the kind of thing that is going to be welcomed with open arms. Not only is it good as far as the municipalities are concerned that they can make their own regulations, helped by some guidelines that will come from Maine Municipal, or from some other welfare groups that will help them make their guidelines; but it will be extremely useful because, once again, the local authorities feel that they will have a chance then to see that this is not abused, and that those who are justified in getting this welfare get it, and those who perhaps would like to take advantage of it are prevented from doing this on a very objective way, so that those who are refused they will have some recourse to written regulations. They will know that they are bucking

against a regulation that was made objectively and that they are not being discriminated against for any personal reasons.

So from the Newport 2,000 population size town, and several other towns about the same size, we like it.

The SPEAKER: The Chair recognizes the gentleman from Parsonsfield, Mr. Pratt.

Mr. PRATT: Mr. Speaker and Members of the House: I represent six towns in northwest York County about half of the size of the previous speaker's — towns which she represents. My towns feel that it would cause a hardship on them in the dispensing of welfare. We feel that in these small towns where the selectmen know everyone in town, that they could handle it on a local level certainly better than having their rules dictated.

I have been told that this little gem was drafted by the Pine Tree Legal Association, and I would like to quote a little story about local welfare that happened in my town just this last Saturday.

As you probably know, I am one of the last remaining selectmen in the House — and I might add that I am also Overseer of the Poor, but not an assessor. Our town office is located in a very rural area, and it is just a few farms in the outlying district. This was because it was built some hundred years ago.

And as we were having our selectmen's meeting last Saturday, and we were just winding up all the affairs, about to lock up, this Massachusetts car came wheeling in the yard. And we recognized the gentleman as being a Mr. O'Leary from Boston who owns a farm in the area. And he came in really all out of breath. And he says, "I have a problem, gentlemen. I have a farm up here, as you know, on such and such a road." He says, "I have been up there to inspect my property. We are up here for the weekend, and I have found a sheep tied up to a tree in my yard, and I have also found a little shed up back, an old hen house which has a lot of government surplus food stashed away in it." He said,

“What do you think could have caused this?”

Well, my immediate appraisal was that somebody was about to make a lamb stew. So we locked up the town hall and went down on this dirt road, and this was about as far as you can go this time of year by car. And we noticed — we were recollecting on the way down that we had had several cases stolen from the town house which is not surprising, because it is seldom the windows are locked in it; and it wouldn't do any good if they were, they are so loose.

And we noticed that a case of dried milk, several cases of dried wheat had been taken. We also recalled that we had a part-time welfare recipient that lived some half to three-quarters of a mile beyond this O'Leary house on a very muddy road. And he is a hippie-type fellow that came up from Boston a year or two ago, and he has a woman down there with him, supposedly his wife. And during the summer months when the weather gets better, they have a lot of friends and relatives come up from Boston, sort of a commune type of thing that you read about so much nowadays.

Well, we got down, and we began to assess the situation. I hate to use that word. We decided that the road would be passable only probably on horseback. And as the sheep looked like a short legged one we figured the sheep probably didn't want to be led down there, so he had left it up to his neighbors. But this didn't account for the surplus food that was stashed away in the shed.

Well, we went back to the town house and called the State Police, and the officer in our town — it was his day off, his wife answered the phone and she said she wouldn't let him out for anything short of a revolution. So we didn't want to call the sheriff's department because this was sort of a lackluster thing, and we figured, not being near election time, they wouldn't care to participate. So we got the local constable to come over and get the sheep and take it to a sheep herder for board.

Now our problem is, our welfare recipient, or part-time recipi-

ent, surplus food recipient is mudded in on this road, and when the mud dries up if we send in an officer and ask for his arrest and incarceration we know immediately that Pine Tree Legal will spring him, and we will have on our hands a dependent sheep and probably a dependent hippie wife.

I believe that the selectmen in every town, they know the people, they know the welfare recipients, and I believe that this can be handled on the local level. And I now move for the indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The gentleman from Parsonsfield, Mr. Pratt, now moves the indefinite postponement of both Reports and Bill.

The Chair recognizes the gentleman from Strong, Mr. Dyar.

Mr. DYAR: Mr. Speaker and Members of the House: This bill was heard fully by the Committee on Health and Institutional Services. The proponents of the bill that day left some question in my mind as to the effect of the legislation. It was testified that basically the selectmen were the Simon Legree's in the state, they were not giving the people their just rights as far as local welfare was concerned.

I questioned them if they thought it was the right thing to do to have the people who were saying no to them all the time set up rules and regulations, and they felt it was. I feel that the way this bill is written at the present time, the local town officers in small towns and large towns can get together and draw up a set of rules and regulations that will guide towns.

Now at the present time if each town in the state goes on their own happy way, I can see having 490-some different sets of rules and regulations. I spoke to Mr. Salisbury of the Maine Municipal Association back the first of April on this matter and he said that the Maine Municipal was meeting the following week and they were bringing it up. But I haven't heard a thing from him since.

I think it is sort of foolish to indefinitely postpone this bill at the present time when we do have

an instrument here now that will allow the selectmen to set up rules and guidelines where they can state what they will pay for fuel for a week for a family of four, or for groceries to supplement an ADC check or welfare check. It may not be the best bill in the world to pass, but I think it is a start where it will give the people at the local level a little more say in local government and local welfare.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Kelley.

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: This bill would have each municipality set the rules and regulations for eligibility standards for local welfare assistance. The original bill had in it that after this bill should have become law — became law, that within six months after that the Department of Health and Welfare would then have to okay these rules and regulations.

