

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fifth  
Legislature*

OF THE

STATE OF MAINE

Volume II

May 5, 1971 to June 15, 1971

KENNEBEC JOURNAL  
AUGUSTA, MAINE

## HOUSE

Friday, May 28, 1971

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

Prayer by the Rev. Mr. Bruce Meyer of Augusta.

The journal of yesterday was read and approved.

### Conference Committee Report

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on

Bill "An Act relating to Disposition of Portion of Fees Collected by Maine State Park and Recreation Commission" (S. P. 20) (L. D. 48) reporting that the House recede from failure of passage to be engrossed and pass the Bill to be engrossed as amended by House Amendment "A"; that the Senate recede and concur with the House. (Signed)

ROSS of Bath  
GILL of South Portland  
HANCOCK of Casco

—Committee on part of House  
MOORE of Cumberland  
DUNN of Oxford

FORTIER of Oxford

— Committee on part of Senate  
Report was read and accepted. The House receded from failure of passage to be engrossed.

The Bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

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

Mr. BRAGDON: Mr. Speaker, I am sorry, am I too late to make opposition to the Conference Report?

The SPEAKER: The gentleman would have to reconsider our action whereby we accepted the Conference Committee Report.

Mr. BRAGDON: Mr. Speaker, I would make such a motion; I am sorry.

The SPEAKER: The gentleman from Perham, Mr. Bragdon moves the the House reconsider its action whereby the House voted to recede from failure of passage to be engrossed and passed this Bill to be

engrossed as amended by House Amendment "A".

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

Mr. DONAGHY: Mr. Speaker, I move for a division on that.

The SPEAKER: A division has been requested.

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

Mr. BRAGDON: Mr. Speaker and Members of the House: When this bill went by the House the other day it was by a substantial majority that they voted against this bill. It had been approved in the other body and it is now gone there in a Committee of Conference, and they have reported against what was at that time when we voted before the intent of the House by a substantial majority.

I feel that the House knew what they were doing the other day when they voted. I oppose this on the grounds that until we were ready to make the same concessions to the City of Augusta and the Town of Orono and other places that have a like gripe.

In other words, this bill calls for returning 15% of the revenue of the Park Services to the towns in which parks are located, and the House did vote against this the other day and I hope that they will vote to reconsider this in order that I may make a motion that we have another Committee of Conference or that we adhere to our action.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker and Ladies and Gentlemen of the House: I would like to support the remarks made by the gentleman from Perham, Mr. Bragdon. We did, as he has said, consider this before and oppose the bill. I believe that we should this morning reconsider it. Apparently it has slipped by quite a few of us and I would hope that you would support the reconsideration motion.

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

Mr. HEWES: Mr. Speaker and Members of the House: I beg to differ with the gentleman from

Pittsfield and from Perham, but I feel that a bill of this nature is a fair bill in that certain municipalities have lost taxable property and this amendment now, the way the bill stands now, seems to be a very equitable way to assess the payments to each of these towns.

You will recall the original bill was based on the amount of fees that came in to a community. That has been changed now and the way that the bill stands now, as I understand it, any payment to a town is based on the assessment of the land that is owned by the State in that town. That only seems fair to me. I hope that you will vote against the pending motion to reconsider.

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

Mr. BRAGDON: Mr. Speaker and Members of the House: I must call attention to the remarks of the gentleman from Cape Elizabeth. This still falls in the same category as all of these requests that we have received over the years to reimburse various towns for losses that they have made because of state facilities being created within their boundaries. And there is no difference between this bill and the requests that the City of Augusta have made over the years, that Thomaston has made over the years because of the State Prison, and that Orono is presently making because of the University of Maine.

I fail to see any difference. The principle involved is one and the same and I have already stated that when the Legislature, when the people of the State of Maine are ready to reimburse all of these requests, then I will gladly go along with that intent.

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

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: I hate to differ with the last speaker, but the state parks that we have down in the region that I represent are a little different than the situation in Thomaston. These parks are being run in competition to other business and I don't think that is the

situation in Thomaston. We do have a situation where very valuable property has been taken over by the State for the advantage of the people of the state to give them access to the seashore, where a launching ramp is being readied and will run in competition to private business. We welcome the park in the area, but it does cost the town the loss of revenue as far as taxes and it is a question whether the merchants and town will gain or lose on the thing. I think this bill in the form it is now is a very fair bill and I hope the motion to reconsider will not pass.

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

Mr. CURTIS: Mr. Speaker and Ladies and Gentlemen of the House: I would like to make two points at this time. One is that there is a joint order on the special Appropriations table, which joint order would, if finally passed, would provide for a Legislative Research Committee study of tax relief for municipalities on state-owned and tax-exempt property throughout the state in all categories. I would hope that if that study goes through, and I hope it does, that they can come up with a comprehensive plan for solving this problem and considering all of the specific difficulties of individual towns.

The other point I would like to make is that income derived from fees of state parks goes directly to the General Fund. If we pass this bill before us today it will not go into effect until 90 days after the Legislature adjourns, and as a consequence the State Park Commission, as I understand it, will not raise fees this summer but will wait until another year when this bill is in effect to raise the fees.

If, however, we do not pass this bill, the State Park, as I understand it, will be raising the fees and this increase in fees will mean about \$50,000 to the General Fund this summer.

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

Mr. HANCOCK: Mr. Speaker, Ladies and Gentlemen of the House: I beg to differ with the gentleman from Perham, Mr. Bragdon. He said that this would take 15% from the park fees. This is not correct. There would be an additional amount added to the park fees which would be reimbursed to a great number of towns in the state. I cannot see any comparison between the City of Augusta, the Town of Orono, and their basic complexes and the state park situation. It is about the same thing as trying to mix lemons and oranges.

In answer to the gentleman from Orono, Mr. Curtis, he mentioned the effective date; just for the record, the effective date of this would be January first — not 90 days after the Legislature adjourns.

Now, ladies and gentlemen, again I would like to reiterate the point that I made when we were debating this some time ago; and that is, this results, if this is passed, this results in no loss to the State. It results in no loss to the State and it results in no cost to the State. This is merely a method of trying to distribute, trying to help some of the towns that are losing valuable tax revenue.

Now we talk about the complex here in Augusta, we talk about it in Orono and the others scattered around the state. But in these places, in Augusta, in Orono — two very good examples, we are thinking about the tremendous value of the buildings that are involved here. This bill specifically exempts buildings from being considered. So this again, it is an entirely different situation. I just cannot see any comparison between the Augusta-Orono situations and the state park situations.

And, ladies and gentlemen, I hope very very much that the motion to reconsider does not prevail.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Marstaller.

Mr. MARSTALLER: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the gentleman from Perham, Mr. Bragdon, I think there is a big difference be-

tween the state park situations and the Augusta situation and the Orono situation. In the state park situation you have land that is taken out of taxation for a summertime use. There is practically no payroll involved and in some places no payroll at all involved, so that it doesn't bring additional payroll into these communities, whereas in Augusta and Orono there is a great payroll brought into these communities. So there is quite a financial difference in the situation.

I would want to point out one other thing here that I think is very important with this bill. The State Park and Recreation Commission now has over \$5 million available between state and federal monies to buy additional land for park purposes, and they are having difficulty buying this land because there is resistance in the communities to having this land taken out of taxation. The passage of a bill like this, which will give them some reimbursement, will ease the tension, if you will, so that they will be able to buy additional pieces of land without greater difficulty.

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

Mr. DONAGHY: Mr. Speaker and Ladies and Gentlemen: I am sorry to have to differ with the gentleman from Perham, and I think this part of it has been covered quite thoroughly so I won't prolong that part of it. But there is something a little bit different that I think should be presented to you.

A part of the U.S. Government land at West Quoddy Head has recently become available to the Town of Lubec. They deferred and have allowed the State Park Department to pick this land up at no cost. Now the town will get no tax from this; they could have had it and disposed of it later. But they deferred to the State Park Department, and I think that fair is fair and that there should be some way that this very fine taxable property should bring something into the town, even if it's an addition to the fees that the tourists will pay to see the most eastern

point of land in the United States.  
er, Mr. Norris.

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

Mr. NORRIS: Mr. Speaker and Ladies and Gentlemen: I am not going to argue the merits of the bill. I would just hope that because of the earliness of the hour and the fact that everyone wasn't aware of what was going on, that we might reconsider this thing so that everyone in the House would have a chance to vote on it.

The SPEAKER: The pending question is on the motion of the gentleman from Perham, Mr. Bragdon, that the House reconsider its action whereby Bill "An Act relating to Disposition of Portion of Fees Collected by Maine State Park and Recreation Commission," Senate Paper 20, L. D. 48 was passed to be engrossed as amended by House Amendment "A". The Chair will order a vote. All in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

53 having voted in the affirmative and 71 having voted in the negative, the motion to reconsider did not prevail.

#### **Papers from the Senate Reports of Committees Ought Not to Pass**

Report of the Committee on Education reporting "Ought not to pass" on Bill "An Act to Equalize Educational Expenditures and Local Tax Effort" (S. P. 444) (L. D. 1293)

In accordance with Joint Rule 17-A, was placed in the legislative files.

#### **Ought to Pass**

Report of the Committee on Labor on Bill "An Act to Increase the Fee for Steam Engineer and Fireman Licenses" (S. P. 393) (L. D. 1171) reporting same in a new draft (S. P. 604) (L. D. 1777) under same title and that it "Ought to pass"

Came from the Senate with the Report read and accepted and the Bill passed to engrossed.

In the House, the Report was read and accepted in concurrence,

the Bill read twice and assigned the next legislative day.

#### **Ought to Pass with Committee Amendment**

Report of the Committee on Appropriations and Financial Affairs on Bill "An Act Providing Funds for the Maine Police Academy" (S. P. 170) (L. D. 522) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

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

In the House, the Report was read and accepted in concurrence and the Bill read twice. Committee Amendment "A" (S-210) was read by the Clerk and adopted in concurrence, and the Bill assigned for third reading the next legislative day.

#### **Divided Report**

Majority Report of the Committee on Judiciary reporting "Ought not to pass" on Bill "An Act to Provide Mandatory Penalties for Commission of a Crime with a Dangerous Weapon" (S. P. 332) (L. D. 983)

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
HARDING of Aroostook  
— of the Senate.  
Mr. KELLEY of Caribou  
Mrs. WHEELER of Portland  
Mrs. WHITE of Guilford  
Mrs. BAKER of Orrington  
Messrs. LUND of Augusta  
PAGE of Fryeburg  
CARRIER of Westbrook  
ORESTIS of Lewiston  
— of the House.

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

Report was signed by the following members:

Mr. QUINN of Penobscot  
— of the Senate.  
Messrs. HENLEY of Norway  
HEWES of Cape Elizabeth  
— of the House.

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

In the House: Reports were read, The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: Mr. Speaker, I move acceptance of the Majority "Ought not to pass" Report.

The SPEAKER: The gentleman from Augusta, Mr. Lund, moves the acceptance of the Majority "Ought not to pass" Report in non-concurrence.

The Chair recognizes the gentleman from Scarborough, Mr. Gagnon.

Mr. GAGNON: Mr. Speaker and Ladies and Gentlemen of the House: Over this session of the Legislature we have heard a lot of talk on gun control, but the gun controls which have been proposed previous to this particular bill have put more pressure and more bother onto the average sportsman or the average person, who was the least we had to worry about. We finally have a measure here which seems to get down to the meat of the problem, and that is the people who are causing the problems.

I can't for the life of me understand why anybody would not vote to put a measure like this into effect. It is a measure similar to the federal requirements, which they deem is very productive. It is only asking that an additional penalty be placed on an act committed with a dangerous weapon. To me this would be definitely a deterrent more than anything else on the person that is going to think of committing a crime with a dangerous weapon.

Certainly in most cases these people understand that they will probably use these weapons, if they have them, in the commission of a crime. I have in the past had dealings with these particular situations. One where an innocent young sixteen-year old boy was picked up with a stolen car and when the trooper turned his back after asking him to get his registration out the boy proceeded to shoot him in the back. Fortunately it did not end in a fatality.

I can't understand the reasoning on this; it gets by me altogether. If we want gun control, let's get it down to the people that it should

be required to apply the pressures on, and not to the average citizen.

I notice that there is an amendment here. I don't know whether it is on this or not, from Senator Shute, to change the wording from 'dangerous weapon' to 'firearms'. Rather than lose it I would rather see this apply. But certainly this is a reasonable measure and I think certainly it should be accepted.

I would hope that you would all vote against the Majority on this. Let's get something on the books that will control these guns or other weapons that people might be using on the innocent public.

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

Mr. LUND: Mr. Speaker and Members of the House: A few words of explanation may be in order as to the reasoning behind the Majority "Ought not to pass" Report. It has been a very popular thing, and it a very popular thing at election time and other times to make loud noises about mandatory penalties for committing crimes with firearms. I have voted in the past in opposition to unreasonable gun control bills as have been presented to this Legislature, but the issue is not a new one; it is an old one.

The fact of the matter is that under our present laws in Maine we already have ample penalties available for any person who is convicted of committing a crime involving a gun. In fact, let us take for instance the typical crime involving a gun, namely robbery. Robbery in Maine, along with the offense of rape and a few other offenses, is punishable by a sentence of "any term of years." Now let me tell you for a moment what "any term of years" means.

If you are convicted of murder you are sentenced to life imprisonment in Maine and it means you get out in something substantially less than 20 years. "Any term of years" means that the judge can ask you, as he did once ask me, what a man's life expectancy was. I looked up the man's life expectancy and it was 35 years, and the judge sentenced the man to 35 to 70 years. This is a penalty that we now have available for the offense

of robbery. I would ask you what useful purpose is served by adding another additional sentence after the judge has the opportunity to sentence in accordance with that type of law?

I said that the issue is not a new one, and it isn't. This legislature I think last session considered a bill presented by Representative Carter of Winslow, which was quite similar in content to the bill now before you. The difficulty that was encountered by those of us who had experience in prosecuting crimes before court is that in our judgment mandatory penalties, that is to say a penalty which does not leave discretion and judgment with the court, do not seem to serve a useful purpose.

At the previous session this legislature acted to pass a law which is now on the books which provided that a court could award an additional state prison sentence for a felony that was committed with a dangerous weapon, by firearms. So we already have additional available penalties beyond the ones I have spoken of with respect to crimes like robbery. It has been our experience, and right or wrong it is our judgment that to say that a judge must sentence somebody to not less than so much and no more than so much does not appear to serve a useful purpose; and this is the reason that we voted "ought not to pass" on this legislation.

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

Mr. HEWES: Mr. Speaker and Members of the House: I hope you will vote against the pending "ought not to pass" motion. I think this is a good bill. It is definitely a law and order bill. It seems to me that if someone is convicted of a crime while using a firearm that person should go to jail.

If you feel that the judge should have the discretion of not sending someone to jail when they have used a firearm to abduct somebody, or to commit indecent liberties, or to aid in a jail escape, or kidnapping someone, then let the judges use their discretion and vote against this bill in line with

the motion submitted by the gentleman from Augusta, Mr. Lund.

