

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Fifth

Legislature

OF THE

STATE OF MAINE

1971

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, March 30, 1971

Senate called to order by the President.

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

Reading of the Journal of yesterday.

**Papers from the House
Non-concurrent Matter**

Bill, "An Act Relating to Membership of Board of Trustees for Accident and Health Insurance Program for State Employees." (H. P. 543) (L. D. 715)

In the House March 19, 1971, the Minority Ought Not to Pass report Read and Accepted.

In the Senate March 25, 1971, the Majority Ought to Pass report Read and Accepted and the Bill Passed to be Engrossed, in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

On motion by Mr. Johnson of Kennebec, tabled and specially assigned for April 1, 1971, pending Consideration.

Non-concurrent Matter

Resolve, Reimbursing Certain Municipalities on Account of Property Tax Exemptions of Veterans. (S. P. 88) (L. D. 217)

In the Senate March 11, 1971, Passed to be Engrossed as Amended by Committee Amendment "A" (S-29).

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" (S-29) and House Amendment "A" (H-62) in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Joint Order

WHEREAS, the Orono High School Varsity debating team won the Bates League State championship debate on March 20, 1971; and

WHEREAS, Orono High has become the first eastern Maine school in recent years to win the State championship; and

WHEREAS, winning the State title climaxes a 3-year performance that has seen these students recognized for their

debating excellence by schools across the nation; now, therefore, be it

ORDERED, the Senate concurring, that we the members of the One Hundred and Fifth Legislature of the State of Maine now assembled take this opportunity to recognize the outstanding achievements of Coach Soule and the Orono High School debating team and wish them continued success in their efforts to distinguish and bring honor to their school, community and State; and be it further

ORDERED, upon joint passage that copies of this Order, duly attested by the President of the Senate and Speaker of the House of Representatives and bearing the great seal of the State of Maine be transmitted forthwith by the Secretary of the Senate to the principal and coach of Orono High School in token of the sentiments expressed herein. (H. P. 1231)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Joint Order

ORDERED, the Senate concurring, that the State Planning Office, under the supervision of the Legislative Research Committee, be authorized and directed to study the desirability of creating a state bureau under the Department of Finance and Administration to consolidate the administration of any acquisition, sale or rental of real property in the name of the State; and be it further

ORDERED, that the State Planning Office is directed, subject to the approval of the Legislative Research Committee, to submit a report of its findings, together with any necessary recommendations and implementing legislation at the next regular or special session of the Legislature. (H. P. 1232)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Berry of Cumberland, placed on the Special Legislative Research Table.

Joint Order

WHEREAS, the late William G. Earles of South Portland served

in the House of Representatives of the Maine Legislature from 1955 until his tragic death early in 1963; and

WHEREAS, Rep. Earles was known as a dedicated and respected legislator who served his city and State well; and

WHEREAS, in memory of her late son, Mrs. Sadie W. Earles has left one-half the residue of her estate for the benefit of the State of Maine; and

WHEREAS, the bequest amounts to over twenty-one thousand dollars and will be used according to the terms of the will for the benefit of the Boy's Training Center at South Portland for the rehabilitation of youth; now, therefore, be it

ORDERED, the Senate concurring that we, the members of the One Hundred and Fifth Legislature of the State of Maine now assembled, take this moment to reflect upon the untimely death of the Honorable William G. Earles and the generous gift left in his memory to the State; and be it further

ORDERED, that this joint order be duly recorded in the permanent journals of both branches of the One Hundred and Fifth Legislature of the State of Maine. (H. P. 1230)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

House Papers

Bills today received from the House requiring Reference to Committees were acted upon in concurrence.

Senate Papers Fisheries and Wildlife

Mr. Anderson of Hancock presented, Bill, "An Act to Repeal Provisions for Municipal Ordinances Relating to Shellfish and Marine Worms." (S. P. 423) (L. D. 1526)

(Approved by a Majority of the Committee on Reference of Bills pursuant to Joint Rule No. 10).

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Sent down for concurrence.

Committee Reports House

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act Relating to Trade-in Credit for Watercraft under the Sales Tax." (H. P. 441) (L. D. 576)

Bill, "An Act Relating to the Time of Commencement and Duration of School Administrative District Meetings Held in Member Municipalities." (H. P. 480) (L. D. 621)

Bill, "An Act Relating to Prevention of Cruelty to Animals." (H. P. 514) (L. D. 677)

Bill, "An Act Exempting Watercraft and Motors from Personal Property Taxation." (H. P. 688) (L. D. 926)

Bill, "An Act Relating to Determination of Just and Reasonable Utility Rates by Public Utilities Commission." (H. P. 749) (L. D. 1010)

Leave to Withdraw

The Committee on Fisheries and Wildlife on, Bill, "An Act Relating to Open Season on Deer in the Town of Westport to Conform with Lincoln County." (H. P. 114) (L. D. 158)

Reported that the same be granted Leave to Withdraw.