This provision has been deleted and I concur as the sponsor of the bill that it be deleted. The eligibility standards for local welfare assistance will make it easier, not only for applicants, but for welfare officials. And they will know who is entitled to relief, and what criteria to meet to qualify for relief.

Now there are several reasons why this bill was introduced. One is, as many of you are well aware, some people may be arbitrarily denied relief who perhaps should receive relief. But on the other hand there are many who may be now receiving local welfare relief who should not be receiving it. This is mainly due to the fact that local welfare officers have no standards or guidelines to help them in determining who should receive assistance. Already several towns and cities have set their own guidelines; Bangor, Presque Isle, Ashland, Limestone and Van Buren to name five.

Now it has been pointed out, and I mentioned yesterday in discussing a bill, that sometimes we are ruled here by rhetoric rather than the facts. The bugaboo here has been raised that this is a

Pine Tree bill. I would point out to you that if you vote against this bill you might be very well voting for the interests of Pine Tree, and I will point out why. There is absolutely no control, if this bill passes, in the state. This leaves it completely to the towns, municipalities, cities, villages, and whatever, to set their own guidelines to draft their own guidelines, to okay their own guidelines as to who receives welfare assistance.

It is not state directed; it is local directed. You the selectman, if you are a selectman, would draft these rules. You would not have to be subject to any control from any higher body. So that is not a problem.

Now it was pointed out that in the case of small towns that it might be too costly for them, that it might be difficult to administer, that they are going to have Pine Tree lawyers after them. Well, I would like to talk about that for a second. I would first like to point out that there is a recent Federal Court decision which states that guidelines are necessary for towns and cities. The reason for this is that governmental fair play requires that both the town and the welfare applicants at least know the rules of the ball game; who qualifies and who would not qualify.

As to the matter of money, this bill costs not one cent. In fact, in those cases, should this go through, where there are applicants and recipients now on relief who should not be receiving it, it might save the towns some money. It could increase the welfare costs in those occasions where towns are now arbitrarily denying relief.

Now some would say that because some towns do not have town managers, that the selectmen are unable and unknowing in the welfare area. I would point out now for many years the selectmen have been dealing with local welfare relief; that they have been deciding, as was well pointed out, who was to receive it, who was not to receive it. So I don't think this would be any tremendous burden upon them to make a decision, and according to their own rules and

guidelines as to who was to receive it.

Now again, the scapegoat of the Pine Tree has been raised again. I would point out that in my home county of Aroostook that the Pine Tree Legal Association brought a suit by a welfare applicant within the last year in United States Federal Court under Judge Gignoux against the Town of Van Buren, because an applicant had been unfairly denied relief. The case has been resolved in favor of the town, for one reason only. And that one reason is that that town happened to have guidelines of eligibility. And I can assure you that if that town had not had those guidelines, the town would have lost the case to Pine Tree and the welfare applicant.

As you will note, Mrs. Payson said that this came out a 12 to one vote in favor of the bill as amended, which I agree with the amendment. I have talked to the minority signer of it, Dr. Santoro, as to his reasons for objection. And I don't like to misinterpret him, but as I understand his objection, this bill didn't go far enough. So I would say in effect that most members, if not all members, were in favor of this bill.

When the vote is taken I would ask, Mr. Speaker, that it be made by roll call.

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Page.

Mr. PAGE: Mr. Speaker and Members of the House: This has had quite a bit of discussion. I am in favor of the indefinite postponement. I would briefly like to tell you what this does. It would call for written rules and regulations to be posted in the town office. I have no objection to this. I think if it is in the best interest of towns, and according to Representative Kelley it would be, they would do this and could cooperate with the Maine Municipal Association, and get this done very easily without having a statute passed to make them do it.

It makes it mandatory for any decision to be made in writing to the applicant stating reasons for

that action. Now any of you who have been a selectman in a small town can understand what that might mean. It gives the right to a pre-determination hearing in case of termination, suspension or reduction of relief is necessary. Now this hearing, advance notice must be given to the recipient. He may request a hearing to be held before a decision maker. I think this goes a little bit beyond what has been explained.

I hope you will go with the indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Oakland, Mr. Brawn.

Mr. BRAWN: Mr. Speaker and Ladies and Gentlemen of the House: As I read this bill, the written rules and regulations, it doesn't say who is going to write these rules and regulations; it doesn't say the municipal officers or the state, the way I see it. And it also says, that it shall be presented to the Commissioner of Health and Welfare for his approval. If he doesn't want to approve these he doesn't have to. So I will go along with it too.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker and Members of the House: I guess Mr. Brawn hasn't read the amendment. There were many of us on the committee who don't particularly like the way the state welfare is doing now. So we didn't particularly want their nose in the town's business. So this is why we had the amendment that these would not have to be approved by the State Health and Welfare.

I might say too why we took out this amendment, although it isn't on the bill. But on a second sitting of our executive committee we invited in Mr. Wylie of the Health and Welfare Department, and he informed us that this would cost \$1 million in two years. So this was quite a price. This was for looking over the rules and apparently policing them, and the extra welfare cases they thought that this might bring in.

I am not speaking either for or against the bill. I just thought

perhaps this might need a little explaining.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Collins.

Mr. COLLINS: Mr. Speaker and Members of the House: I am a member of a City Council, and I am familiar with the problems that welfare recipients become involved in. I was not in favor of the original bill as presented. However, since the amendment has been added, and it leaves it up to the towns to form their own regulations, I am happy at this particular time to join my colleague in expressing approval of this bill. I suspect that we shall not always be on the same side.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Santoro.