But I submit that judges — in fact some of them would like to have this as a crutch so that they would sentence the individual to jail and have to if this bill becomes a law. It is a law and order bill. I hope you will vote against the pending motion.

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

Mr. LUND: Mr. Speaker and Members of the House: The gentleman from Cape Elizabeth, Mr. Hewes, has suggested in his debate that the judges would like to have this as a crutch, and I would like to inquire of the gentleman from Cape Elizabeth, Mr. Hewes, whether he has in fact inquired of any judge who has told him that he would like to have this as a crutch.

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

Mr. HEWES: Mr. Speaker, in response to the gentleman's question I recall that at the hearing someone did say that a judge did make that comment, he would like to have a crutch of that nature. I have not inquired of any judges on my own.

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

Mr. SILVERMAN: Mr. Speaker and Members of the House: I would like to go along with Representative Hewes in trying to take someone who is going to commit a crime with a firearm and put him out of the reach of society where he can do it again. It annoys me to see how some people will take the stand to protect the criminal even when he is using a firearm, and I do believe that is the cause of a lot of our crime today, overprotection by the legal profession.

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

Mr. CALL: Mr. Speaker and Members of the House: What civilization needs more than new bills is conscientious treatment of bills that are now on the books. We need enforcement more than



we need more and more bills which will just cause more confusion. I support the "Ought not to pass" Report.

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

Mr. KELLEHER: Mr. Speaker and Ladies and Gentlemen of the House: I don't know whether the judges want this for a crutch, but I certainly do. If we can pass this bill we may be able to reduce an unlawful act by someone who would use a revolver. I am not quite so worried about whether the judges would want it or not, but I am quite sure the people would want it. I know I wouldn't want to be looking down the business end of one of those weapons, and I am quite sure nobody else would either. So I do support the "Ought to pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Jutras.

Mr. JUTRAS: Mr. Speaker and Ladies and Gentlemen of the House: I believe that we have no business in interfering with the judicial process any more than we have any business in asking from the Executive some clerical help for the legislators during this session. This is out of our domain. These sentences, we should not tell the judicial system what to impose and what not to impose. I support the "Ought not to pass" Report.

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

Mr. BRAWN: Mr. Speaker, Ladies and Gentlemen: I am surprised here this morning when I get this paper S. P. 332, L. D. 983. They have stricken out everything here by firearms. Now if you listened to your radio and your television last night, you know that this migrant farmer down here he did slay twenty-one people. He did not do this with a gun; he did it with a bash in the head and then knifing them after he pulled their clothes over their head. Why should we just take up guns and nothing else? And I say this ought not to pass.

The SPEAKER: The Chair recognizes the gentleman from Fort Kent, Mr. Bourgoin.

Mr. BOURGOIN: Mr. Speaker and Members of the House: A few years ago we passed mandatory penalties for trucking when they were overloading, and two different judges told me that it would not leave them any discretion. At a later session we removed the mandatory provision of the law, and it is working very good now.

Mr. Shute of Stockton Springs requested a roll call vote.

The SPEAKER: The yeas and nays have been requested.

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

Mr. HENLEY: Mr. Speaker and Ladies and Gentlemen of the House: I signed the "Ought to pass" Report. I realize that a lot of our judges do not welcome mandatory sentences. I agree with them on a lot of areas. I feel though that in this one area, the use of guns, firearms to commit crimes, that there is a little bit more than the leeway to allow the judge involved; I feel that there is psychology involved. It seems to me that if it was publicly made known far and wide that conviction of a crime while carrying a firearm would mean so many years behind the bars with no time off, it should be a deterrent.

I feel that that one area is one area where we should be able to dictate a little bit and give it a try. As Mr. Bourgoin says, if it didn't work we can always change it. But something should be done regardless of what is said about the prerogative of the judges. It seems to me and it seems to a lot of us that crimes being committed with the use of firearms are increasing. If this system isn't working, let's try another one.

As far as this amendment is concerned, it does water the bill down, but I feel that the firearm is the most commonly used weapon. It is a weapon that can kill at a distance and some of the other dangerous weapons cannot. So I would hope that you would vote against the "Ought not to pass" and then accept the "Ought to pass" Report.

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 Augusta, Mr. Lund, that the House accept the Majority "Ought not to pass" Report in non-concurrence. If you are in favor of accepting the Majority Report you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEA — Albert, Baker, Bernier, Berry, P. P.; Bourgoin, Bragdon, Brawn, Bustin, Call, Collins, Cooney, Cummings, Drigotas, Faucher, Fraser, Gauthier, Genest, Herrick, Jutras, Kelley, P. S.; Keyte, Lebel, Lewin, Lucas, Lund, Manchester, Martin, McCloskey, McTeague, Murray, Norris, Page, Smith, D. M.; Vincent, Wheeler, White, Williams.

NAY — Ault, Bailey, Barnes, Bartlett, Bedard, Berry, G. W.; Berube, Binnette, Birt, Bither, Boudreau, Brown, Bunker, Carey, Carter, Churchill, Clark, Clemente, Conley, Cote, Cottrell, Crosby, Curtis, A. P.; Curtis, T. S., Jr.; Dam, Dow, Doyle, Dudley, Dyar, Emery, D. F.; Emery, E. M.; Evans, Farrington, Fecteau, Finemore, Gagnon, Good, Goodwin, Hall, Hancock, Hardy, Hawkins, Hayes, Henley, Hewes, Hodgdon, Immonen, Jalbert, Kelleher, Kelley, K. F.; Kelley, R. P.; Kilroy, Lee, Lewis, Lincoln, Littlefield, Lizotte, Lynch, MacLeod, Mahany, Marsh, Marstaller, McCormick, McKinnon, Millett, Mills, Morrell, Mosher, Parks, Payson, Pontbriand, Porter, Rand, Rollins, Scott, Shaw, Sheltra, Shute, Silverman, Simpson, L.E.; Simpson, T. R.; Slane, Smith, E. H.; Starbird, Stillings, Tanguay, Theriault, Trask, Webber, Whitson, Wood, M. W.; Woodbury.

ABSENT—Carrier, Curran, Cyr, Donaghy, Gill, Hanson, Haskell,

Lawry, Lessard, Maddox, McNally, O'Brien, Orestis, Pratt, Rocheleau, Ross, Santoro, Susi, Tyndale, Wight, Wood, M. E.

Yes, 37; No, 92; Absent, 21.

The SPEAKER: Thirty - seven having voted in the affirmative, ninety-two in the negative, with twenty-one being absent, the motion does not prevail.

Thereupon, the Minority "Ought to pass" Report was accepted in concurrence and the Bill read twice.

Senate Amendment "A" (S-218) was read by the Clerk and adopted in concurrence and the Bill assigned for third reading the next legislative day.

#### Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Provide for Use of the Courts by Poor Persons" (S. P. 356) (L. D. 1052) reporting same in a new draft (S. P. 606) (L. D. 1779) under title of "An Act to Provide for Use of the Courts by Indigent Persons" and that it "Ought to pass"

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
HARDING of Aroostook  
—of the Senate.  
Mr. KELLEY of Caribou  
Mrs. WHITE of Guilford  
Messrs. LUND of Augusta  
ORESTIS of Lewiston  
Mrs. WHEELER of Portland  
—of the House.

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

Report was signed by the following members:

Mr. QUINN of Penobscot  
—of the Senate.  
Messrs. HENLEY of Norway  
PAGE of Fryeburg  
Mrs. BAKER of Orrington  
Messrs. HEWES of Cape Elizabeth  
CARRIER of Westbrook  
—of the House.

Came from the Senate with the Majority Report accepted and the Bill passed to be engrossed.

In the House: Reports were read.

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

Mrs. WHITE: Mr. Speaker, I move the acceptance of the Majority "Ought to pass" Report and I would speak to my motion please.

The SPEAKER: The gentlewoman from Guilford, Mrs. White moves the acceptance of the Majority "Ought to pass" Report in concurrence.

The gentlewoman may proceed.

Mrs. WHITE: Mr. Speaker and Members of the House: I would point out a few facts in connection with this bill.

First. The Maine Constitution, in Article I, Sec. 19 of the Bill of Rights of the Constitution, provides that "every person, for an injury done him in his person, reputation, property, or immunities, shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely; and without denial, promptly and without delay."

However, despite this guarantee, the denial of justice by reason of the expense required to get into court is still a problem, for there are many costs that must be paid in advance, including those incurred for service of subpoenas, summonses and costs collected by deputy sheriffs, and so forth.

I would also point out that the concept embodied in this bill is not unique. More than half of the States have similar provisions, as well as the whole federal court system. It is in the statute books of large states like New York and small states like Kentucky.

Nor is this concept new. The English courts, from which our whole judicial system is derived, adopted such a statute in 1495; Massachusetts as early as 1642. Ten states had such a statute before Maine became a state a century and a half ago. No, it is not new, but it is greatly needed.

I also would point out that this legislation has safeguards against its abuse built into it. An order allowing a waiver of fees would not be issued until a judge has fully reviewed the matter and determined that all parties concerned with the suit are indigent, and also that the suit is not frivolous, or brought for a malicious purpose. Also, he can

suspend that order at any time if he feels it is being abused.

This bill also provides that when the person wins, he has to pay the fees which would originally have been collected. I urge you to vote for the acceptance of this Majority Report.

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

Mr. HEWES: Mr. Speaker and Members of the House: I hope this is the last time I will be speaking today; I know you hope so.

I oppose the motion of the good lady from Guilford, Mrs. White. This, as you can see, is a bill by which certain costs of court would be paid by the county rather than by the individuals. I oppose it for six reasons.

First off, I think the present law is very fair. Under the present law the loser of a civil action pays the cost of court. I think that is fair, that this is the way it should be. Secondly, in order to—under this bill a party would have to discuss with the judge before he is allowed not to have to pay the the cost, he would have to discuss the case with the judge, ex parte or by himself.

Now I don't think it is right for one of the parties to go to a judge before a trial in the absence of the other lawyer and discuss the case with him. And the Legislature certainly should not sanction such actions. I question the propriety of this or the ethics of it.

Further, I don't think it is necessary. There is only one witness that testified in addition to the sponsor, and I don't think there is a need all over the state. And then it is ridiculous. In my opinion, this is a matter which the cost of court may be only ten or fifteen dollars, and as you know it costs probably \$25 or \$35 or even \$50 for a lawyer to go into court.

So here is a lawyer going into court, but his own fee will be, say, twenty-five or thirty-five dollars, in order to save his client ten or fifteen dollars. And I think that is ridiculous and I hope you will vote against the bill after we defeat the pending motion.

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

Mr. GENEST: Mr. Speaker and Ladies and Gentlemen of the House: I rise to urge you to support the Majority "Ought to pass" Report.

Perhaps no characteristic of an organized and cohesive society is more fundamental than its erection and enforcement of a system of rules defining the various rights and duties of its members, enabling them to govern their affairs, and definitively settle their differences in an orderly, predictable manner. Without such a "legal system," social organization and cohesion are virtually impossible; with the ability to seek regularized resolution of conflicts, individuals are capable of inter-dependent action that enables them to strive for achievements without the anxieties that would beset them in a disorganized society. Put more succinctly, it is this injection of the rule of law that allows society to reap the benefits of rejecting what political theorists call the "state of nature."

American society, of course, bottoms its systematic definition of individual rights and duties, as well as its machinery for dispute settlement, not on custom or the will of strategically placed individuals, but on the common law model. It is to courts or other quasi-judicial official bodies, that we ultimately look for implementation of a regularized, orderly process of dispute settlement. Within this framework, those who wrote our original Constitution, in the Fifth Amendment, and later those who drafted the Fourteenth Amendment, recognized the centrality of the concept of due process in the operation of this system. They recognized that unless we guarantee that no one may be deprived of his rights or his liberty or property without the due process of our law, the State has no political authority to monopolize the techniques for problem resolution.

Due process as we recognize it requires, at a minimum, that persons forced to settle their claims of right and duty through the ju-

dicial process must be given a meaningful opportunity to be heard. A parallel principle is that a statute or a rule may be held constitutionally invalid as applied when it operates to deprive an individual of a protected right although its general validity is a measure enacted by the legitimate exercise of state powers beyond question. This is what happened in the *Harrington vs. Harrington* case decided last year by the Maine Supreme Court. Thus, in cases involving religious freedom, free speech or assembly, our courts have often held that a valid statute was unconstitutionally applied in particular circumstances because it interfered with a particular individual's exercise of his rights.

No less than these rights I have just mentioned, the right to a meaningful opportunity to be heard within the limits of practicality must be protected against denial by particular laws that operate to jeopardize it for particular individuals.

The State of Maine's refusal to admit persons to the use of its court system solely because they cannot pay the fees usually required in advance must be regarded as the equivalent of denying them an opportunity to be heard upon their claimed right that they desire to litigate.

One of the basic tenets, which we have all learned and heard time and again since our early childhood, is that all men are created equal and that our government guarantees, in the words of our Pledge of Allegiance, "One nation under God, indivisible, with liberty and justice for all." Unless you feel that the Pledge of Allegiance must read "liberty and justice for all who can pay the filing fee," you must vote for this legislation.

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

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

Mr. PAGE: Mr. Speaker and Members of the House: I would like to support the gentleman from Cape Elizabeth, Mr. Hewes, in

everything he has said, and merely add that this is not an increased cost to the state but is a county cost as the bill is written, which would be an additional cost to the property owners. I think we should not pass legislation that does this at this time.

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

Mr. MURRAY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to be very brief and indicate that I feel that we should not deny anyone in the state access to the courts solely because they do not pay. Such a denial is a misfit in the country and state, dedicated to the affording equal justice to all and special privileges to none in the administration of our laws. There can be no equal justice when the kind of trial a man gets depends on the amount of money he has. Impoverished litigants must be afforded adequate opportunity to get into our courts as litigants who have enough money to pay the fees.

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 gentlewoman from Guilford, Mrs. White, that the House accept the Majority "Ought to pass" Report in concurrence on Bill "An Act to Provide for Use of the Courts by Indigent Persons," Senate Paper 606, L. D. 1779. If you are in favor of accepting the Majority Report you will vote yes; if you are opposed you will vote no.

#### ROLL CALL

YEA—Albert, Barnes, Bartlett, Bedard, Bernier, Berry, P. P.; Bither, Boudreau, Bourgoin, Brawn, Brown, Bunker, Bustin, Carey, Carter, Clemente, Conley, Cote, Cottrell, Curtis, T. S., Jr.;

Dam, Dow, Doyle, Drigotas, Emery, D. F.; Farrington, Faucher, Finemore, Gagnon, Genest, Good, Goodwin, Hancock, Hayes, Herrick, Hodgdon, Jalbert, Kelleher, Kelley, P. S.; Keyte, Lebel, Lesnard, Littlefield, Lizotte, Lucas, Lund, Lynch, Mahany, Manchester, Marsh, Martin, McCloskey, McKinnon, McTeague, Millett, Murray, Norris, Pontbriand, Porter, Scott, Simpson, T. R.; Slane, Smith, D. M.; Smith, E. H.; Starbird, Stillings, Susi, Tanguay, Trask, Vincent, Webber, Wheeler, White, Whitson, Wood, M. W.; Wood, M. E.