The Committee on Education on, Bill, "An Act Relating to School Construction Aid." (H. P. 640) (L. D. 870)

Reported that the same be granted Leave to Withdraw.

The Committee on Education on, Bill, "An Act Relating to Comprehensive School Programs in Public High Schools." (H. P. 668) (L. D. 905)

Reported that the same be granted Leave to Withdraw.

The Committee on Fisheries and Wildlife on, Bill, "An Act Relating to Hunting from Vehicles, Aircraft, Boats and Snowmobiles." (H. P. 707) (L. D. 950)

Reported that the same be granted Leave to Withdraw.

The Committee on Education on, Bill, "An Act Relating to Supervisory School Units." (H. P. 764) (L. D. 1030)

Reported that the same be granted Leave to Withdraw.

The Committee on County Government on, Bill, "An Act Establishing Sheriff, Register of Probate, County Treasurer, Register of Deeds and Clerk of Courts in Androscoggin County as Full-time." (H. P. 801) (L. D. 1074)

Reported that the same be granted Leave to Withdraw.

The Committee on Public Utilities on, Bill, "An Act to Amend the Charter of the Orono-Veazie Water District." (H. P. 824) (L. D. 1098)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

Ought to Pass

The Committee on Fisheries and Wildlife on, Bill, "An Act Relating to Use of Lights While Locating or Taking Raccoon Found by a Dog." (H. P. 527) (L. D. 689)

Reported that the same Ought to Pass.

Comes from the House, the report Read and Accepted and the Bill Indefinitely Postponed.

Which report was Read and Accepted, the Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Election Laws on, Bill, "An Act to Repeal the Requirement That the Boundary Lines of Voting Districts in Municipal Elections Follow Streets." (H. P. 765) (L. D. 1031)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-77).

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

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Making Additional Appropriations for the Expenditures of State Government and for Other Purposes for the Fiscal Year Ending June 30, 1971." (H. P. 179) (L. D. 237)

Reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1217) (L. D. 1408)

The Committee on Veterans and Retirement on, Bill, "An Act Relating to Retirement of Police Officers." (H. P. 317) (L. D. 417)

Reported that the same Ought to Pass in New Draft Under New Title: "An Act Relating to Retirement of Police Officers and Fire Fighters." (H. P. 1226) (L. D. 1432)

The Committee on State Government on, Bill, "An Act Permitting Maine Port Authority to Operate Certain Charter Service in Addition to Maine State Ferry Service." (H. P. 365) (L. D. 472)

Reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1227) (L. D. 1433)

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

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

Divided Report

The Majority of the Committee on Transportation on, Resolve, Designating Part of Route 219 as a State Highway. (H. P. 283) (L. D. 372)

Reported that the same Ought Not to Pass.

Signed:
Senator:

GREELEY of Waldo

Representatives:

WOOD of Brooks

CROSBY of Kennebunk

HALL of Windham

DUDLEY of Enfield

LEE of Albion

McNALLY of Ellsworth

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Senators:

JOHNSON of Somerset
KELLAM of Cumberland

Representatives:

LEBEL of Van Buren
FRASER of Mexico
KEYTE of Dexter
BARNES of Alton

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

Which reports were Read.

Mr. Greeley of Waldo then moved that the Senate Accept the Majority Ought Not to Pass Report of the Committee, and Mr. Johnson of Somerset requested a division on the motion.

Thereupon, on motion by Mr. Berry of Cumberland, tabled and specially assigned for April 1, 1971, pending the motion by Mr. Greeley of Waldo to Accept the Majority Ought Not to Pass Report of the Committee.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act Increasing Mileage Allowance for State Employees on State Business." (H. P. 305) (L. D. 405)

Reported that the same Ought to Pass.

Signed:

Senator:

JOHNSON of Somerset

Representatives:

DONAGHY of Lubec
STARBIRD

of Kingman Township
FARRINGTON

of Old Orchard Beach

HODGDON of Kittery

CURTIS of Orono

GOODWIN of Bath

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

Signed:

Senators:

WYMAN of Washington
CLIFFORD

of Androscoggin

Representatives:

COONEY of Webster
MARSTALLER

of Freeport
STILLINGS of Berwick

Comes from the House, the Majority Ought to Pass report Read and Accepted and the Bill Indefinitely Postponed.