Mr. SANTORO: Mr. Speaker and Members of the House: This is a good bill. I was the only one who opposed the committee report, but after a proper investigation I changed my mind. I go along with the bill as amended now, and I will urge everyone to vote.

This bill only sets the rules and regulations for small communities that now would not have rules and regulations pertaining to welfare distribution. So I urge everybody to vote for this bill.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Kelley.

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: One thing that has some legal jargon in here that Mr. Page referred to about an impartial decision maker. To cut through that, I think most towns or cities have in their town a review board in many cases, personnel review board, tax review board, zoning review board. This is what is meant by this. People appointed within the town or city to just review these different applicants. It is not some court decision, it is a review board within the town to look over the facts just as they now do, and decide whether or not, under their own guidelines, it should be granted.

I would point out that there is no money attached to this. Original-

ly Health and Welfare had submitted a figure as to the administration, but that is no longer applicable, since the rules and regulations won't be subject to their okay.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker and Members of the House: It is kind of strange today that I would rise to support this bill since it has had the label of the Pine Tree Legal Association tied to it, and they have never been too favorable to me in the past. Neither has the OEO or any of these other organizations.

However, as the good lady from Newport said, she comes from a small town and they are not opposed to this, and I come from a small town and my town is not opposed to this.

Now for the past six months in my town the United Low Income people have been drawing up guidelines to present to the Overseers of the Poor, and they had a meeting last night and since some of the Overseers of the Poor are new since the annual town election in March, they have not had a chance to go over it. So they did set a date for a meeting in the future. I have a set of the guidelines that were drawn up by the so-called poor people in my town, and to me they are very good. Because up until now your Overseers of the Poor run the business just about the way they see fit. The Overseers of the Poor do not base the needs of the people on the needs of the people, but on the friendship of those that vote for them. And the old saying is, in order to serve you must first be elected. So you take care of the biggest bunch that will give you the biggest bunch of votes.

Now in my town alone I know of one instance where a woman has considerably more money in the stock market than I do, and maybe many members of this House. But she does draw relief. And in the guidelines that were drawn up by the ULI, they have limited this to anyone would be ineligible if they had personal

property in excess of \$250. And I understand that these guidelines are going to be a model for the guidelines that the ULI will be working with the Overseers of the Poor throughout the State of Maine.

The other part I would like to mention, it states ownership of an automobile; the ownership of an automobile shall not affect eligibility. However, one should be retained only when it is considered essential for transportation to employment, medical, rehabilitative, and training facilities, or when the applicant or client lives more than one mile from the center of the town.

It also has got a working clause in there for employment. If the applicant or the recipient is a male between the years of 18 and 62 he must be registered with the Maine Employment Security Commission. A male applicant or male recipient between the ages of 18 and 62 must accept referral to, or an offer of suitable employment.

So with these things here, just these few things, I cannot see where this is going to hurt the people of any town. In fact, what it may well do, it may save the towns money over what is being passed out now with no guidelines. And all this does is ask that a written policy be put into effect so that the people will know where they stand. And I think these people have a right to know where they stand, just as much as anybody in the state has the right to know where they stand.

They should have a right to read the rules and the regulations, and it shouldn't be just whoever is in office and how they feel that day that governs this welfare program. I think the small towns operating under this kind of a setup could show the Health and Welfare Department in the State of Maine that maybe they too could save quite a lot of money if they can let a few people have a voice in their policy also.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. McTeague.

Mr. McTEAGUE: Mr. Speaker and Members of the House: For those members of the House who are not familiar with the case, I would like to refer to the case of Goldberg versus Kelly, which was decided by the Supreme Court of the United States on March 23, 1970. That is Kelly with only one E, not two E's, so that I know our sponsor has no personal interest in the bill before us.

Seriously, Mr. Speaker, the Supreme Court in that case which is reported at 397 U.S. 254, held that it was a violation of the due process of law clause of the Fourteenth Amendment for a governmental body to terminate welfare without offering the opportunity for an evidentiary hearing.

This is one of the main points of Representative Kelley's bill, and I obviously support Representative Kelley on the bill, and am opposed to indefinite postponement. I would not be so naive as to think that any exposition of my personal philosophy would change even one vote in this House. I would suggest this is a practical matter though to the Members of the House in urging them to vote against indefinite postponement. Whether you like it or not, and whether a town likes it or not, the town is a part of the State of Maine, and the state is a part of the United States, and we are all bound by interpretations of the United States Constitution by the Supreme Court.

The Supreme Court has ruled. We now have an opportunity before us to act rationally in good grace and in a coordinated way to conform our local situation regarding town relief to the requirements of the federal Constitution. We have an opportunity in this Legislature to control it, and say how it will be done. I think that is a valuable opportunity, which should not be missed. Because as sure as we stand here today, if we do not do this, with this case of Goldberg and Kelly standing before them, there will with certainty be a suit filed, probably in the United States District Court for Maine, and certainly the determination following the Supreme Court, as

the District Judge must do, will be that the current system is unconstitutional.

If we take the attitude of an ostrich and put our head in the sand and refuse to pass this today we are really not going to change things in the long run. In the long run the contents of this bill will be required to be imposed on our 400 and some municipalities by the courts. We can control it today; we have had a committee report that, as I understand it, is not only 12 to one, but perhaps we can say 12 for the bill, one for something stronger.

Let us act with good sense today. It is late. Let us dispense with this matter, defeat indefinite postponement and recognize the reality that we really do not have a choice.