NAY—Ault, Bailey, Baker, Berry, G. W.; Berube, Binnette, Bragdon, Call, Clark, Collins, Crosby, Cummings, Curtis, A. P.; Donaghy, Dudley, Dyar, Emery, E. M.; Evans, Fecteau, Gill, Hall, Haskell, Hawkens, Henley, Hewes, Immonen, Jutras, Kelley, K. F.; Kelley, R. P.; Kilroy, Lee, Lewin, Lewis, Lincoln, MacLeod, Marstaller, McCormick, Mills, Morrell, Mosher, Page, Parks, Payson, Pratt, Rand, Rocheleau, Rollins, Shaw, Sheltra, Shute, Silverman, Simpson, L. E.; Theriault, Woodbury.

ABSENT—Birt, Carrier, Churchill, Cooney, Curran, Cyr, Fraser, Gauthier, Hanson, Hardy, Lawry, Maddox, McNally, O'Brien, Orestis, Ross, Santoro, Tyndale, Wight, Williams.

Yes, 76; No, 54; Absent, 20.

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

Thereupon, the New Draft was read twice and assigned the next legislative day.

#### Non-Concurrent Matter Tabled and Assigned

Resolution Proposing an Amendment to the Constitution Pledging Credit of the State for Guaranteed Loans for Housing for Indians (H. P. 402) (L. D. 515) which failed of final passage in the House on May 24 and which was passed to be engrossed on May 18.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" in non-concurrence.

In the House: On motion of Mr. Mills of Eastport, tabled pending further consideration and specially assigned for Wednesday, June 2.

**Non-Concurrent Matter  
Tabled and Assigned**

Bill "An Act Restricting Use of Certain Campsites" (H. P. 996) (L. D. 1358) which was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in the House on May 17.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" and Senate Amendment "A" thereto in non-concurrence.

In the House: On motion of Mr. Porter of Lincoln, tabled pending further consideration, and specially assigned for Tuesday, June 1.

**Non-Concurrent Matter**

An Act relating to Exemptions from Real and Personal Property Taxation for Industrial Disposal Systems (H. P. 1131) (L. D. 1559) which was passed to be enacted in the House on May 21 and passed to be engrossed on May 17.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" in non-concurrence.

In the House: On motion of Mr. Finemore of Bridgewater, the House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act to Further Regulate the Sale of Malt Liquor between Manufacturers and Wholesalers" (H. P. 1330) (L. D. 1744) which was passed to be engrossed as amended by House Amendment "A" in the House on May 26.

Came from the Senate indefinitely postponed in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Hodgdon.

Mr. HODGDON: Mr. Speaker, I move we insist.

The SPEAKER: The gentleman from Kittery, Mr. Hodgdon, moves that the House insist.

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

Mrs. BAKER: Mr. Speaker, I move that we recede and concur.

The SPEAKER: The gentleman from Orrington, Mrs. Baker, moves that the House recede and concur.

Mr. Finemore of Bridgewater requested a division on the motion.

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Hodgdon.

Mr. HODGDON: Mr. Speaker, Ladies and Gentlemen of the House: I believe this L. D. was well debated on Wednesday. I don't believe that the basic causes have changed any in two days. I would just remind the ladies and gentlemen of the House that this is an exception to the general rule whereby as long as the state has the police power of the liquor business that it is entirely from any other personal type of business, and it is up to this legislature to continue to control it.

I appreciate the votes that you gave me last Wednesday, and I would ask that you stay with me today. In fact, I will invite anybody who has had a change of heart to go along with me.

The SPEAKER: A vote has been requested. All in favor of receding and concurring will vote yes; those opposed will vote no.

A vote of the House was taken.

30 having voted in the affirmative and 77 having voted in the negative, the motion to recede and concur did not prevail.

Thereupon, the House voted to insist.

**Non-Concurrent Matter**

An Act relating to Safety Barriers on the Maine Turnpike (H. P. 619) (L. D. 830) which was indefinitely postponed on passage to be enacted in non-concurrence in the House on May 24.

Came from the Senate passed to be enacted in non-concurrence.

In the House:

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

Mr. LIZOTTE: Mr. Speaker, I move that we recede and concur.

The SPEAKER: The gentleman from Biddeford, Mr. Lizotte, moves that the House recede and concur.

The Chair recognizes the gentleman from Albion, Mr. Lee.

Mr. LEE: Mr. Speaker and Members of the House: We defeated this in good shape the other day and I think we were right. I ask for a division.

The SPEAKER: A division has been requested on receding and concurring.

The Chair recognizes the gentleman from Biddeford, Mr. Lizotte.

Mr. LIZOTTE: Mr. Speaker and Members of the House: I believe that Monday the reason that we lost this is because of the attendance, but I do believe that most of us here are really concerned with the safety of our people. Isn't this the reason why we ran for this office?

Now I will go back to the good gentleman from Freeport, Mr. Marstaller. It seems rather strange to me that he would speak against such a good piece of safety legislation. The reason for this is, the last four years the Town of Freeport has had one accident on a divided highway such as the Maine Turnpike which resulted in four fatalities. Because of this the State Highway Commission has appropriated the sum of \$180,000 in their agenda for this year to erect five miles of guardrail in the Town of Freeport so no such accident will happen again.

Now let's go back to the cost, which truthfully is not what's important. I mentioned the price of steel guardrails, but now that the bill has been amended to the words "safety barriers," that is up to the safety engineers to see fit, in their wisdom, something better that could be much cheaper, and they may do so. But believe me, ladies and gentlemen of the House, we are here to protect our people. Please, let's live with our commitments!

Let us remember that on the Maine Turnpike we have had, in the last four years, 32 fatalities crossing the median strip. I for one am not looking for any more. I hope you will all join with me and recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Jutras.

Mr. JUTRAS: Mr. Speaker, Ladies and Gentlemen of the House: I believe that last Monday when we defeated this bill, or the last time it was on the floor of this House, it was because the people who were here had the good judgment and confidence in the engineers of the Maine Turnpike Authority who put up barriers where needed. If you will notice, these barriers are being put up; even this week they are working on this Maine Turnpike Authority, to put up barriers where they are needed.

This is an emotional, publicity seeking bill whereby state officials are trying to interject themselves into a privately owned, a privately controlled authority, where we have no business in telling them that they have to spend millions of dollars to put up a guardrail or a barrier, or whatever you may call it. I move that we kill this bill once again today as we did last week.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I am chagrined to again take issue with my good friend from Albion, Mr. Lee. I was not present when the last vote was taken on this. The gentleman makes comment, "This bill was roundly defeated." The vote was 69 to 60. I would suggest that probably this would not indicate that the bill was roundly defeated.

The reason that I am on my feet on this bill is because, like all of us, I am a frequent traveller on the turnpike. My driving time is very very limited. I have, however, a personal experience that was witnessed this winter by members of this House, at which time, fortunately, the driving speed was no more than 40 miles per hour on the turnpike, and suddenly complete control of the car was lost and I wound up on the only barrier that was available, and that is a small snow bank in between the two lanes. Now there might be some that might think that might

not have been a great loss, but it could have been a great loss if I had plowed across and run into two or three other cars.

I want to make comment that there are a lot of good pieces of legislation that we have heard and there are a lot of bad ones. And this is a very very good piece of legislation. We give ourselves some protection on the second-highest paid toll road in the country — the Maine Turnpike Authority. And as far as I am concerned, my area pays a great deal of this, because for many many years, when we were trying for 18 years to get the third bridge, which we still haven't got, believe me, a great many people paid the fifteen cents to go from Lewiston to Auburn on the turnpike, and that to me is a lot of money. Our mill and shoe shop people and our workers at home have to pay it and they deserve some sort of protection.

I want to commend the young gentleman from Biddeford, Mr. Lizotte for having the far thought of presenting this piece of legislation. This is a sound, solid piece of legislation. And when I was chairman of the "I Want to Live" convention we had, attended by 1,200 people, there was a great deal of conversation concerning such things being done to protect the individuals over the turnpike.

When the vote is taken, Mr. Speaker, I would go along with the gentleman from Biddeford, Mr. Lizotte. I move the vote be taken by the yeas and nays.

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

Mr. FARRINGTON: Mr. Speaker, I would pose a question through the Chair to the gentleman from Sanford, Mr. Jutras. The question is, Mr. Jutras, are you still employed by the Maine Turnpike Authority?

The SPEAKER: The gentleman from Old Orchard Beach, Mr. Farrington, poses a personal question to the gentleman from Sanford, who may answer if he chooses, and the gentleman does not care to answer.

The Chair recognizes the gentleman from Biddeford, Mr. Sheltra.

Mr. SHELTRA: Mr. Speaker, Ladies and Gentlemen: It has come to my attention that the objectionable part of this bill is the fact that the Maine Turnpike Authority doesn't like to be told what to do and when to do it. Now I submit to you, in our own private lives there are many many safety measures that we have to adhere to. For instance, even on your own private lots you have to build an outer building such as a garage so many feet away. If you want to burn your leaves you have to have a permit and go to the fire station in order to do this and to do that.

I was in a nursing home a couple of years ago to renew this lady's advertising — a large nursing home, by the way — and she said, "Well, I don't know what we are going to do about the advertising this year. I can't afford a new sprinkler system which would cost me \$25,000." So consequently, she says, "I am going to go from a nursing home to a rest home." I said, "How is this going to affect your people in here now?" She says, "I am going to lose very few. My house will still be full." Well I said, "Isn't that strange? All you have to do is change the name of the institution and all of a sudden your people are fire orientated. They don't have to fear fire." But anyway, going on here, your restaurants, all of your businesses come up against this safety factor. We all live with it on a daily basis.

Now this bill — there has been much said about it, but this bill has been watered down to practically nil. We did away with the guardrailings, we are just down primarily now to the time factor, and that is January 1, 1975. We have given this industry plenty of time. I don't feel that the Maine Turnpike Authority is a sacred cow, by any means. I think they should be subjected to the same type of laws and legislation that we are. I certainly hope that you will recede and concur with the Senate.

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



Mr. BERNIER: Mr. Speaker, Ladies and Gentlemen of the House: I voted against this measure the last time because like most of us here, I am on sort of an economy binge. But economy can be pushed too far.

This was brought to my attention in rather a forceable manner. While driving the other day the hood of my car popped up, and I suddenly realized what could possibly happen if we were in heavy traffic. Under these particular conditions you just can't see a thing. This is probably the most dangerous thing that ever happened to me. And for that very reason, I do believe that let's forget economy for this once and vote for this most important piece of legislation, I am voting for it.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I am reluctant, seeing as this is so far away from my domicile, to say much, but I did sit on the Transportation Committee which was a nearly unanimous report and it was certainly a majority report after we heard both sides of the evidence. Now let me tell you here this morning, we seem to be hearing only one side of the evidence, but after this Committee on Transportation, which is a pretty sound bunch of fellows in my opinion, heard the evidence on both sides, we were certainly a large majority that felt that this bill should not pass. And we felt so and this is one of the reasons that we felt this way — first of all, they are now putting up guardrails where it seems necessary. They are doing everything that seems within their means — they are trying. They didn't say "We won't put up guardrails," they said, "We are already doing it."

Basically what this bill does is tell them when they have got to do it, how fast they have got to do it. They don't know how much their revenue is going to be. They can't anticipate their revenue no more than we can our state revenue. But based on sound mathematical figures, of which they use, they figure they can do it within

a certain length of time and they are doing it.

Now it wasn't like they came to this Committee on Transportation and said we are not going to do it, we don't intend to do it. This wasn't the case. They said they are going to do it and they are doing it. So this bill merely tells them to speed it up, to do it so and so, regardless if they have got the funds or not. And your Committee on Transportation didn't feel as though this bill should pass.

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 Sanford, Mr. Jutras.

Mr. JUTRAS: Mr. Speaker, could I have the Clerk read the committee report on this bill, please?

The Committee Report was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Jutras.

Mr. JUTRAS: Mr. Speaker, am I correct that there is only one member of the minority report who says that it should pass and twelve against?

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

Mr. LIZOTTE: Mr. Speaker, there was also a gentleman from this body, Mr. Lebel, that signed the report.

I would also like to thank the good gentleman from Old Orchard for posing the question to the good gentleman from Sanford, whether he is employed by the Maine Turnpike Authority. But truthfully, it makes no difference whether he works for the Maine Turnpike Authority or not, I am only interested in safety for the people.

The SPEAKER: The Chair recognizes the gentleman from Wayne, Mr. Ault.

Mr. AULT: Mr. Speaker, Ladies and Gentlemen of the House: I would be remiss if I didn't point out that the Senate amendment that changes the words "steel guardrail" to "safety barrier" now provides the Turnpike Authority with another opportunity to provide a very substantial barrier by 1974 the whole length of the turnpike if they would just cease and desist in picking up the nonreturnable bottles and cans in the median strip.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Biddeford, Mr. Lizotte, that the House recede and concur with the Senate on Bill "An Act relating to Safety Barriers on the Maine Turnpike," House Paper 619, L. D. 830. All in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEAS — Albert, Ault, Bailey, Bartlett, Bedard, Bernier, Berube, Binnette, Boudreau, Bourgoin, Brawn, Bunker, Bustin, Carey, Carter, Churchill, Clark, Clemente, Collins, Conley, Cooney, Cote, Cottrell, Curtis, T. S., Jr.; Dam, Dow, Doyle, Drigotas, Dyar, Emery, D. F.; Emery, E. M.; Farrington, Facher, Fecteau, Finemore, Gagnon, Genest, Gill, Good, Goodwin, Hancock, Hardy, Hawkens, Herrick, Hodgdon, Jalbert, Kelleher, Kelley, P. S.; Kelley, R. P.; Kilroy, Lawry, Lebel, Lessard, Lewin, Littlefield, Lizotte, Lucas, Lund, Lynch, Mahany, Manchester, Marsh, Martin, McCloskey, McKinnon, McTeague, Mills, Morrell, Murray, O'Brien, Parks, Pontbriand, Rocheleau, Sheltra, Silverman, Simpson, T. R.; Slane, Smith, D. M.; Smith, E. H.; Starbird, Stillings, Tanguay, Theriault, Vincent, Webber, Wheeler, Whitson, Woodbury.

NAYS — Barnes, Berry, G. W.; Berry, P. P.; Birt, Bither, Bragdon, Brown, Call, Crosby, Cummings, Curtis, A. P.; Donaghy, Dudley, Evans, Fraser, Hall, Haskell, Hayes, Henley, Hewes, Immonen, Jutras, Kelley, K. F.; Keyte, Lee, Lewis, Lincoln, MacLeod, Marstaller, McCormick, Mc-

Nally, Millett, Mosher, Norris, Page, Payson, Porter, Pratt, Rand, Rollins, Scott, Shaw, Slute, Simpson, L. E.; Susi, Trask, White, Williams, Wood, M. W.; Wood, M. E.