Which reports were Read.

Mr. Wyman of Washington then moved that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

Thereupon, on motion by Mr. Johnson of Somerset, tabled and specially assigned for April 1, 1971, pending the motion by Mr. Wyman of Washington to Accept the Minority Ought Not to Pass Report of the Committee.

Divided Report

The Majority of the Committee on Public Utilities on, Bill, "An Act Relating to Powers of Portland Water District." (H. P. 574) (L. D. 750)

Reported that the same Ought Not to Pass.

Signed:

Senators:

MOORE of Cumberland
VIOLETTE of Aroostook
MARCOTTE of York

Representatives:

BARTLETT

of South Berwick
SHUTE

of Stockton Springs

MOSHER of Gorham

RAND of Yarmouth

WILLIAMS of Hodgdon

EMERY of Auburn

BERUBE of Lewiston

MARSH of Hampden

TYNDALE

of Kennebunkport
The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Representatives:

CONLEY of South Portland

Comes from the House, both reports and Bill Indefinitely Postponed.

Which reports were Read.

Thereupon, the Majority Ought Not to Pass Report was Accepted.

Senate

The following Ought Not to Pass reports shall be placed in the legislative files without further

action pursuant to Rule 17-A of the Joint Rules:

RESOLUTION, Proposing an Amendment to the Constitution Concerning the Age of State Senators. (S. P. 166) (L. D. 488)

Bill, An Act Relating to Hours of Sale under Liquor Laws. (S. P. 346) (L. D. 1015)

Sent to the House.

Leave to Withdraw

Mr. Clifford for the Committee on Legal Affairs on, Bill, "An Act Exempting Motion Picture Projectionist from Liability under Regulation of Motion Pictures for Exhibition to Minors." (S. P. 114) (L. D. 293)

Reported that the same be granted Leave to Withdraw.

Mr. Fortier for the Committee on Liquor Control on, Bill, "An Act Relating to Definition of Wholesaler under Liquor Laws." (S. P. 360) (L. D. 1056)

Reported that the same be granted Leave to Withdraw.

Mr. Shute for the Committee on Liquor Control on, Bill, "An Act Relating to Machines or Mechanism for Amusement or Entertainment on Liquor Licensed Premises." (S. P. 361) (L. D. 1057)

Reported that the same be granted Leave to Withdraw.

Which reports were Read and Accepted.

Sent down for concurrence.

Ought to Pass in New Draft

Mr. Johnson for the Committee on State Government on, Bill, "An Act Relating to Payment of Expenses of Supreme Judicial Court and the Superior Court by the State." (S. P. 104) (L. D. 266)

Reported that the same Ought to Pass in New Draft.

Which report was Read.

On motion by Mr. Johnson of Somerset, tabled and Tomorrow Assigned pending Acceptance of the Committee Report.

Ought to Pass

Mr. Kellam for the Committee on Legal Affairs on, Bill, "An Act Authorizing Use of Name Maine School of Underwater Diving." (S. P. 320) (L. D. 934)

Reported that the same Ought to Pass.

Mr. Johnson for the Committee on State Government on, Bill, "An Act Relating to Temporary Loans by the State." (S. P. 489) (L. D. 1381)

Reported that the same Ought to Pass.

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

Ought to Pass — As Amended

Mr. Katz for the Committee on Education on, Bill, "An Act Relating to School Construction Aid." (S. P. 152) (L. D. 421)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-47).

Which report was Read.

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

Mr. CHICK of Kennebec: Mr. President and Members of the Senate: I have one or two comments I would like to make on this bill. I was attending another committee hearing when this was finally reported out of committee, and I concur with the report, however, if I had been present at the committee meeting I would like to have seen another bill reported out at the same time, which I believe is L. D. 999, and which offers some help on construction to some of our smaller communities.

I think that if we are going to consider offering further help to some of our larger communities as this bill does, then we should at the same time consider L. D. 999, which offers help for some of the smaller communities.

I don't intend to oppose this bill, and I hope it does proceed on its way, but in the meantime I hope that we can report out L. D. 999 so they can be considered together. Thank you.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Ought to Pass as Amended Report of the Committee?