The SPEAKER: The yeas and nays have been requested. For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. All members desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker and Ladies and Gentlemen of the House: My interpretation on this, having served three years on the Board of Selectmen, is that this is one of the best things I have seen to establish these guidelines which may be produced under the concept of home rule. I consider this a nonpartisan, worthwhile piece of legislation.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker, just for a matter of information, I would like to pose a question to the gentleman from Brunswick, Mr. McTeague, who seems to be very knowledgeable in these matters. The question is, under municipal law, are towns required to provide this board of arbitration,

or this arbitration officer which he refers to? I would like an answer to that question. I don't think that our town does presently elect or appoint such an officer.

The SPEAKER: The gentleman from Perham, Mr. Bragdon, poses a question through the Chair to the gentleman from Brunswick, Mr. McTeague who may answer if he chooses; and the Chair recognizes that gentleman.

Mr. McTEAGUE: Mr. Speaker, I appreciate the very kind and laudatory comments of the gentleman. However, I am forced to admit that they are not accurate, and the answer is, I don't know. And I hope Representative Kelley can provide the information from his bill.

The SPEAKER: The pending question is on the motion of the gentleman from Parsonsfield, Mr. Pratt, that both Reports and Bill "An Act to Improve the Efficiency and Fairness of the Local Welfare System," House Paper 741, L. D. 1003 be indefinitely postponed. If you are in favor of indefinite postponement you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEA—Carrier, Finemore, Hardy, Henley, Immonen, Kelley, K. F.; Lincoln, Littlefield, Marsh, Page, Pratt, Rollins, Shaw, Simpson, L. E.; Williams.

NAY — Albert, Ault, Bailey, Barnes, Bartlett, Bedard, Bernier, Berry, G. W.; Berube, Binnette, Birt, Bither, Boudreau, Bourgoin, Brown, Bunker, Bustin, Call, Carter, Clark, Clemente, Collins, Conley, Cooney, Cote, Cottrell, Cummings, Curran, Curtis, T. S. Jr.; Cyr, Dam, Donaghy, Dow, Doyle, Drigotas, Dyar, Emery, D. F.; Emery, E. M.; Farrington, Fraser, Gagnon, Gauthier, Genest, Gill, Good, Goodwin, Hall, Hancock, Hawkens, Hayes, Herrick, Hewes, Hodgdon, Jutras, Kelley, P. S.; Kelley, R. P.; Keyte, Kilroy, Lawry, Lebel, Lee, Lessard, Lewin, Lewis, Lizotte, Lucas, Lund, Lynch, MacLeod, Mahany, Manchester, Marsteller, Martin, McCloskey, McCormick, McKinnon, McTeague, Millett, Mills, Morrell, Mosher, Murray, Norris, O'Brien, Orestis, Parks, Payson, Pontbriand, Porter, Rocheleau,



Ross, Santoro, Scott, Sheltra, Shute, Silverman, Simpson, T. R.; Slane, Smith, D. M.; Smith, E. H.; Stillings, Theriault, Trask, Tyndale, Vincent, White, Wight, Wood, M. W.

ABSENT—Baker, Berry, P. P.; Bragdon, Brawn, Carey, Churchill, Crosby, Curtis, A. P.; Dudley, Evans, Faucher, Fecteau, Hanson, Haskell, Jalbert, Kelleher, Maddox, McNally, Rand, Starbird, Susi, Tanguay, Webber, Wheeler, Whitson, Wood, M. E.; Woodbury. Yes, 15; No, 108; Absent, 27.

The SPEAKER: Fifteen having voted in the affirmative, one hundred eight in the negative, with twenty-seven absent, the motion does not prevail.

Thereupon, the Majority "Ought to pass" Report was accepted and the Bill read twice.

Committee Amendment "A" (H-196) was read and adopted, and the Bill assigned for third reading tomorrow.

The Chair laid before the House the tenth tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (9) "Ought to pass" with Committee Amendment "A" (H-206)—Minority (3) "Ought not to pass" — Committee on Election Laws on Bill "An Act relating to Alternative Methods of Nominating Candidates" (H. P. 934) (L. D. 1288)

Tabled—May 3, by Mr. Ross of Bath.

Pending—Motion of Mr. Cooney of Webster to indefinitely postpone Reports and Bill.

The SPEAKER: The Chair recognizes the gentleman from Casco, Mr. Hancock.

Mr. HANCOCK: Mr. Speaker and Ladies and Gentlemen of the House: In a way I sort of adopted this bill and like many a father with an adopted child I have come to love it very much. The other day the only words that had been spoken yet here in debate on this were by the gentleman from Webster, Mr. Cooney, and he made the statement that this in effect was buying a position on a ballot. I rather think his reasoning is wrong. It would be about equally valid to say that anyone who

acquires a wedding license is buying a wife.

In looking at the intent of this bill, let us see what it does and does not do.

First, and this is most important, first it does not and I repeat, it does not replace the present method in any way, shape or manner. It retains it in its present form. Anyone who desires a position on a ballot by using the petition method may continue to do so as we all have in the past. It does allow an alternative method. And a question has been raised as whether this is actually true, is it an alternative method, or is it an additional method?

Yesterday afternoon I met with the Deputy Attorney General, George West, and he assured me that if the question was submitted to him by the Secretary of State his opinion would be that it is indeed an alternative method. However, between us we decided that to save confusion and misunderstanding it would be proper to submit an amendment which would nail this fact down so that there would be no mistake but what it is an alternative method. This amendment has been prepared and was distributed to your desk this morning and if this bill happily reaches its third reading, the amendment will be offered.