ABSENT — Baker, Carrier, Curran, Cyr, Gauthier, Hanson, Maddox, Orestis, Ross, Santoro, Tynedale, Wight.

Yes, 88; No, 50; Absent, 12.

The SPEAKER: Eighty-eight having voted in the affirmative and fifty in the negative, with twelve being absent, the motion to recede and concur does prevail.

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

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

Mr. JALBERT: Mr. Speaker, I now make a motion that we reconsider our action whereby we enacted this bill, and when you vote, vote against me.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, moves the House reconsider its action whereby we receded and concurred. All in favor will say aye; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

From the Senate: The following Order:

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, June 1, at 10 o'clock in the morning. (S. P. 608)

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

#### Messages and Documents

The following Communication:

The Senate of Maine

Augusta, Maine

May 27, 1971

Hon. Bertha W. Johnson

Clerk of the House

105th Legislature

Dear Madam Clerk:

The Senate 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 Relating to Pub-

lic Utility Transmission Lines” (H. P. 918) (L. D. 1264)

The President appointed the following members of the Senate to the Committee of Conference:  
Senators:

SCHULTEN of Sagadahoc  
BERRY of Cumberland  
VIOLETTE of Aroostook  
Respectfully,

(Signed)

HARRY N. STARBRANCH  
Secretary of the Senate

The Communication was read and ordered placed on file.

#### **Petitions, Bills and Resolves Requiring Reference**

The following Bill, approved by a majority of the Committee on Reference of Bills for appearance on House Calendar, was received and referred to the following Committee:

#### **Legal Affairs**

Bill “An Act to Incorporate the Jackman Water District” (H. P. 1372) (Presented by Mr. Faucher of Solon)

(Ordered Printed)

Sent up for concurrence.

#### **Orders**

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

Mr. LUND: Mr. Speaker, I would like to make an inquiry as to the whereabouts of L. D. 1739, “An Act relating to Legislative Counsel or Agents.” It is understood from reports in the press that the other body was returning the bill to this body substantially in its original form, and inquiry has been made in the Senate and they are no longer in possession of the bill in the Senate and it appears not to be on our calendar today.

The SPEAKER: The Chair would advise the gentleman that the last action of the Senate was to adhere to their former action and it was sent forthwith, but it is not on a supplemental journal. It will be in the possession of the House on Tuesday next.

On the disagreeing action of the two branches of the Legislature on Bill “An Act relating to Public Utility Transmission Lines”

(H. P. 918) (L. D. 1264) the Speaker appointed the following Conferees on the part of the House: Messrs. WILLIAMS of Hodgdon  
HARDY of Hope  
MOSHER of Gorham

On the disagreeing action of the two branches of the Legislature on Bill “An Act relating to Closed Season and Minimum Size of Coho Salmon” (H. P. 1328) (L. D. 1742) the Speaker appointed the following Conferees on the part of the House:

Messrs. HODGDON of Kittery  
BUNKER of Gouldsboro  
KELLEY of Machias

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

Mr. Carey from the Committee on Appropriations and Financial Affairs reported “Ought not to pass” on Bill “An Act to Authorize the Construction of Self-liquidating Housing for the University of Maine and the Issuance of Bonds of the State of Maine in an Amount Not Exceeding \$10,000,000 for the Financing Thereof” (H. P. 524) (L. D. 848)

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

#### **Leave to Withdraw**

Mr. Curtis from the Committee on State Government on Bill “An Act relating to Executive Reorganization” (H. P. 1103) (L. D. 1509) reported Leave to Withdraw.

Mr. Stillings from same Committee reported same on Bill “An Act relating to the Department of Education” (H. P. 1089) (L. D. 1478)

Reports were read and accepted and sent up for concurrence.

#### **Covered by Other Legislation**

Mr. Bragdon from the Committee on Appropriations and Financial Affairs on Bill “An Act to Authorize Bond Issue in the Amount of \$3,213,000 for the Development, Expansion and Improvement of State Park Facilities” (H. P. 1108) (L. D. 1513) reported Leave to Withdraw, as covered by other legislation.

Mr. Donaghy from the Committee on State Government reported same on Bill "An Act relating to Data Processing and Central Computer Services in Department of Finance and Administration" (H. P. 610) (L. D. 821)

Reports were read and accepted and sent up for concurrence.

**Ought to Pass in New Draft  
New Drafts Printed  
Tabled and Assigned**

Mrs. Cummings from the Committee on Natural Resources on Bill "An Act to Revise the Site Location of Development Law" (H. P. 537) (L. D. 710) reported same in a new draft (H. P. 1373) (L. D. 1790) under same title and that it "Ought to pass"

Report was read.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Hardy.

Mr. HARDY: Mr. Speaker and Ladies and Gentlemen of the House: As you notice, the new bill 1790 was dropped on our desks this morning, and I think this being one of the larger bills of the session that we should have a day to review this. I therefore hope that somebody would table this for one day.

Thereupon, on motion of Mr. Smith of Waterville, tabled pending acceptance of the Report and specially assigned for Tuesday, June 1.

Mr. Herrick from same Committee on Bill "An Act relating to Certain Laws Relative to Great Ponds" (H. P. 538) (L. D. 711) reported same in a new draft (H. P. 1374) (L. D. 1791) under same title and that it "Ought to pass"

Mr. Marstaller from the Committee on State Government on Bill "An Act relating to Hunting on Lands of Passamaquoddy Tribe of Indians" (H. P. 306) (L. D. 406) reported same in a new draft (H. P. 1371) (L. D. 1789) under title of "An Act relating to Hunting, Fishing and Trapping on Indian Tribal Lands" and that it "Ought to pass"

Reports were read and accepted, the New Drafts read twice and assigned the next legislative day.

**Ought to Pass  
Printed Bill**

Mr. Starbird from the Committee on State Government reported "Ought to pass" on Resolve Authorizing Conveyance of Ministerial and School Lands by Trustees of Town of Mattawamkeag to the State (H. P. 1350) (L. D. 1772)

Report was read and accepted, the Resolve read once, and assigned the next legislative day.

**Ought to Pass with  
Committee Amendment**

Mr. Curran from the Committee on Natural Resources on Bill "An Act Revising the Air Pollution Laws" (H. P. 1127) (L. D. 1557) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was read and accepted and the Bill read twice. Committee Amendment "A" (H-373) was read by the Clerk and adopted, and the Bill assigned for third reading the next legislative day.

**Divided Report  
Tabled and Assigned**

Majority Report of the Committee on Natural Resources reporting "Ought not to pass" on Bill "An Act relating to the Collection and Disposal of Solid Wastes by the Washington County Commissioners" (H. P. 819) (L. D. 1092)

Report was signed by the following members:

Messrs. VIOLETTE of Aroostook  
GRAHAM of Cumberland  
- of the Senate.  
Messrs. CURRAN of Bangor  
HERRICK of Harmony  
Mrs. BROWN of York  
Mrs. CUMMINGS of Newport  
Mrs. KILROY of Portland  
Mr. WHITSON of Portland  
- of the House.

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

Report was signed by the following members:

Mr. SCHULTEN of Sagadahoc  
- of the Senate.  
Messrs. SMITH of Waterville  
MacLEOD of Bar Harbor  
HARDY of Hope

AULT of Wayne  
- of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Hardy.

Mr. HARDY: Mr. Speaker, I move that we accept the Minority "Ought to pass" Report.

The SPEAKER: The gentleman from Hope, Mr. Hardy, moves we accept the Minority "Ought to pass" Report.

The Chair recognizes the gentleman from York, Mrs. Brown.

Mrs. BROWN: Mr. Speaker and Members of the House: I think that sometimes we ought to have an explanation why Minority Reports get accepted, and not the Majority. In this case the Committee was very anxious to do something about this bill, but the sponsor and the Health and Welfare Department never came back to help us get the bill straightened out. I am perfectly willing to go along with the "Ought to pass" Report at this point with the hope that Mr. Donaghy can bring in something here that we can work with this bill.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Hardy.

Mr. HARDY: Mr. Speaker and Members of the House: I am sorry I didn't make explanation enough and didn't see all of the members of the committee. Mr. Donaghy has already made his peace with the department involved with this Washington County bill.

I now move that it lie on the table for one legislative day.

Thereupon, tabled pending the motion of the gentleman from Hope, Mr. Hardy to accept the Minority "Ought to pass" Report and specially assigned for June 1.

**Passed to Be Engrossed  
Third Reader  
Amended**

Bill "An Act relating to Prevention by Landowners of Acquisition of Rights- of- way, Easements and Public Rights by Dedication" (H. P. 708) (L. D. 954)

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

Mr. Hewes of Cape Elizabeth offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-349) was read by the Clerk.

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

Mr. DYAR: Mr. Speaker and Members of the House: Not being an attorney I cannot actually tell you what this amendment will do, but I am very leery of the amendment. The first page of the amendment pertains to acquisition of rights- of- way, easements and public rights by dedication. The second page of the amendment under Section 812-A. "Dedication of land in the unorganized territory to public use; notice to prevent." In this section it says:

"If a person apprehends that his land in the unorganized territory or any interest therein may be dedicated to public use by custom, use or by any act or acts of that person or any persons acting on his behalf, he may give public notice that he has no intent to dedicate his land or any interest therein to public use, by causing a copy of such notice to be recorded in the registry of deeds for the county where the land lies, and such recording shall prevent such dedication. The failure to do so shall not create any implication of dedication."

Now the thought arises to me that possibly our large landowners are saying that their intent is multiple use of their land, but with the passage of 812 here, this section 812, I wonder if this land will be under multiple use any longer.

I have talked to several attorneys on this, and I cannot seem to get a direct answer from any of them on what the implication might be. But in my legislative district alone, if my assumption should be correct, there would be approximately 400,000 acres of land now being used by the general public for recreation, hunting and fishing that will be closed to them.

I would pose a question through the Chair to the gentleman from Cape Elizabeth, Mr. Hewes, whether or not my understanding of this should have any bearing on this bill.

The SPEAKER: The gentleman from Strong, Mr. Dyar, poses a question through the Chair to the gentleman from Cape Elizabeth, Mr. Hewes, who may answer if he chooses; and the Chair recognizes that gentleman.

Mr. HEWES: Mr. Speaker and Members of the House: In reply to the gentleman's question, I understand the intent to be the exact opposite of what he indicated he read it to be. We all, I think, believe in private ownership of property, and a good part of the State of Maine, as you indicated a few days ago, was owned by fifteen corporations, individuals. They own it and they can put fences up around it, I believe. But they would like to have multiple use of their property, as I understand it, without the fear of losing ownership through adverse possession — without losing the title to the property.

Under the present law, there are ways that they can post the property with a sign, because if it is private property they can fence it off or put a chain across a road or some area. As I understand it, the intent is to permit the private landowners in unorganized territories to place a notice in the registry of deeds, that their land is their land, and for ten years the land will be their land, unless there is a transfer of some property or if it is for sale or lease or easement or something given.

In other words, as I see it, this is just a convenient way of saving the large landowners from having to post individual tracts of land. I feel that the intent is to permit the general public to use private property for the general public's use, so that they may hunt, fish, camp, tent and do things of that nature. So I would hope you would vote for House Amendment "B" and eventually vote for the whole bill.

The SPEAKER: The pending question is on the adoption of House Amendment "B". All in favor of the adoption of House Amendment "B" will vote yes; those opposed will vote no.

A vote of the House was taken.

99 having voted in the affirmative and 11 having voted in the negative, the motion did prevail.

The Bill was passed to be engrossed as amended by House Amendment "B" and sent to the Senate.

Bill "An Act relating to Appointments to the Portland Renewal Authority" (H. P. 779) (L. D. 1045)

Bill "An Act Levying a Tax for Research and Promotion of Maine Wild Blueberries" (H. P. 1368) (L. D. 1785)

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

Bill "An Act Revising the Laws Relating to Credit Unions" (H. P. 580) (L. D. 775)

Was reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed as amended by Committee Amendment "A" and sent to the Senate.

Bill "An Act relating to Appointments to Housing Authorities" (H. P. 782) (L. D. 1048)

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

On motion of Mr. Lucas of Portland, the House reconsidered its action of yesterday whereby Committee Amendment "A" was adopted.

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

Mr. LUCAS: Mr. Speaker, I now move that Committee Amendment "A" be indefinitely postponed and wish to speak to my motion.

The SPEAKER: The gentleman from Portland, Mr. Lucas moves that Committee Amendment "A" be indefinitely postponed. The gentleman may proceed.

Mr. LUCAS: Mr. Speaker and Members of the House: I believe you would want an explanation, for it is a very simple explanation. Committee Amendment "A" replaced a bill which has to do with the appointments to Housing Authorities. The Committee worked diligently to replace the bill, which I am in agreement with. However, in the replacement of the bill by amendment the resi-

gency requirement was omitted. So I am going to offer House Amendment "A", which would be the very same wording as Committee Amendment "A" with the exception that it would include the previous sentence of the Statutes as they now exist, which is the residency requirement.

Thereupon, Committee Amendment "A" was indefinitely postponed.

The same gentleman then offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-378) was read by the Clerk and adopted and the Bill was passed to be engrossed as amended and sent to the Senate.

Bill "An Act relating to the Location of Solid Waste Disposal Areas" (H. P. 820) (L. D. 1094)

Bill "An Act to Provide for Coastal Island Trusts" (H. P. 972) (L. D. 1333)

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

### **Third Readers Indefinitely Postponed**

Bill "An Act to Regulate the Harvesting of Fiddleheads on Penobscot Reservation Lands" (S. P. 363) (L. D. 1102)

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

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

Mr. PORTER: Mr. Speaker, Ladies and Gentlemen: If ever there was an ambrosia of the gods, it is the fiddleheads. It is a delightful little fern that grows in damp places, lasts only a few days before growing too tall, but it is really good eating. I am very fond of lobster, but when it comes to choice eating, a mess of fried trout and fiddleheads takes no second place.

In the Penobscot River there are dozens of islands owned by the Indians clear up to Mattawamkeag. These islands have tons and tons of fiddleheads. They are visited

by white folks, but not the Indians. There are plenty of fiddleheads down river; there they are gathered by the Indians and whites both. But in the northern reaches of their islands, the Indians very seldom ever visit those islands. Therefore all these fiddleheads must go to waste.

These islands must belong to some Indians but if I wanted to go to gather a mess of fiddleheads I would spend so much time trying to find the owner of the island that the fiddleheads would be gone. It is impossible for us in our area to know who is the owner of any one of those islands. Before we could go there we would have to get permission. I am very much afraid we would miss out on eating the ambrosia of the gods.

Therefore, Mr. Speaker, I move that this item be indefinitely postponed.

Thereupon, the Bill was indefinitely postponed in non-concurrence and sent up for concurrence.

### **Passed to Be Enacted Emergency Measure**

An Act Appropriating Funds for Drug Abuse (S. P. 341) (L. D. 1012)

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. 117 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.