The alternative method is a method of filing by fee. Before I discuss that part of it I would like to discuss with you for a few minutes our present method and why I am not too happy with it.

As you all know, the petition papers are circulated by our friends and supporters and the signatures are obtained and then they are presented to the Deputy Secretary of State for verification. What happens at this point is this; many citizens of this state, many valid voters are being disenfranchised for technical reasons. If a lady writes down Mrs. John Brown instead of Mary Brown, this signature is not allowed, even though she is a voting resident of her community.

Many other technicalities exist that they are checked down there. For example: if someone writes in the town of South Casco which

has a post office and would be a residence, it is not allowed because there is no such town as South Casco. It has to be Casco. So each and every year, I say thousands, I do not know that literally, but certainly hundreds of valid signatures are disallowed. These people are being disenfranchised. It is also possible to have an entire paper disallowed due to a technical error in being notarized.

This year for example, in bringing my papers down for election to this office, I had one paper from one of my towns, I know the person who circulated it, I know many of the people who signed it, and I am positive that every signature on that paper was a valid signature. But the complete paper was disallowed because it had been improperly notarized. I hardly think that this is a fair or democratic thing to do.

On the reverse of the coin however, it often happens that forgeries, out and out forgeries are allowed because technically if anyone who forges the paper or has it done usually is sufficiently intelligent enough to do a good job of it. So many many times when forgeries come in here they are accepted by the Deputy Secretary of State.

And by the way I want to make this statement. I have had many dealings for a period of probable 20 some years now with filing papers both for myself and for my friends and nothing that I am saying now is to be construed as a criticism of the Secretary of State's office. I have always found them to be extremely fair, extremely courteous, extremely efficient. But with the methods available to them for checking these papers, these things do happen, and they will freely tell you this themselves.

The gentleman, Mr. Cooney, suggested this money thing in buying it. I would suggest to you that there is a tremendous amount of time and effort involved here now and that this represents money to many people. This is particularly true when we consider our candidates for major office who require some 3,000 signatures. When they send out their petition papers

to all of us it is certainly an imposition and it certainly does require time and effort and to me time and effort equals money.

In examining L.D. 1288 what this bill does, this alternative method that I have suggested is this; anyone can file a certificate of intention. A certificate would name the office for which the party aspires. It would name the political party which it represents, and it would name his residence. In addition to this there would accompany that a fee. You will notice in the bill the list of fees that I have arrived at here.

I wish to tell you very freely and frankly that there is nothing magic connected with the fees, prices or figures that I have come up with, but I did put in a considerable amount of work coming at these. Again I won't say that they are the final answer.

I tried to do it on a basis of population, how many people were represented by the particular office that the candidate was trying for. Using the legislature as a base, and trying to get a base fee that was high enough to be meaningful, but low enough to be reasonable, and not exclude anyone, I came up, myself, with a starting fee of \$50; and as the populations of the various offices increased I increased the fee. Now I did not do it on a one person, one vote basis, because if you follow this through at \$50 for the office of the legislature, when you get down to a state-wide office, such as a United States Senator or Governor, it would figure out on a population basis of some \$8,250 for a filing fee and even I consider that to be too much.

There is a question, of course, of possible income from this. Just based on these fees that I am suggesting here, in thinking in terms of only one party, one person in each party runs for each office in the state, one Republican and one Democrat for each office in the state, we would take in something over \$50,000. If there were primary contests, and independent candidates, of course the sky is the limit, depending on how many candidates run.

We have here in this Legislature, and in other Legislatures before

us, attempted to find ways and means of taxing to raise money for the state. Possibly it is about time we started to tax ourselves.

Of course, always when we are considering something of this nature, almost any bill that has state-wide implication, it is interesting to find out what other states have done, and believe me I spent a most fascinating weekend doing this.

I have been through the election laws that were given me by the law library downstairs for all of the 50 states. Interestingly enough, 33 of these states do have a filing fee of some kind or another.

Now I want to be perfectly honest with you and say that in some of these states some of these filing fees are merely tokens, merely token fees. In many they are quite substantial. There are 17 states, including Maine, that have no statutory provisions for fees.

A couple of the interesting things that I came up with I will share with you. If you want to run for state-wide office in a state where it is easy to get on the ballot, I can suggest two to you.

In the state of Hawaii, remember that this is for a state-wide office, 25 signatures are required plus a filing fee of \$75. I think most of us could find 25 friends and most of us could find the \$75.

The alternative to this is a little cheaper, \$20 in the state of Wyoming plus 100 signatures. So if anybody wants to move out to a state where it is easy to get on the ballot for a United States Senator or Governor, I can give you these two.

More seriously, however, there are two states who have alternative methods, something like what I am suggesting here.

Oklahoma has one which I am not particularly happy with, but it does have a signature system or a flat filing fee for a state-wide office of \$200.

Kansas, I think, has the best one of all of these that I have examined. They do have again a signature thing, a petition thing. But in lieu of that, if you want to do it otherwise, they ask for a filing fee that consists of 1% of

your first year salary or 1% of your annual salary in the office that you are seeking. By the way, a thing of interest here, in Kansas, coming so close to what I am aiming for here, is that Miss Hary of the law library tells me that the experts in state government consider that Kansas has the most up to date, the most modern and sophisticated election laws of any state in the country. I would suggest that this is not the unique situation. It will surprise some of you, I know.

I don't think it is a bad bill. In fact, I think it is a very good bill. I think that an alternative method is desirable. I do not consider that you are buying a position on a ballot. I have tried to make these fees, as I say, reasonable, yet meaningful. I would hate very much to see this bill killed at this particular time. I would like to see it debated, I would like to see it discussed. I would like to have possible amendments discussed both in debate or in personal conversation. So I hope most sincerely that we do not kill this bill today prematurely. I hope that the motion to indefinitely postpone does not prevail.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Smith.

Mr. SMITH: Mr. Speaker and Ladies and Gentlemen of the House: I suggest that the gentleman from Casco, Mr. Hancock, drew a rather poor analogy at the outset of his presentation. The bill we have here addresses itself to the business of paying a price to be able to start running, and a man who buys a marriage license is paying a price to stop running.

I think it is the prostitution of the democratic process to put a price on a place on the ballot and I urge you to support the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Emery.

Mr. EMERY: Mr. Speaker and Ladies and Gentlemen of the House: As you may recall several weeks back, we debated a bounty on bobcats. Now it appears we are debating a bounty on poli-

ticians and candidates. I am opposed to this.

I think one of the most important features of Maine election laws is the present system that we have of requiring signatures on nomination papers. It is quite an equalizer. The poor man has to go through exactly the same process as the rich man. I am not particularly impressed by the arguments that some people don't feel they can afford the time to go out and collect signatures. I think that this is part of the game. The petition system that we have is sort of a screening process. There are some candidates who are unacceptable in their communities. There are some people that don't have the popular support, and the petition system is a good indication both to the candidate and to other people in the community about the individual's popularity.

I found it no hardship to collect the meager 26 signatures that I needed to get on the ballot. In fact, I don't know but what we ought to increase the number of signatures. I think the signature system, the petition system that we have now is a very good one because it does help screen the candidates. Now as far as the filing fee goes, I don't see any connection between money and a position on the ballot. I don't believe that the two ought to be combined at all.

Obviously we can think of several individuals that have run for state-wide office or district-wide office who had absolutely no problem at all getting the money necessary with the output of no work at all. Simply file the fee and no attempt is made to reach the public. I think this is a bad feature.

I would also question under some of the discussion that we have had earlier about limiting campaign spending whether the proposed filing fee would be deductible from campaign expenses or whether it would have to be included.

I think there are many questions that the gentleman from Casco, Mr. Hancock, has not answered in relationship to the fee and the relationship between the person who has to go out and gain signatures as opposed to the person who needs to pay the money.

I certainly hope that we indefinitely postpone this bill now. I think it is a bad bill and I do not think that we ought to consider it further.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen of the House: Bills before the Election Laws Committee are often partisan; to wit, absentee ballots, repeal of the law letting notaries and justices register and enroll voters, doing away with the big box. However, this was a bipartisan report, and I would request that the Clerk read the report.

The SPEAKER: The Clerk will read the Committee Report.

The Clerk read the Committee Report.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: As you have just heard, it was a 9 to 3 ought to pass report. I have always felt that nomination petitions were a nuisance for my friends and supporters. It is not too bad in the House and the Senate because we do not have to get very many signatures, but I wonder if the gentleman from Rockland, Mr. Emery would find it as easy to get enough signatures to run for the United States Congress. I think he would immediately change his mind because office seekers must ask others to circulate their petitions for them, and this is often an imposition on friendship.

I filed and fought for this bill while a member of the other body in 1959, but then I just had the filing fees, and would do away with the petitions entirely. That did not meet with success and I think that was justifiably so, because a great many people felt that it was a good way to campaign to circulate these petitions. In this bill you could do it either way and probably most of us would still all file the papers. The suggested fees herein are fairly high to prohibit just anyone from running, even though some of those might not have any genuine interest and they would just like to see their name on the ballot. I wholeheartedly sup-

port the bill and urge you to vote against indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McCloskey.

Mr. McCLOSKEY: Mr. Speaker and Ladies and Gentlemen of the House: I realize it is getting late and it is lunch time and I will try to be very brief.

I would like to tell the gentleman from Bath, Mr. Ross, that although the support for this bill is bipartisan, so is the opposition, because I am supporting the motion of the gentleman from Rockland, Mr. Emery, that this bill be indefinitely postponed.

I think in this day and age when we are trying to increase participation in the political process and trying to lower campaign expenses that this bill is very inappropriate. I noticed the other day where the estimated campaign expenses of Senator Muskie, in trying to reach the presidential nomination, as the astronomical sum of \$14 million. I think we are adding to this problem of campaign expenses by supporting a bill like this and I urge you to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Vincent.

Mr. VINCENT: Mr. Speaker and Ladies and Gentlemen of the House: I rise as a signer of the Minority "Ought not to pass" Report. One of the features that we have had in the past in numerous elections is the uncontested election both in the primary and the November election. I would suggest that with the passage of this bill that that would be a bygone problem, for I could not see a member of either party, the leader of either party letting seats go uncontested. At present the reason a lot of these go uncontested is the fact that there are not willing candidates in the area, there aren't enough signatures to be gathered for a particular candidate, and no one is that particularly interested in running. But with the problem of gathering signatures I can see names being placed on the ballot to take care of this problem.

It was also brought up that there were a lot of invalid signatures presented on petitions. Well, this

is the reason we have a maximum and minimum number of signatures. A maximum number be brought in so that you can qualify for a minimum number of good signatures. Most candidates have been around, bring their petitions in early so if they have any bad signatures they can make up the additional signatures they do need to place themselves on the ballot.

Now one problem that you can run into is in the area of incumbency running for reelection. If there is sentiment in his district or area, whether it be Senate or Congressional, county-wide, to oppose this person in the primary, it would be very convenient to the incumbent to have several people put into a race against him just to divide the anti-vote; those people that would be so disenchanted with him they would want him removed from office. And with several people in office it is impossible to remove an incumbent.