### **Emergency Measure**

An Act Appropriating Funds for Staffing and Operation of the Residential Facility for Mentally Retarded Children in Aroostook County (H. P. 636) (L. D. 866)

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 3 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 Home Rule Procedure (H. P. 968) (L. D. 1328)

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, 121 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.

#### Passed to Be Enacted

An Act relating to Preserving Historical Materials by the State Museum (H. P. 204) (L. D. 270)

An Act Permitting the Establishment of an Indian Island Penobscot School Committee (H. P. 401) (L. D. 513)

An Act Revising the Laws Relating to the Maine State Prison (H. P. 458) (L. D. 613)

An Act Providing for Records of Sales of Used Merchandise (H. P. 490) (L. D. 631)

An Act Providing for a Low Income Allowance (H. P. 575) (L. D. 751)

An Act Providing Funds for the Maine Law Enforcement Planning and Assistance Agency (H. P. 834) (L. D. 1130)

An Act Providing Funds to Expand Homemaker Services in the Department of Health and Welfare (H. P. 836) (L. D. 1132)

An Act Increasing the Period for Benefits for Partial Incapacity under Workmen's Compensation Act (H. P. 854) (L. D. 1167)

An Act Broadening the Sales and Use Tax Exemption on Water and Air Pollution Control Facilities (H. P. 862) (L. D. 1186)

An Act relating to Funeral Expenses of Recipients of Public Assistance (H. P. 1012) (L. D. 1391)

An Act Revising the Uniform Reciprocal Enforcement of Support Act (H. P. 1154) (L. D. 1611)

An Act relating to Formation of Multi-community Transit Districts (H. P. 1164) (L. D. 1609)

An Act relating to Excise Tax on Motor Vehicles (H. P. 1196) (L. D. 1647)

An Act Revising the Maine Potato Tax Law (H. P. 1335) (L. D. 1751)

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.

An Act relating to Open Season on Deer in Northern and Southern Zones for 1971 and 1972 (H. P. 1337) (L. D. 1753)

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

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

Mr. KELLEHER: Mr. Speaker and Ladies and Gentlemen of the House: I am not going to talk this to death this morning because I am probably not going to get anywhere anyway, but in the Errors and Inconsistencies bill for the Fish and Game, there is a portion of the bill that states that in two years the commissioner will be able to set up and have districts and he will be our judge by the number of deer reported killed or the number of deer reported sighted, that either this area is in danger of losing its herd or whether it is overly populated. And I feel that if we just leave the hunting season as it is for two years, that this particular item in the Errors and Inconsistencies bill will be able to do and handle the conservation procedure that some of the members of the House have suggested. For this reason, I now move for the indefinite postponement of item 18.

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

Mr. LEWIN: Mr. Speaker, Ladies and Gentlemen: I will be very brief this morning. We just discussed this bill at great length a few days ago, and you will remember the motion placed by this same gentleman for indefinite postponement was defeated by a good majority. And since that day I have heard from several sportsmen in the southern zone, and they



wholeheartedly back the action that we took. It is action now, not two years from now, that will help us with the deer herd.

I hope that you will not go along with the motion of indefinite postponement this morning.

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

Mr. PORTER: Mr. Speaker, Ladies and Gentlemen: Our present deer season in the northern zone is October 15 through the last Saturday of November. In the southern zone it is the whole month of November. If this proposal is indefinitely postponed, that will be our hunting season.

You have been told, I think you have been convinced, that our deer population is way down. Therefore, we must do something and we must do it now. I urge that you do not indefinitely postpone this bill.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to ask my good friend from Lincoln a question. If the deer herd is in such a condition that, as he stated and other members of the House and the commissioner stated, why wasn't a provision put into this deer bill or a bill introduced that would allow the commissioner to take certain sections of the state and say that the herd is in difficulty here and we are not going to permit hunting for this season or next season?

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this Bill be indefinitely postponed. All in favor of indefinite postponement will vote yes; those opposed will vote no.

A vote of the House was taken.

38 having voted in the affirmative and 70 having voted in the negative, the motion did not prevail.

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

An Act relating to Salaries of Jury Commissioners and County Officers in the Several Counties of the State and Court Messenger of Cumberland County (H. P. 1344) (L. D. 1763)

Was 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.

An Act Providing for a Study of Whether Savings Banks Should Offer Checking Accounts (H. P. 1347) (L. D. 1766)

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

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

Mr. FARRINGTON: Mr. Speaker, Ladies and Gentlemen of the House: There are some things which you should know about the redraft of L. D. 1516 and I would appreciate it if you would all just glance at it. It is a very short bill.

Number one — This is the commercial bankers' salvage operation on a bill which the banking commissioner described as "retaliatory legislation" and one which "has no place in the legislative halls or in the legislative committee." And it was a banking commissioner who said this.

Number two — This redraft would do for at least two years what the original bill drafted for commercial bankers and placed in the file of a sponsoring representative proposed to do. Commercial bankers now ask you to enact it, although they have admitted that they earlier abandoned their first draft because of its negative approach. If what a Portland newspaper columnist said is to be believed, these commercial bankers manipulated a substitution of the bill, L. D. 1516, for their original bill after the original cloture date. After they learned that the bank commissioner was going to clobber their substitute, they have tried to give artificial respiration to their original bill.

Point three — Commercial banking interests have committed whatever money is needed by way of

lobbying to get their way in stifling competition. Not only have they engaged as lobbyist their regular legislative counsel and agent, Richard Sanborn of Augusta, and the lobbyists employed by individual banks such as Frank Chapman for Depositors Trust Company and Gerald Amero for Canal Bank, but also they have employed in this fight the Chairmen of the Maine Republican and Democratic parties, Charles Moreshead and Severin Beliveau.

Point four—What is this fight all about? Although commercial bankers may deny it, it is savings accounts rather than checking accounts. Looking for funds in the last few years, commercial banks have appealed for and got large amounts of savings deposits with their slogans of "One Stop Banking" and "The Only Bank Your Family Ever Needs." Some savings banks now feel they must offer personal checking accounts to those who want them in order to get and keep savings accounts.

Point five — Explanations are due the Legislature why the members of the committee who heard L. D. 1516 had difficulties in obtaining and studying the transcript of the committee hearing, which the Legislature is paying for, before they were asked to vote on a redraft bill. Explanations are due why the statement of the banking commissioner, which had been presented at the hearing, was not made available to the committee members until days after the bill was heard.

Point six — The Legislature must determine whether there have been or will be violations of legislative ethics because of voting, despite a conflict of interest.

Point seven — A case may be made for a Legislative Research Committee study of the question whether savings banks should offer checking accounts, but not for the timing as proposed in section one of the redraft. Such a study is premature and a waste of money until after the report of the Hunt Commission to Congress.

A few days ago I mentioned that I communicated with my own savings bank to find out what their feelings were on this bill. I can't

see the commercial banks having all of the advantages in the chambers here. One of the comments I got from him was—I would like to just read back because it does make an awful lot of sense.

He said, "This study," this so-called Hunt Commission study, "is being done by the 20 members of the commission with an eight member professional staff with assistance from the federal supervisory agencies. Its budget has been set at \$888,000. Several things should be obvious; (1) the report will be ready before our Legislative Research Committee could complete such a study." Why in the world should we be wasting State's money to do something that the federal government is spending \$888,000 to do and which will be completed before this legislature returns?

"(2) The Commission professional staff is much greater than would be any Legislative Research Committee Staff; and finally they have already spent a great deal of money on this study so why try to duplicate the work."

Point eight — getting back to our original list of ideas — No adequate case has been made as to any need for the moratorium imposed in section two of the redraft.

To some extent, passage of this moratorium would increase the profits of stockholders of commercial banks and the salaries of bank management, but only at the expense of the convenience and the pocketbooks of the general public. You must decide if that is desirable.

Members of the Business Legislation Committee who have commercial bank interests—the Chairman from the other body is a full-time vice president of Canal National Bank. House Chairman, Representative Scott, is a member of the advisory board of the Depositors Trust Company. Representative Roger Littlefield is a director of the Sanford Trust Company.

Those members of this body who have debated this matter who also have commercial bank connections, in addition to the gentleman from Wilton, Mr. Scott, and the gentleman from North Berwick,

Mr. Littlefield, are the gentleman from Livermore Falls, Mr. Lynch, and the gentleman from Brunswick, Mr. Morrell.

Mr. Speaker, I move the indefinite postponement of the bill, redraft and all accompanying documents and request the yeas and nays.

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

Mr. SCOTT: Mr. Speaker, Ladies and Gentlemen of the House: The charges that the gentleman from Old Orchard Beach made this morning are quite severe. I will admit I am on the Advisory Board at the Depositors Trust Company. I wish he had gone a little farther. I am also a corporator of the Franklin County Saving Bank — for what that is worth.

This matter has been thoroughly debated here in the House at least twice and passed by about a three to one majority. I am prepared to go back and go over the ground that we have already covered. I have the testimony at the hearing that the gentleman referred to — 91 pages. There have been no secrets about it. We realized this was a controversial matter, and leadership of both branches was very good in supplying a court reporter, and this is very good testimony. And that is why the committee came out with this redraft.

Very simply, all that this L. D. does is to refer the matter of savings bank checking accounts to the Legislative Research Committee to report to the 106th Legislature, with a moratorium provision that checking accounts cannot be issued by saving banks in the meantime. They have not done this in 150 years, and I see no reason for the haste. I urge you to vote against the motion for indefinite postponement.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I think I must speak for myself because I think the inference was made that my speaking and voting on this bill was unethical.

If you will recall the remarks that I made the other day, I prefaced them by saying that I was associated with a commercial bank.

Now the gentleman from Old Orchard has made some very persuasive arguments in his favor. I assume they were prepared by him and he is acting as a private citizen in the interest of his people. I hope that you will accord me the same privilege of speaking as an individual, whose only interest at the present time is the preservation of a sound banking structure for this state.

The gentleman has made some very caustic remarks and I won't attempt to reply to all of them. I will simply say that if this Legislature enacts a moratorium, what the Legislature can do today it can undo tomorrow, and there won't be too many tomorrows before this House will be back again in session.

You must recognize that there is a difference between savings and commercial banks. When you introduce a checking account system into a savings bank, you are introducing a demand deposit that is volatile in nature. And when you take a small bank, and I mean in the twenty to twenty-five million asset range, you can have a flow of \$1 million more or less in and out of the bank in twenty-four hours. Now this is contrary to what the savings banks have been doing over the years where the deposits have been left on deposit for relatively long periods of time and invested in long-term debt obligations.

The volatile nature of a checking demand deposit is recognized by the regulating authorities because they establish different reserve requirements for the saving banks than they do for commercial banks. And I think if you allow a bank to introduce a new service then you are to safeguard the same banking structure of the State, you should introduce other restricting measures that have been imposed on commercial banks.

Now I don't know whether the members of the House are aware of it or not, but there are several million people at least in this country who have saving deposits

of a thousand dollars, roughly, and also carry checking accounts of a thousand dollars. Now for those several million people there is no need for two separate banking establishments. I will grant you that. And the Congress of the United State has recognized this. They have already granted to the savings and loan associations the right of a third party payment service. And the federal home loan bank board has said, and they recognize the problems in this area, that this third party payment service should be restricted to home related payments. That means mortgage payments, utility payments, payments that are relatively stable month after month, which would allow the savings and loan associations to recognize that at certain periods of the month they are going to have an outflow of so many dollars.

Now this would not establish a negotiable instrument such as the check. It would simply be a convenience for the several million people who do not need more than a dozen checks or so a month.

I think if the association or the savings banks want to take advantage of this I am sure it is readily available to them.

My only purpose in asking for a moratorium is, let the thing be thrashed out by the people who are experts and I am not an expert and even the experts disagree among themselves. And the only hope that you have for maintaining a sound banking structure in the state, in the nation, is to get the best brains that are available to research the subject and come up with a good workable program that will safeguard the interests of the people.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Jutras.

Mr. JUTRAS: Mr. Speaker and Ladies and Gentlemen of the House: I do not have eight points of rebuttal to offer Mr. Farrington in retaliation for a very personal attack on me today. When one enters these sacred walls political and personal differences should be dropped at the door. That is the mark of a true legislator. We are here to enact legislation for all

of the people in Maine. And today the best interest of the State is served in enacting L. D. 1766 "An Act Providing for a Study of Whether Savings Banks Should Offer Checking Accounts". This bill refers it to the Legislative Research Committee of the next session, so therefore I move the passage of this bill.

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 want to make one thing perfectly clear to all members. On this particular piece of legislation I really didn't know how to vote on it. So I got into the retiring room and called the Saco and Biddeford Savings Institution to find out what they thought about the bill. I feel that I represent these people who have a branch bank in Old Orchard Beach, their major office is in Saco, and I felt that as a responsible legislator I should know something about the bills that I am voting on.

I had a long talk with Melvin L. Wilbur and this is where all of my information has come from. He is the Assistant Treasurer of the Saco and Biddeford Savings Institution and all of the ideas that I have are ideas that he has transferred to me. I am representing him. He is a constituent of mine in Old Orchard Beach. I don't see anything wrong with this. I am sorry if I made any inference to any of the gentlemen on the committee.

I think in the process of debate, I think members of the Legislature have a right to know who some of these people represent. I don't think that is anything unfair about that; nor was there anything unfair about the question I asked Mr. Jutras. There was no personal attack on anyone. I asked him a question in a very polite way and I referred to him as a gentleman, and he simply refused to answer the question. I can't see anything wrong with that.

I would like to ask a question of the gentleman from Wilton, Mr. Scott. If he can give me some answers I will go along with him.

I haven't heard these answers. I think that we have got one side of the picture. Now is this wrong to present another point of view without being talked to in very caustic terms? Mr. Scott and also Mr. Lynch of Livermore Falls, this is one of the questions. If the Federal Government is spending \$888,000 to do the same thing that the Legislative Research Committee would do, but will have it completed before the Legislative Research Committee, why in the world spend the taxpayers' money to do something that can't be done nearly as good as by a federal body that consists of 20 members and an 8 member professional staff? It doesn't make any sense to me. I would like to pose this through the Chair to Mr. Scott. This is reasonable.

The SPEAKER: The gentleman from Old Orchard Beach, Mr. Farrington, poses a question through the Chair to the gentleman from Wilton, Mr. Scott, who may answer if he chooses. The Chair recognizes that gentleman.

Mr. SCOTT: Mr. Speaker and Ladies and Gentlemen of the House: The answer to the gentleman's question is very simple. The legislation that will be necessary to be drafted if the savings banks are going to offer checking accounts will be very technical and it certainly will take more time than we can give it here today.

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

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: Banking is a very important and complex industry which affects every aspect of the economy. Before permitting the savings banks to expand into the checking account area, it is imperative that this issue receive greater study than the Legislature has been able to do so far this session.