I recall a few years ago one primary election whereby a candidate received about 38% of the vote, and he was probably one of the worst candidates the party could have nominated under the conditions. The system does not allow for a 50% plus one nomination. The system presently allows just for those that gain the most votes regardless of how many candidates in the primary to receive the nomination.

This is the time to have extended debate, if this is the desire; not to put it off for another day. This is a bad bill. I would hope that you would vote against the bill, and have it done away with now.

Those prices that were mentioned are not that steep so that people couldn't put various candidates in for congressional or House members. I could see a lot of practical jokers probably putting Mickey Mouse on the ballot to run for the legislature.

I would hope that you would oppose this, and when the vote is taken I request that it be taken by the yeas and nays.

The SPEAKER: The yeas and nays have been requested. For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and

voting. All members desiring a roll call will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Webster, Mr. Cooney, that both Reports and Bill "An Act relating to Alternative Methods of Nominating Candidates," House Paper 934, L. D. 1288 be indefinitely postponed. If you are in favor of indefinite postponement you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEA — Albert, Bailey, Barnes, Bartlett, Bedard, Berry, G. W.; Berube, Bither, Bragdon, Brown, Bustin, Call, Carrier, Clemente, Cooney, Cooney, Crosby, Curtis, T. S., Jr.; Donaghy, Drigotas, Emery, D. F.; Emery, E. M.; Farrington, Fecteau, Finemore, Fraser, Goodwin, Hall, Hardy, Haskell, Herrick, Hewes, Hodgdon, Kelley, K. F.; Kelley, P. S.; Kelley, R. P.; Keyte, Kilroy, Lebel, Lewis, Lizotte, Lucas, Lund, Lynch, Mahany, Marsh, Marstaller, Martin, McCloskey, McCormick, McTeague, Mills, Morrell, Mosher, Murray, Page, Parks, Payson, Pratt, Rocheleau, Rollins, Scott, Sheltra, Shute, Silverman, Simpson, T. R.; Slane, Smith, D. M.; Smith, E. H.; Theriault, Vincent, Williams, Wood, M. E.; Woodbury.

NAY — Baker, Bernier, Birt, Boudreau, Bourgoin, Cottrell, Curran, Cyr, Dam, Doyle, Evans, Gagnon, Good, Hancock, Hawkens, Hayes, Jutras, Lawry, Lee, Lewin, Lincoln, Littlefield, MacLeod, Millett, Norris, O'Brien, Pontbriand, Porter, Ross, Santoro, Shaw, Simpson, L. E.; Stillings, Trask, White, Wight, Wood, M. W.

ABSENT — Ault, Berry, P. P.; Binnacle, Brawn, Bunker, Carey, Carter, Churchill, Clark, Collins, Cote, Cummings, Curtis, A. P.; Dow, Dudley, Dyar, Faucher, Gauthier, Genest, Gill, Hanson, Henley, Immonen, Jalbert, Kelleher, Lessard, Maddox, Manchester, McKinnon, McNally, Orestis, Rand, Starbird, Susi, Tanguay,

Tyndale, Webber, Wheeler, Whitson.

Yes, 74; No, 37; Absent, 39.

The SPEAKER: Seventy-four having voted in the affirmative, thirty-seven in the negative, with thirty-nine being absent, the motion does prevail.

Sent up for concurrence.

The Chair laid before the House the eleventh tabled and today assigned matter:

An Act Creating York County Commissioner Districts (H. P. 553) (L. D. 729)

Tabled—May 4, by Mr. Fecteau of Biddeford.

Pending—Passage to be enacted.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Sheltra.

Mr. SHELTRA: Mr. Speaker, I move indefinite postponement of this bill and all of the accompanying papers, and wish to speak on my motion.

The SPEAKER: The gentleman from Biddeford, Mr. Sheltra, moves the indefinite postponement of L. D. 729. The gentleman may proceed.

Mr. SHELTRA: Mr. Speaker and Members of the House: I know it has been a long morning, but I will try to be brief. I feel it is necessary to debate this issue. First of all I wish to thank my good friend and seat mate, Representative Fecteau, for tabling the motion, and for the House going along with it yesterday.

I can't help but feel that this bill is being politically motivated. Insofar as the county is concerned, I think that as it now stands everybody enjoys the privilege of running for office. And if the candidate is duly qualified, and if he wants to exert the proper energy, I am sure a candidate of any party can well be elected.

What the bill designs to do, even though the officials or candidates would be elected at large, it would create these districts whereby the small towns, for instance, would be penalized in the sense that, for instance, in the County of York, Biddeford being the largest city, the bill as it is designed would have Saco and Old Orchard Beach in its district, which would mean

that necessarily that Biddeford would always have a commissioner, and Saco and Old Orchard would not.

As a matter of fact there is already considerable unrest because I understand there is an amendment to be brought on the floor which would delete Kennebunkport, Arundel and Dayton, and put them in a district with Biddeford. Here again, this would mean that Kennebunkport would never be able to sustain or have a commissioner, along with Arundel and Dayton. This seems to me to be very unfair.

I know in past years the office of county commissioner has always been considered, in most areas, a political plum. Of course the economy has been so great in recent years that oftentimes a party would more or less appoint one in order to just fill the ticket.

Well, this will never be so again, especially in the County of York. We had one heck of a hassle with our county budget this year, and I can assure you that in future elections it will not be a personality contest.