You should be aware of the substantial differences between the savings banks and the commercial banks regarding cash reserves and Federal taxes. In this area savings banks would have an unfair advantage over commercial banks. Savings banks are not required by statute to maintain cash

reserves on deposits whereas commercial banks must maintain cash reserves on both savings and time deposits. As for Federal taxes, in 1969 the 20 Maine trust companies paid 5.3 times the 32 savings banks total taxes. This, in my opinion, is not fair competition.

The great majority of the savings banks have indicated that they do not want checking accounts and in fairness to all Maine citizens as well as to the commercial and savings banks this critical issue should be deferred to the next regular session of the Legislature for a more careful review.

This new draft would permit us to retain the present status and thereby prevent either banking interest from gaining an advantage over the other. We are certain that the conclusions of the Federal Hunt Commission due in December of this year, together with the feelings of our Research Committee, will provide the members of the Legislature with necessary information to decide this important issue in the best interests of all Maine citizens.

This matter has been debated twice before and roll called twice before as you all recall. One roll call was 102 - 33 and the other one was 88 - 30. For the reasons outlined and because it has been fully debated before, I would urge you vote against the motion.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Gagnon.

Mr. GAGNON: I am not a banker and I can't say anything intelligent on this matter, but I have a question that has been bothering me. If Mr. Ault or Mr. Scott could answer it I think it might help me a little bit.

Most of the contact I have had in the line of letters on this from savings banks have been along the lines that they want nothing to do with checking accounts, because of the change in their structure. I know in insurance it would make quite a difference. If the savings banks don't want it, who does?

The SPEAKER: The gentleman from Scarborough, Mr. Gagnon, poses a question through the Chair to any member of the Business Legislation Committee who may

answer if they choose. The Chair recognizes the gentleman from Wilton, Mr. Scott.

Mr. SCOTT: Mr. Speaker and Ladies and Gentlemen of the House: The question brought up by the gentleman from Scarborough, Mr. Gagnon, is an interesting one. I think it is true that probably 90 per cent or 95 per cent of the savings banks in the State of Maine are not interested in savings banks checking accounts. A few of the more progressive banks are interested in it.

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

Mr. LITTLEFIELD: Mr. Speaker and Members of the House: I am a director of the Sanford Trust Company and I am very proud of it.

We debated this the other day at length and at that time I said that I had had over 30 communications from the savings banks. Not a one of them wanted checking accounts. Therefore I hope you will vote against indefinite postponement.

Mr. Farrington of Old Orchard Beach was granted permission to speak a third time.

Mr. FARRINGTON: Mr. Speaker, I have a couple of other questions I would like to pose to the gentleman from Wilton, Mr. Scott. Is it true that the banking commissioner described this original piece of legislation in the redraft as retaliatory legislation and one which has no place in the legislative halls or the legislative committee and number two, the savings banks don't want checking accounts? The Mutual Savings Banks Association is not asking for this legislation. Why have the commercial banks got involved with something that has nothing to do with them? It seems to me that if the savings banks were interested in this piece of legislation they would have introduced it, not the commercial bank interests.

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Scott, who may answer the questions.

Mr. SCOTT: Mr. Speaker and Ladies and Gentlemen of the House: I think the gentleman from

Old Orchard Beach, Mr. Farrington, is confusing the issue. The original L. D. was 1516 and the remarks made by the bank commissioner were in reference to this bill. The new bill, the redraft 1766 that calls for the study, he didn't make any remarks on this bill at all. In fact I understand officially that he thought this was the proper way to handle it. What was the other question?

Mr. FARRINGTON: If the savings banks, and I agree they don't want checking accounts for the most part, I think the Andros-coggin Savings is the only one that is interested. At least they have

The SPEAKER: The gentleman may proceed. The question has been asked. The gentleman may answer the question.

Mr. SCOTT: Mr. Speaker and Ladies and Gentlemen of the House: The other question, the reason for the legislation of course I think has been said here many times, there is one savings bank in the State that did go ahead and issue savings bank checking accounts and there is pending before the court now a decision whether this will be legal or not. This is the reason for the whole thing.

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

Mr. COTE: I move the previous question.

The SPEAKER: For the Chair to entertain the motion for the previous question it must have the consent of one third of the members present and voting. All members desiring that the Chair entertain the motion for the previous question will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one third of the members present having expressed a desire for the previous question, the previous question was entertained.

The SPEAKER: The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now?

All in favor will say yes; those opposed will say no.

A viva voce vote being taken, the main question was ordered.

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 Old Orchard Beach, Mr. Farrington, that An Act Providing for a Study of Whether Savings Banks Should Offer Checking Accounts, House Paper 1347, L. D. 1766 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

YEAS—Bailey, Bedard, Berube, Carey, Carter, Clark, Clemente, Cooney, Cummings, Dow, Farrington, Goodwin, Kelley, R. P.; Lewis, Lincoln, Lizotte, Lund, McCloskey, O'Brien, Parks, Sheltra, Simpson, T. R.; Smith, E. H.; Theriault, White, Williams, Woodbury.

NAYS — Albert, Ault, Baker, Barnes, Bartlett, Bernier, Berry, G. W.; Berry, P. P.; Binnette, Birt, Bither, Boudreau, Bourgoin, Bragdon, Brawn, Brown, Bunker, Bustin, Call, Churchill, Collins, Conley, Cote, Cottrell, Crosby, Curtis, A. P.; Curtis, T. S., Jr.; Dam, Donaghy, Doyle, Dudley, Dyar, Emery, D. F.; Emery, E. M.; Evans, Fecteau, Finemore, Fraser, Gagnon, Gauthier, Genest, Gill, Good, Hall, Hancock, Hardy, Haskell, Hawkens, Hayes, Henley, H e r r i c k, Hewes, Hodgdon, Immonen, Jalbert, Jutras, Kelleher, Kelley, P. S.; Keyte, Kilroy, Lawry, Lebel, Lee, Lessard, Lewin, Littlefield, Lucas, Lynch, MacLeod, Mahany, Manchester, Marsh, Marstaller, Martin, McKinnon, McNally, McTeague, Millett, Mills, Morrell, Murray, Norris, Page, Payson, Pontbriand, Porter, Pratt, Rand, Rocheleau, Rollins, Scott, Shaw,

Shute Silverman, Simpson, L. E.; Slane, Smith, D. M.; Starbird, Stillings, Tanguay, Trask, Vincent, Webber, Wheeler White, Whitson, Wood, M. W.

ABSENT—Carrier, Curran, Cyr, Drigotas, Faucher, Hanson, Kelley, K. E.; Maddox, M c C o r m i c k, Mosher, Orestis, Ross, Santoro, Susi, Tyndale, Wood, M.E.

Yes, 27; No, 107; Absent, 16.

The SPEAKER: Twenty-seven having voted in the affirmative and one hundred and seven 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.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. O'Brien.

Mr. O'BRIEN: Mr. Speaker, there is a very very serious question about the constitutionality of this bill, and I have asked the Attorney General for a ruling—

The SPEAKER: The Chair would advise the gentleman that this matter is no longer before the House.

Mr. O'BRIEN: I asked for recognition before, sir.

The SPEAKER: The gentleman may move to reconsider our action whereby this Bill was passed to be enacted.

Mr. O'BRIEN: Mr. Speaker, I have asked the Attorney General for a ruling on this question.

The SPEAKER: The gentleman from Portland, Mr. O'Brien, moves that the House reconsider its action whereby this Bill was passed to be enacted. The gentleman may proceed.

Mr. O'BRIEN: Mr. Speaker and Members of the House: I have asked the Attorney General for a ruling on this. There is a very very serious question about the constitutionality of it. He will not have this ruling available for me until Tuesday. Therefore, I hope somebody would table it until the ruling comes out and see what the ruling is.

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

Mr. MILLS: Mr. Speaker, I move this item lie on the table for one legislative day.

The SPEAKER: The gentleman from Eastport, Mr. Mills, moves that the motion to reconsider the enactment of L. D. 1766 be tabled until Tuesday, June 1.

Thereupon, Mr. Scott of Wilton requested a vote on the tabling motion.

The SPEAKER: A division has been requested on the tabling motion. All in favor of this matter being tabled until Tuesday, June 1 will vote yes; those opposed will vote no.

A vote of the House was taken.

47 having voted in the affirmative and 84 having voted in the negative, the motion did not prevail.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. O'Brien, that the House reconsider its action whereby this Bill was passed to be enacted. All in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

35 having voted in the affirmative and 88 having voted in the negative, the motion did not prevail.

An Act relating to Division of Real and Personal Property by the Court under a Decree of Divorce (H. P. 1353) (L. D. 1769)

An Act Increasing Minimum Wages (S. P. 16) (L. D. 44)

An Act to Clarify the Exemption of Pollution Control Facilities from the Real Estate and Personal Property Taxes (S. P. 160) (L. D. 429)

An Act to Revise Certain Motor Vehicle Laws (S. P. 301) (L. D. 858)

An Act relating to Powers and Duties of Personnel of the Forestry Department (S. P. 411) (L. D. 1226)

An Act relating to the Name of Maine Juvenile Justice Association, Inc. (S. P. 558) (L. D. 1698)

An Act relating to Operation of Pulpwood Trucks on Maine Highways (S. P. 588) (L. D. 1740)

An Act relating to the Preparation of List of Prospective Jurors (S. P. 594) (L. D. 1756)

An Act Authorizing the Piscataquis County Treasurer to Pay over a Portion of the Funds from the Estate of Joseph Masteika to Cer-

tain Heirs of Joseph Masteika (S. P. 595) (L. D. 1757)

#### Finally Passed

Resolve to Reimburse Ida M. Reiss of Andover for Well Damage Resulting from Highway Construction (S. P. 281) (L. D. 815)

Resolve to Provide Funds for a Feasibility Study for the Port of Portland (S. P. 386) (L. D. 1141)

Resolve Authorizing Forest Commissioner to Convey Certain Land in Island Falls (H. P. 611) (L. D. 822)

Resolve relating to an Environmental Study in Construction of High-level Bridge between Westport and Wiscasset (H. P. 903) (L. D. 1241)

Resolve Authorizing the Forest Commissioner to Convey the State's Interest in Certain Lots in Franklin County (H. P. 1190) (L. D. 1640)

Resolve Authorizing the Forest Commissioner to Convey the State's Interest in Certain Lots in Franklin County (H. P. 1191) (L. D. 1641)

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

#### Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

An Act relating to the Operation of Motor Vehicles (H. P. 828) (L. D. 1119)

Tabled — May 25, by Mr. Lee of Albion.

Pending — Passage to be enacted.

On motion of Mr. Whitson of Portland, under suspension of the rules, the House reconsidered its action of May 18 whereby the Bill was passed to be engrossed.

The same gentleman then offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-369) was read by the Clerk and adopted.

Mr. Lee of Albion offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-362) was read by the Clerk and adopted.



Thereupon, the Bill was passed to be engrossed as amended by House Amendments "A" and "B" in non-concurrence and sent up for concurrence.

The Chair laid before the House the second item of Unfinished Business:

Bill "An Act Creating a Medical Advisory Committee for Medical Criteria and Vision Standards for Motor Vehicle Drivers" (S. P. 414) (L. D. 1230) — In Senate, passed to be engrossed as amended by Committee Amendment "A" (S-192)—In House, Committee Amendment "A" adopted.

Tabled — May 25, by Mr. Silverman of Calais.

Pending — Passage to be engrossed.

Mr. Silverman of Calais offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-358) was read by the Clerk and adopted.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. McNally.

Mr. McNALLY: Mr. Speaker and Members of the House: Now that you have adopted House Amendment "A", you have really either put it up to this House to kill the bill or the other body. I have talked with the gentleman that we went along in the Transportation Committee who requested the bill, due to the fact that they already have these five doctors, they have been doing it for three or four years, and he only wanted the privilege of when he went to the next convention of motor vehicle registration people, or whatever they are, that he could say that Maine already has this commission on their lawbooks also.

I move the indefinite postponement of this bill and all its accompanying papers.

Whereupon, on motion of Mr. Birt of East Millinocket, tabled pending the motion of Mr. McNally of Ellsworth that the Bill be indefinitely postponed and specially assigned for Tuesday, June 1.

The Chair laid before the House the third item of Unfinished Business:

An Act relating to Certain Emergency Powers Concerning Radiation Hazards (S. P. 570) (L. D. 1716)

Tabled — May 25, by Mr. Martin of Eagle Lake.

Pending — Passage to be enacted.

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

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I would like to give a reason why this item was tabled and why I am going to ask for tabling again. There apparently could be some problems with the bill itself. There is some material that is coming from the Atomic Energy Commission and I am hoping that the information will be before us on Wednesday. I would ask, therefore, that someone would table this bill until Wednesday, or two legislative days.

Whereupon, on motion of Mr. Genest of Waterville, retabled pending passage to be enacted and specially assigned for Wednesday, June 2.

The Chair laid before the House the fourth item of Unfinished Business:

HOUSE REPORT — "Ought to pass in New Draft"—Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating Funds for the Construction of a General Activities Building for Female Offenders on Property at Stevens School" (H. P. 869) (L. D. 1190)—New Draft (H. P. 1327) (L. D. 1741) under same title.

Tabled—May 25, by Mr. Porter of Lincoln.

Pending—Acceptance.

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

Mrs. PAYSON: Mr. Speaker and Ladies and Gentlemen of the House: I would like to present to you the point of view which certain members of the Committee on Health and Institutional Services, the decision they came to on this bill.

This is a long term decision which involves the passage of a bill containing \$747,000 which would

purchase land for \$80,000 and build two new buildings at the Stevens Correctional Center in Hallowell. It is generally agreed that a consolidation is necessary for the women's correctional services here in the State of Maine. They are now divided between Skowhegan and Hallowell. This is important for one reason; because one position to be filled for 24 hours a day for 7 days a week requires 5 people.

The seven members of our committee visited both the Stevens School in Hallowell and the correctional institution in Skowhegan. We were unanimous in our decision that it is undesirable to move Skowhegan down to Hallowell for the services provided there, and further develop Hallowell.

We had several reasons for this, the first one is: At Skowhegan 280 acres of land are available. In contrast, in Hallowell new land must be purchased.

Number two, at Skowhegan no security fences are necessary because the property is relatively isolated. At Hallowell it is just a question of time until security fences are necessary to keep aggressive female homosexuals from hitch-hiking after a short walk to the center of town or over to the Maine Turnpike.

Number three, the development of Hallowell was a poor decision originally. This is our last opportunity to correct it.

Number four, Miss Ward Murphy, Head of the Bureau of Corrections, has written a report available in the Legislative Research Office, supporting the development of Skowhegan as opposed to Hallowell. As an experienced person in the correctional field, I accept her judgment over others.

I therefore hope that you will vote no on the passage of this bill.

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

Mr. DAM: Mr. Speaker and Members of the House: I would like to rise in support of the good lady from Falmouth, Mrs. Payson. I think she has done a much better job at presenting this to you people than I could. However,

I do highly concur with what she has said.

I do not at this time feel the State of Maine should spend \$747,000 when money is tight, and we are going to have programs that will require funding. And in the last session of the legislature, the 104th, in the Legislative Research Committee Report, Volume II, their findings were—and this is on page 96 — Number one, that the Women's Correctional Center at Skowhegan, Maine continue to operate until such time as the Department of Mental Health and Corrections is prepared to present a constructive program.

Well, this they have not done. They are merely asking for a building for \$747,000. Now in Skowhegan — and naturally I am interested in this because this is my home town, and the area I represent—we have an area and the surroundings are much more conducive to rehabilitation than when you build these facilities in the city atmosphere. And I have never been in favor of using state money to pay off any political debts or political involvements that might have been entered into.

This has been in the Governor's plan. This is something that is advocated by him. It was advocated by him when he was running for reelection, and I do not feel that the parties involved that offer this plan have given it enough study. I feel it is something that has come off the top of somebody's head, and this would definitely, in my mind, be one of the greatest wastes of the taxpayers' money that we have allowed in this session if we were to accept this "Ought to pass" Report.

I would hope that we would vote not to accept the "Ought to pass" Report and go along and vote against this.

Mr. Speaker, would it be in order now to move indefinite postponement? I move that this bill and all its accompanying papers be indefinitely postponed.

The SPEAKER: The gentleman from Skowhegan, Mr. Dam, moves that both Report and Bill be indefinitely postponed.

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

Mr. BRAGDON: Mr. Speaker and Members of the House: I must rise in support of the unanimous decision of the Appropriations Committee with regard to the construction of these two buildings at Hallowell which is involved in this bill. This matter that the lady from Falmouth, Mrs. Payson, refers to is a matter that has been — namely the transfer of facilities for female offenders from Skowhegan to Hallowell, is a matter that has been discussed in probably the last four or five sessions of the legislature.

It is not anything new. The trend has been a gradual withdrawal from Skowhegan and a gradual buildup of facilities at Hallowell. This bill continues in the same direction. They are making the claim that at this point we should reverse the trend and begin to abolish Hallowell and move back to Skowhegan.

I am sure that you would agree that this transfer has gone far enough to this point so that this procedure would not in any sense be feasible. If we were to begin to consider that, it would involve millions of dollars where we are now only talking about \$750,000. The Appropriations Committee considered this very carefully. The Governor had already made recommendations to the Mental Health and Corrections Commissioner, Mr. Kearns. The committee did agree unanimously that it is wise to proceed in the direction which we have been proceeding, and not to reverse our trend and attempt to go back to Skowhegan at this late hour and again involve, as I said, many millions of dollars to make the transfer.

I hope you will go along and defeat the motion to indefinitely postpone and accept the committee report, unanimous report, "Ought to pass."

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

Mr. DAM: Mr. Speaker and Members of the House: I will be very brief. Most probably all you members have read Volume II of the Legislative Research Committee Report. However, on page

95, under the conclusion, it says at the close of its hearings and executive deliberations on the operation and function of the Women's Correctional Center the subcommittee felt that it was not ready to recommend that this institution be closed in the absence of sound alternatives, although there were some feelings that it could eventually be phased out.

After examining the price tag for treatment in the State's Institution Exhibit 2, the subcommittee also noted that during 1958 and '59 the daily cost was \$5, and the average length of stay at the institution was two years and ten months, or 1033 days. And the total cost of treating the individual at that time was \$9,000.

In the most recent fiscal year of 1968 and '69, the daily cost was \$20.56, but the record also indicates that the average length of stay at the institution prior to parole during '68 and '69 was only eight months, or 245 days. The total cost of treatment was \$5,000. And considering the cost of the operation of the Halfway House program, and using the same per capita rate of \$20.56, it goes on to say that it is still not as expensive to the taxpayer as it was ten years ago.

And then going down it says, "therefore, in the light of these findings, the subcommittee recommends the following . . ." And I have mentioned that they did not recommend closing the institution until such time as the Department of Mental Health and Corrections is prepared to present a constructive plan. And then it goes into number three, "that such a constructive plan be due no later than the end of the next biennium."

Now I have not seen any constructive plan, and if going at this in a piecemeal rate to bleed the taxpayers of \$750,000 at a time is a constructive plan, then this is not my way of thinking. I would like to know just what is proposed, and how much further construction is proposed at Stevens. The buildings that are in Skowhegan are not new buildings, but they are not old buildings in the sense that they need many many repairs. They may need some, because repairs

have been kept at a minimum during the time that this has been under consideration.

I cannot see where the taxpayers of the State of Maine would save any money by moving into Stevens and until the time that the constructive plan is presented in its entirety, I would hope that you would go along with the motion to indefinitely postpone.

I think the Health and Institutional Committee, the seven members of which Mrs. Payson spoke, have done a good job. They went up just recently and inspected the facilities, and I think they have given — Mrs. Payson has given you quite a fair appraisal of what they found there.

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

Mr. GILL: Mr. Speaker and Members of the House: I rise to oppose the motion to indefinitely postpone this. I can understand the position of the representative from Skowhegan. However, I don't believe that we can base our decision on the desire of one man to want to keep a facility in his area.

If you would recall, the first questioning of this change that has been approved by the Department, by the Governor, and now by your Appropriations Committee, was first brought up by the gentleman in relation to the Part I budget. At this point it was clear that he did not want this to go. At that time his chief concern was in case these buildings were not completed in time he wanted an appropriation to continue on with the staff. And again I feel that this is fair.

At that point he was just a little opposed; today he is 100% opposed. But I think we have to determine this on what is good for the system; what is good for the State of Maine; and what is good for the children and for the female offenders.

The gentlewoman from Falmouth spoke of a certain type of an individual that might jump over the fence and run to someone's car. I would certainly hope that if this type of individual is present in any of our institutions that they be removed to the proper facility.

But all in all in this area — and I have spent three terms on this committee of which the gentle lady from Falmouth — so I am a little bit familiar with this. It is an expensive program up there; it is not accomplishing what is actually required.

Actually the advantage of it being down here for the young female offenders in my mind is the fact that it is close to facilities. As you know, they have a program in which the children can participate in the public school system, and this is good because we don't want to keep these children locked up in institutions all their life. So therefore, in this area they can choose from three public school systems.

As far as professional care, they are much closer to psychiatric services and things of this nature. And for that reason I feel that we should support the unanimous position of the Appropriations Committee.

Mr. DAM of Skowhegan was granted permission to speak a third time.

Mr. DAM: Mr. Speaker and Members of the House: Very briefly, as far as the public school system, for years the girls from Skowhegan have used the Skowhegan public school system of which we are now under SAD system, and they still use this. So we do have the public school facilities. We have just completed a \$4 million high school, and I think that we are in a pretty good position to offer educational facilities.

As far as hospital facilities and diagnostic center, the one that is being used the vast majority of the time is located in Waterville, and Skowhegan to Waterville is no further distance for mileage than Augusta to Waterville. And in Skowhegan at this time we are doubling the capacity — we have merged the two hospitals, Redington and Fairview, we are doubling the bed capacity and the treatment facilities to the tune of about \$3 million.

So I don't think we are lax in the Skowhegan area in any way as far as education or facilities for the health and treatment. And the other thing I would like to bring

out, that in our community these girls work part time. The community has accepted them. There is no label attached to them. They work in the various stores in Skowhegan, and they attend our schools and attend our churches. So I think that we have offered quite a lot in that area.

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

Mrs. BERRY: Mr. Speaker and Members of the House: I only wish that more of you House members could take a trip to Skowhegan. I think you would see what members of our committee saw. They have beautiful grounds there. They have over 200 acres. They can expand any amount.

Down here in Gardiner they set right in the city on a side hill, and they do escape over the fence whether people like it or not. They do, and they are doing it. And I believe that in looking to the future that the Hallowell location is a very poor location.

One of the members of our committee was also on the investigating committee. He said only two of the members that he knew of ever went to Skowhegan to look it over. He has changed his mind completely, and I would urge that you go along with the postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I did take the time personally and privately to take a ride up to Skowhegan and review the grounds up there. There is no question but what they do have a nice piece of property up there as far as the grounds are concerned. As far as the property up there is concerned, it appears it has been a good many years since any capital construction has been done up there. In reviewing some of the reports it indicates that there hasn't been any major capital construction since around 1919.

Now the Commissioner, in talking with us yesterday up before the Appropriations Committee, indicated that—he told us, as many of us know, he came originally

from Vermont. He said eight years ago they went through exactly this same experience in Vermont. They had a very competent Commissioner, as he described her, would be probably somewhat of the same capabilities as our present Commissioner of Corrections. I do believe we have, and I will commend her, that we do have a capable Commissioner of Corrections.

They went through the same experience in Vermont. They made the move that is being recommended here today to close out the Women's Correctional Center. At that time Vermont moved their felons or their more serious women inmates to Framingham, Massachusetts. At the present time two other states have done this; Vermont, New Hampshire and Rhode Island all send their more serious problems to Framingham. This institution has been reviewed; there have been people from the state have gone down there and found this to be an excellent institution, and it will adequately do the job.

The overall experience has been in women's correction that the number of inmates has been dropping all the time. Parole and probation have worked effectively. Now as far as what will be done with Skowhegan if this bill is to pass. The Halfway House, which has been one of Miss Murphy's major concerns, will be maintained. The institution as a correctional institution will be phased out.

The people that do have a responsibility to this position, I think the Commissioner completely passed this yesterday if we would face up to that. As far as the decision being made now I believe the decision was actually made about eight years ago. At that time we started a major expansion at Stevens. Since then we have built four cottages for the girls who are at that institution. This would call for another cottage and a general purpose building. We have also built a gymnasium down there, a 'rec' house. It would mean almost if we did this that we would have to discard a major part of this property and start to reverse ourselves and go into a capital expansion program in Skowhegan to somewhat to a large extent dupli-

cate what previously has been done over the last eight years at Stevens.

Now as far as costs are concerned, and I think that this is one of the major concerns that has brought a lot of this up, and every person that has served on the Appropriations Committee dating back prior to the time when I went on there, which is eight years ago, have all been faced with this same problem. I have talked with some of those who have served on there back as early as 1960.

The Mental Health and Corrections Department puts out every year or every two years a comparative statement of expenditures and capital costs. It is one of the most excellent comparative statements that is put out by any department in the state. They probably have a good chance because of the various institutions they do operate. At the present time we find that the cost of keeping one person at Skowhegan is \$10,110.15. The ratio of personnel to inmate you have 9/10 of an inmate to one person, the highest of any institution in the state. Now at the Maine State Prison at Thomaston at the present time it costs \$3,273 for one inmate for a year. At the men's reformatory it is \$5,205, and the boy's training center \$6,360, Stevens it is \$7,412.

Skowhegan has a much higher cost because of the inmate population. The inmate population at the present time is under 25 according to some statements that were made yesterday. Gradually the population is being reduced down there because of the programs which I have previously mentioned. It would seem that the decisions have been largely made. We should continue in the direction we are going.

One other point, there was a report or a study that was made by three consultants who came and developed this under a program of the Maine Law Enforcement Planning Council. These three people are all from out of State. Their report on the women's correctional center said:

"It was examined in the light of the number of commitments, the condition of the plant and how it

would fit into a total concept of corrections that should meet the State of Maine's needs in this field and provide for its citizens, the greatest possible savings.

The number of adult commitments to this center plus age of the plant indicates it should be phased out. The older women (five in number at the time of this survey) could, through use of the Interstate Compact be transferred to the Women's Reformatory in Massachusetts. The Halfway House program, now at this center, could be housed in the present Superintendent's quarters."

We should give them a third building because they have two other buildings of something of a similar nature. The rest of the plant could revert back to the state for disposition.

I do believe that we would make a major mistake if we voted for indefinite postponement of this bill. I think we have considered this from every aspect in the committee and I think that we should vote against the indefinite postponement and then go along with the passage of this bill.

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

Mr. CAREY: I move the question.

The SPEAKER: For the Chair to entertain the motion for the previous question it must have the consent of one third of the members present and voting. All members desiring the Chair to entertain the motion for the previous question will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one third of the members present having expressed a desire for the previous question, the previous question was entertained.

The SPEAKER: The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. All in favor of the main question will vote yes; those opposed will vote no.

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

Mr. LYNCH: Mr. Speaker: Unfortunately I did not have an opportunity to ask two questions which I think might have a bearing on the subject matter so I hope I would have an opportunity to ask these two questions.

The SPEAKER: All in favor of the main question being put now will say aye; those opposed will say no.

A viva voce vote being doubted by the Chair, a vote of the House was taken.

56 having voted in the affirmative and 51 in the negative the main question was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Skowhegan, Mr. Dam, that Bill "An Act Appropriating Funds for the Construction of a General Activities Building for Female Offenders on Property at Stevens School," House Paper 869, L. D. 1190 be indefinitely postponed. All in favor of indefinite postponement will vote yes; those opposed will vote no.

A vote of the House was taken.

44 having voted in the affirmative and 69 having voted in the negative, the motion did not prevail.

Thereupon, the Report was accepted, the New Draft was read twice and assigned the next legislative day.

The Chair laid before the House the fifth item of Unfinished Business:

An Act relating to Testing of Private Water Supplies by Department of Health and Welfare (H. P. 1264) (L. D. 1668)

Tabled — May 25, by Mr. Susi of Pittsfield.

Pending — Passage to be enacted.

The SPEAKER: A roll call has been ordered. This being an emergency measure, a two-thirds vote of all the members elected to the House is necessary. All in favor of this being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Baker, Barnes, Bartlett, Bernier, Berry, P. P.; Berube, Binnette, Birt, Bither,

Boudreau, Bourgoin, Bragdon, Brown, Bunker, Bustin, Call, Carter, Clark, Collins, Conley, Cote, Cummings, Curtis, A. P.; Curtis, T. S., Jr.; Donaghy, Dow, Doyle, Drigotas, Farrington, Finemore, Fraser, Gagnon, Genest, Good, Hall, Hancock, Hawken, Hayes, Henley, Herrick, Hewes, Hodgdon, Immonen, J. Albert, Jutras, Kelley, P. S.; Kelley, R. P.; Keyte, Kilroy, Lebel, Lessard, Lewin, Lewis, Littlefield, Lynch, Mahany, Martin, McCloskey, McKinnon, McTeague, Millett, Mills, Morrell, Murray, Norris, O'Brien, Page, Parks, Payson, Pontbriand, Rand, Scott, Shaw, Silverman, Simpson, T. R.; Smith, D. M.; Stillings, Susi, Theriault, Vincent, Webber, Wheeler, White, Wight, Wood, M. W.; Wood, M. E.; Woodbury.

NAY — Bailey, Berry, G. W.; Brawn, Carey, Clemente, Cooney, Cottrell, Crosby, Dam, Dudley, Dyar, Emery, D. F.; Emery, E. M.; Evans, Faucher, Gill, Kelleher, Lawry, Lee, Lincoln, MacLeod, Manchester, Marsteller, McNally, Mosher, Porter, Pratt, Rocheleau, Rollins, Shute, Simpson, L. E.; Slane, Starbird, Tanguay, Trask, Williams.