And I feel that the fellow, even though the candidate might come from a small town, if he exerts the proper energy he can be elected. As it is now, it is my understanding that four out of the sixteen counties are trying to go to redistricting. I would submit to you that perhaps let these other counties that want it for now, let them have it. And let the County of York adopt a wait-and-see attitude. Actually, I hope that you will go along with this motion to indefinitely postpone and I would like to request a roll call when the vote is taken.

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Hodgdon.

Mr. HODGDON: Mr. Speaker and Ladies and Gentlemen of the House: I certainly am not going to be naive enough to stand here and say that this is not a political issue. I am rather surprised to think that the gentleman, Mr. Sheltra, would suggest that the way we are working now is not political.

The only thing that we are trying to do in York County is to get some fair representation. We are asking that York County be divided into three districts. Each successive election there would be a candidate from one of the three districts.

The way the county is now divided it is impossible, and I said the word impossible, for anybody from the southern part of the county to become a county commissioner. This bill, does not say that only the people in the district can vote for the candidate. It does not say because some of the towns in the southern part are Republican and that when that election comes up in that district it is going to be a Republican.

As long as the Democrats have control of the vote in the county, they certainly can elect a Democratic county commissioner. Our only concern is that one of those commissioners, whether he be Democrat or Republican, represent the southern part of the county. It is as simple as that.

It is not that we are going to control it so that we can get two Republicans elected to one Democrat, or two Democrats to one Republican. We are only asking for representation fairly throughout the county.

I would urge you to vote against the indefinite postponement on this bill.

The SPEAKER: For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. All members desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Biddeford, Mr. Sheltra, that An Act Creating York County Commissioner Districts, House Paper 553, L. D. 729, be indefinitely postponed. If you are in favor of indefinite postponement you will vote yes; if you are opposed you will vote no.

**ROLL CALL**

**YEA** — Bedard, Bernier, Boudreau, Bourgoin, Call, Clemente, Conley, Cooney, Cottrell, Dam, Dow, Emery, E. M.; Farrington, Fecteau, Goodwin, Hancock, Jutras, Kelley, P. S.; Kilroy, Lizotte, Lynch, Mahany, Marsh, Martin, McCloskey, McCormick, McTeague Murray, Pontbriand, Rocheleau, Sheltra, Slane, Smith, D. M.; Smith, E. H.; Starbird, Theriault, Vincent.

**NAY** — Albert, Bailey, Baker, Barnes, Bartlett, Berry, G. W.; Berube, Birt, Bither, Bragdon, Brown, Crosby, Curtis, T. S., Jr.; Drigotas, Emery, D. F.; Evans, Finemore, Gagnon, Gauthier, Gill, Good, Hall, Haskell, Hawken, Hayes, Herrick, Hewes, Hodgdon, Immonen, Kelley, K. F.; Kelley, R. P.; Lawry, Lee, Lewin, Lewis, Lincoln, Littlefield, Lund, MacLeod, Marstaller, Millett, Morrell, Norris, Page, Payson, Porter, Pratt, Rollins, Ross, Scott, Shaw, Shute, Silverman, Simpson, L. E.; Stillings, Trask, White, Wight, Williams, Wood, M. W.; Wood, M. E.; Woodbury.

**ABSENT** — Ault, Berry, P. P.; Binnette, Brawn, Bunker, Bustin, Carey, Carrier, Carter, Churchill, Clark, Collins, Cote, Cummings, Curran, Curtis, A. P.; Cyr, Donaghy, Doyle, Dudley, Dyar, Faucher, Fraser, Genest, Hanson, Hardy, Henley, Jalbert, Kelleher, Keyte, Lebel, Lessard, Lucas, Maddox, Manchester, McKinnon, McNally, Mills, Mosher, O'Brien, Orestis, Parks, Rand, Santoro, Simpson, T. R.; Susi, Tanguay, Tyndale, Webber, Wheeler, Whitson.

Yes, 37; No, 62; Absent, 51.

The **SPEAKER**: Thirty - seven having voted in the affirmative, sixty-two in the negative, with fifty-one being absent, the motion does not prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the twelfth tabled and today assigned matter:

An Act relating to Acquisition of Land by Conservation Commissions (H. P. 714) (L. D. 959)

Tabled — May 4, by Mr. Marstaller of Freeport.

Pending — Passage to be enacted.

On motion of Mrs. Payson of Falmouth, under suspension of the rules, the House reconsidered its action of April 23 whereby the Bill was passed to be engrossed.

The same gentlewoman then offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-228) was read by the Clerk and adopted and the Bill passed to be engrossed as amended in non-concurrence and sent to the Senate.

The Chair laid before the House the thirteenth tabled and today assigned matter:

An Act Prohibiting the Driving of Deer While Hunting (H. P. 1280) (L. D. 1680)

Tabled — May 4, by Mr. Porter of Lincoln.

Pending — Passage to be enacted.

On motion of Mr. Porter of Lincoln, retabled pending passage to be enacted and tomorrow assigned.

The **SPEAKER**: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. **ROSS**: Mr. Speaker, on page ten, item eight, which we have passed to be enacted, I now move that we reconsider our action and I hope that the House votes against my motion.

The **SPEAKER**: The gentleman from Bath, Mr. Ross, moves that the House reconsider its action of earlier in the day whereby it passed to be enacted An Act relating to Definition of Retail Sale under Sales and Use Tax Law, House Paper 898, L. D. 1218. All those in favor of reconsideration say aye; those opposed, no.

A viva voce vote being taken, the motion did not prevail.

On motion of Mrs. Cummings of Newport,

Adjourned until nine o'clock tomorrow morning.