ABSENT — Ault, Bedard, Carrier, Churchill, Curran, Cyr, Fecteau, Gauthier, Goodwin, Hanson, Hardy, Haskell, Kelley, K. F.; Lizotte, Lucas, Lund, Maddox, Marsh, McCormick, Orestis, Ross, Santoro, Sheltra, Smith, E. H.; Tyndale, Whitson.

Yes, 88; No, 36; Absent, 26.

The SPEAKER: Eighty-eight having voted in the affirmative and thirty-six in the negative, with twenty-six being absent, this Bill fails of passage to be enacted.

The Chair recognizes the gentleman from Fairfield, Mr. Lawry.

Mr. LAWRY: Mr. Speaker, I would move that we reconsider our action whereby this bill failed of enactment.

The SPEAKER: The gentleman from Fairfield, Mr. Lawry, moves the House reconsider its action whereby this Bill failed of passage to be enacted.

On motion of Mr. Porter of Lincoln, tabled pending the motion of Mr. Lawry of Fairfield that the House reconsider its action where-

by the Bill failed of passage to be enacted and specially assigned for Tuesday, June 1.

The Chair laid before the House the sixth item of Unfinished Business:

Bill "An Act relating to Voters Resigning or Removed from the Voting List" (S. P. 561) (L. D. 1701) — In Senate, passed to be enacted. — In House, receded from indefinite postponement, receded from passage to be engrossed, House Amendment "B" (H-328) adopted.

Tabled — May 25, by Mrs. Boudreau of Portland.

Pending — Passage to be engrossed.

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

Mrs. BROWN: Mr. Speaker and Members of the House: I would like to have this measure tabled for one legislative day because of the absence of Mr. Ross.

Thereupon, on motion of Mr. Scott of Wilton, retabled pending passage to be engrossed and specially assigned for Tuesday, June 1.

The Chair laid before the House the seventh item of Unfinished Business:

Bill "An Act relating to Service Retirement of Teachers under State Retirement System" (H. P. 625) (L. D. 835)

Tabled — May 26, by Mr. Millett of Dixmont.

Pending — Passage to be engrossed.

On motion of Mr. Hayes of Windsor, retabled pending passage to be engrossed and specially assigned for Tuesday, June 1.

The Chair laid before the House the eighth item of Unfinished Business:

Resolve Providing Minimum Retirement Benefits for Certain Teachers (H. P. 1361) (L. D. 1776)

Tabled — May 26, by Mr. Porter of Lincoln.

Pending — Passage to be engrossed.

Mr. Williams of Hodgdon offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-371) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "B" and sent to the Senate.

The Chair laid before the House the ninth item of Unfinished Business:

Bill "An Act Establishing the Lewiston - Auburn Airport Authority" (S. P. 481) (L. D. 1593) — In Senate, passed to be engrossed as amended by Committee Amendment "A" (S-190)—In House, Committee Amendment "A" adopted.

Tabled — May 26, by Mr. Martin of Eagle Lake.

Pending — Passage to be engrossed.

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

Mr. JALBERT: Mr. Speaker, I ask that this item be tabled for two legislative days.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, moves that this matter be tabled and specially assigned for Wednesday, June 2, pending passage to be engrossed.

Whereupon, Mr. Cooney of Webster requested a vote on the tabling motion.

The SPEAKER: A vote has been requested on the tabling motion. All in favor of this matter being tabled for two legislative days will vote yes; those opposed will vote no.

A vote of the House was taken. 93 having voted in the affirmative and 12 having voted in the negative, the motion did prevail.

The Chair laid before the House the tenth item of Unfinished Business:

Report "A" of the Committee on Taxation on Bill "An Act relating to Pari-Mutuel Pools in Horse Racing" (H. P. 864) L. D. 1187) reporting same in a new draft (H. P. 1331) (L. D. 1745) under title of "An Act relating to Pari-mutuel Pools in Harness and Running Horse Racing" and that it "Ought to pass" and Report "B" reporting same in a new draft (H. P. 1332) (L. D. 1746) under title of "An Act relating to Pari - mutuel



Pools in Harness and Running Horse Racing” and that it “Ought to pass” and Report “C” reporting same in a new draft (H. P. 1333) (L. D. 1747) under title of “An Act relating to Pari-mutuel Pools in Harness and Running Horse Racing” and that it “Ought to pass”. — In Senate, Report “B” accepted, Bill passed to be engrossed in non-concurrence. In House, House insisted and asked for a Committee of Conference.

Tabled — May 27, by Mr. Martin of Eagle Lake.

Pending — Motion of Mr. Hall of Windham to reconsider.

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

Mr. JALBERT: Mr. Speaker, on this measure I note that the chairman of the Taxation Committee is not here. He is a very strong proponent of one of the reports of this bill. I am opposed to this bill; however, out of courtesy to the gentleman from Bath, Mr. Ross, who was unable to be here, I would ask that this bill be tabled.

On motion of Mr. Martin of Eagle Lake, retabled pending the motion of Mr. Hall of Windham to reconsider and specially assigned for Tuesday, June 1.

The Chair laid before the House the eleventh item of Unfinished Business:

Bill “An Act to Include Imprisonment Among Those Penalties Provided for Violation of Environmental Protection Laws” (H. P. 960) (L. D. 1321)—In Senate, passed to be engrossed as amended by Committee Amendment “A”. In House, Committee Amendment “A” adopted (H-317)

Tabled—May 27, by Mr. Dam of Skowhegan.

Pending — Passage to be engrossed.

On motion of Mr. Dam of Skowhegan, under suspension of the rules, the House reconsidered its action of May 26 whereby Committee Amendment “A” was adopted.

The same gentleman then offered House Amendment “A” to Committee Amendment “A” and moved its adoption.

House Amendment “A” to Committee Amendment “A” (H-376) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Lawry.

Mr. LAWRY: Mr. Speaker and Members of the House: I thought I understood the amendment, but I am a little confused by the Statement of Fact.

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

Mr. PAGE: Mr. Speaker, could this be tabled for one legislative day?

Thereupon, Mr. Dam requested a division on the tabling motion.

The SPEAKER: A division has been requested on the tabling motion. All in favor of this matter being tabled pending the adoption of House Amendment “A” to Committee Amendment “A” and specially assigned for Tuesday, June 1, will vote yes; those opposed will vote no.

A vote of the House was taken. 73 having voted in the affirmative and 28 having voted in the negative, the motion did prevail.

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

SENATE DIVIDED REPORT—Majority (7) “Ought to pass”—Minority (6) “Ought not to pass” Committee on Taxation on Bill “An Act Repealing the Poll Tax” (S. P. 14) (L. D. 42)

Tabled—May 26, by Mr. Finemore of Bridgewater.

Pending—Acceptance of either report.

On motion of Mr. Finemore of Bridgewater, the Majority “Ought to pass” Report was accepted, the Bill read twice and assigned the next legislative day.

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

HOUSE DIVIDED REPORT —Majority (11) “Ought not to pass”—Minority (2) “Ought to pass” Committee on Judiciary on Bill “An Act relating to Definition of Theft by One Renting or Truſted with Property” (H. P. 963) (L. D. 1324)

Tabled—May 26, by Mr. Genest of Waterville.

Pending — Motion of Mr. Lund of Augusta to accept Majority Report.

The SPEAKER: The Chair recognizes the gentleman from Albion, Mr. Lee.

Mr. LEE: Mr. Speaker and Ladies and Gentlemen of the House: I introduced this little bill for a group of people who are establishing a business in the State of Maine in renting tools and small pieces of equipment to the general public. It got a couple of votes which perhaps I ought to be thankful for. I thought it was a simple little thing. I thought it was a very good piece of legislation because it took care of a happening that nobody seems to be able to do anything about easily.

When you or I are doing a little work and we have to have a few extra tools we don't own, we go and rent them. Now in most cases this is just as simple as that. You rent them, you pay your little fee for the use of them; but in certain cases the tools don't come back to the lender and it is almost impossible for him to find them and collect for the use of them. Now apparently it has got tangled up a little bit in the legal minds, and I am not a lawyer and I surely wouldn't try to explain the bill, but this is what the bill does and I was hoping that we would be able to pass it and help the folks that are in this business.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker and Ladies and Gentlemen of the House: The question that was put by the gentleman from Albion, Mr. Lee, was so amenablely sensible that I would hope that someone in the legal profession would honor it with an answer.

The SPEAKER: The gentleman from Albion, Mr. Lee, having posed a question through the Chair to any member of the legal profession who may answer if they choose. The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: Mr. Speaker: There was enough confusion here so that I could not hear the question, and

I wonder if the question might be restated?

The SPEAKER: Would the gentleman restate his question? The Chair recognizes the gentleman from Albion, Mr. Lee.

Mr. LEE: I thought in presenting the bill that it was a simple thing. It was taken from a model law from another state, and for some reason or another the legal minds seem to have objection to it. What the objection is, I don't know. I thought it was a simple thing that would help these people get either their money or their tools back. But I don't know what the objection is.

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

Mr. LUND: Mr. Speaker and Ladies and Gentlemen of the House: In the first place, it was the opinion of the majority of the committee that we already have ample provisions in the law which make it an offense for a person to steal, appropriate to his own use—embezzlement is the technical term, property that does not belong to him.

I would like to call your attention to some of the provisions of the bill which seemed objectionable to the committee. "It shall be prima facie evidence of intent to commit theft if the person does not return it within 10 days."

Now one of the provisions which I noted particularly which seemed bothersome to me, on the second page of the bill it provided that the following factors shall be taken as a whole and shall constitute an affirmative defense in the prosecution for a theft, and one of them is that the lessee return the personal property to the owner or lessor within 48 hours of commencement of prosecution.

Now one of the things that is the most discouraging of all to the police officers—now I can state with some authority because I have seen this happen again and again, and a typical situation is assault and battery. A wife brings the complaint of assault and battery against her husband. The person is charged. The people get into court and then suddenly the wife doesn't want to prosecute. Or some

other crime is charged by a person, they get to court and the complainant does not want to prosecute.

The same is the case in bad check cases. A lot of times people who have bad checks are more interested in getting their money back than they are in prosecuting. The obvious effect of this would be that if a lessor, a person who rents equipment doesn't get his property back he makes a complaint to the police, the police go out and locate the property, charge the defendant with the crime, then the defendant has 48 hours within which to return it.

Now if he has committed a crime, it seems to me that he has committed a crime, and it is no less a crime than if he returns the property within 48 hours. This feature, for instance, is one of those that seems to me that the obvious intent of this bill is to use the police and the law enforcement agencies of our state to carry out the business functions of somebody who is in the business of renting tools.

Now I am not defending anybody who rents a tool and attempts to steal it or fails to return it. But it seems to me that this bill, taken as a whole, would impose an additional burden upon the law enforcement agencies of the state, and that burden would be that of chasing after rented tools. The result would not be a prosecution, but it would be a nol-pros because, in effect, the person might return them within 48 hours.

Now I can appreciate the fact that this might be a very handy dandy thing for a person who is in the business of renting tools to have. If a tool is overdue for 10 days he reports it to the police. The police spend a few days finding out where it is. They bring a complaint. The man then returns the tool and the whole thing goes down the wash.

Now we have a lot of crime problems in our state and I am not aware to what extent people not returning tools is one of them. But I would suggest that this would impose an additional burden upon law enforcement officers, and in many cases that burden would be

one which could more properly be taken care of as a business expense of the person who is in the business of renting tools.

Now I have given a long explanation, perhaps longer than I should have, but it seemed to us that there already is provision in the law making it an offense to steal equipment that you have been entrusted with and that this was a needless addition to the statutes and one that would cause serious additional work to the police who have got better things to do.

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

Mr. HEWES: Mr. Speaker and Members of the House: I thought this was a practical bill, and I voted in committee as one of the minority that it ought to pass. I wish to ask for a division to the pending motion.

The SPEAKER: A vote will be taken. The Chair recognizes the gentleman from Norway, Mr. Henley.

Mr. HENLEY: Mr. Speaker and Members of the House: I think that it is only fair that a member of the Committee who is not a lawyer speak on it in defense of Mr. Lee's bill. I realize that what Mr. Lund of Augusta says is sometimes true of the police, they get a case built up and then it is thrown out. But that happens every day. So why not add another situation to it?

The situation of rented expensive equipment has increased in recent years, all the way from U-Haul and rented cars to rented contracting equipment. I feel that the owners of this equipment who have a lot of money invested should have some tool of law to assist them. If this paragraph on defense is taking unfair advantage possibly it could be amended but I as a signer of the "ought to pass" felt that it was definitely needed, this law to protect them.

Their recourse now of course mostly is through the laws of conversion and it is complicated and slow. It seems to me that the time has come when we could give them a little more statutory law and I hope that you will oppose the "ought not to pass" motion.

The SPEAKER: The pending question is on the motion of the gentleman from Augusta, Mr. Lund that the House accept the Majority "Ought not to pass" Report on Bill "An Act relating to Definition of Theft by One Renting or Tru-sted with Property," House Paper 936, L. D. 1324. If you are in favor of accepting the Majority "Ought not to pass" Report you will vote yes; if you are opposed you will vote no.

A vote of the House was taken, 45 having voted in the affirmative and 62 having voted in the negative, the motion did not prevail.

Thereupon, the Minority "Ought to pass" Report was accepted, the Bill read twice and assigned the next legislative day.

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

JOINT ORDER — Re Health and Institutional Services Committee study operations, rules, regulations, procedures and programs of Dept. of Mental Health and Corrections. (S. P. 598)

Tabled — May 27, by Mr. Carrier of Westbrook.

Pending — Passage in concurrence.

The SPEAKER: The Chair recognizes the gentlewoman from Fal-mouth, Mrs. Payson.

Mrs. PAYSON: Mr. Speaker, I move the indefinite postponement of this Joint Order. A second Joint Order is being prepared.

Thereupon, the Joint Order was indefinitely postponed in non-concurrence and sent up for concurrence.

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

An Act relating to Distribution of Certain Taxes to Municipalities (H. P. 1323) (L. D. 1735)

Tabled — May 27, by Mr. Porter of Lincoln.

Pending — Passage to be enacted.

On motion of Mr. Morrell of Brunswick, under suspension of the rules, the House reconsidered its action of May 17 whereby the Bill was passed to be engrossed.

The same gentleman then offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-345) was read by the Clerk and adopted and the Bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

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

Bill "An Act Clarifying the Statute Relating to Realty Sub-divisions" (H. P. 1034) (L. D. 1425) — In Senate, passed to be engrossed. In House, passage to be engrossed reconsidered. House Amendment "A" Adopted (H-354)

Tabled — May 27, by Mr. Emery of Auburn.

Pending — Passage to be engrossed.

Mr. Emery of Auburn offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-380) was read by the Clerk.

Whereupon, on motion of Mr. Simpson of Standish, tabled pending adoption of House Amendment "B" and specially assigned for Tuesday, June 1.

On motion of Mr. Porter of Lincoln,

Adjourned until Tuesday, June 1, at ten o'clock in the morning.