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

Committee Amendment "A" was Read and Adopted and the Bill,

as Amended, Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act Relating to Payment for Sales of Malt Liquor or Wine in Retail Stores." (H. P. 535) (L. D. 708)

Bill, "An Act Relating to Financial Assistance to Institutional Teachers in Obtaining Professional Credits." (H. P. 1218) (L. D. 1409)

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

House — As Amended

Bill, "An Act Amending and Restating the Act to Incorporate York Institute." (H. P. 349) (L. D. 458)

Bill, "An Act Relating to Rebates for Prospective Purchasers and Consumer's Obligation under Home Solicitation Sales Act." (H. P. 380) (L. D. 495)

Bill, "An Act Relating to Number of Board of Directors of Maine Fidelity Life Insurance Company." (H. P. 549) (L. D. 725)

Resolve, to Reimburse the Town of Hermon for Support Rendered an Unsettled State Welfare Case." (H. P. 655) (L. D. 886)

Bill, "An Act Relating to Subsidy Payments on Expenditures Made for the Education of Handicapped Children." (H. P. 704) (L. D. 947)

Bill, "An Act Permitting Class A Taverns to Sell Food." (H. P. 748) (L. D. 1009)

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

Bill, "An Act Providing for Scholarships for North American Indians Residing in Maine." (H. P. 260) (L. D. 342)

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

Sent down for concurrence.

Senate

Bill, "An Act Relating to Changes of Fishing Regulations by the Legislature." (S. P. 321) (L. D. 935)

Which was Read a Second Time and Passed to be Engrossed. Sent down for concurrence.

Senate — As Amended

Bill, "An Act Permitting the State Park and Recreation Commission to Sell Snowmobile Trail Marking Signs and Charts." (S. P. 219) (L. D. 665)

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

Sent down for concurrence.

Enactors

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

An Act Relating to Fire Protection for Township 16, Range 4, Aroostook County. (S. P. 108) (L. D. 287)

An Act Relating to Business Hours for Taverns. (S. P. 299) (L. D. 856)

An Act Relating to Cultivation of Fish in Private Ponds. (H. P. 1107) (L. D. 1168)

An Act Relating to Reporting of Motor Vehicle Accidents. (H. P. 1206) (L. D. 1267)

An Act Relating to Law Providing for Statutory Agent for Foreign Domiciled Carriers Purchasing Semitrailer Plates. (H. P. 512) (L. D. 657)

An Act Increasing Salaries of District Court Judges. (H. P. 489) (L. D. 630)

An Act Providing for Adult Education. (H. P. 384) (L. D. 499)

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

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

Orders of the Day

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

House Reports — from the Committee on Labor on Bill, "An Act Relating to Switch Targets under Railroad Law." (H. P. 347) (L. D. 456) Majority Report, Ought to Pass as Amended by Committee Amendment "A" — Filing H-61;

Minority Report, Ought to Pass in New Draft.

Tabled—March 24, 1971 by Senator Tanous of Penobscot.

Pending—Acceptance of Either Report.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I move that we accept the Minority Ought to Pass in New Draft Report of the Committee.

The PRESIDENT: The Senator from Penobscot, Senator Tanous, moves that the Senate accept the Minority Ought to Pass in New Draft Report of the Committee.

The Senator has the floor.

Mr. TANOUS: Mr. President, may we have from the Chair the L. D. number on the new draft?

The SECRETARY: The number of the new draft is L. D. 1310, H. P. 1213.

Mr. TANOUS: Mr. President and Members of the Senate: I would just like to take an hour out or so to explain this bill to you. It is a very simple bill, as you can see.

In all seriousness, the new draft was put before the members of this body to give you an option to choose between the new draft and the original L.D. which was filed in this matter.

Now, if you will go back to your childhood days, when you walked along the railroad track and saw a funny-looking thing along the side of the track when you arrived at a siding and you threw rocks at it, well, probably this thing was a switch target which was used to switch from the siding to the main track. And a law was enacted back then, or quite a few years ago, for purposes of safety for express trains which would require that these switch targets, so to speak, at every siding would have a switch light on the switch targets. This was for the safety of the passengers on the express trains.

Now, as all of you are well aware, we don't have any express trains any more, and I understand that one of our railroads, the Bangor and Aroostook, removed all of these switch lights at their switch targets, so to speak. I guess

they have some other safety device that they have installed instead of a switch light. They have reflectorized types of instruments instead of a switch light, but I understand that their reflectorized surface would not meet with the requirements of this particular bill under the original draft that was presented before the Labor Committee.

Now the new draft merely leaves this up to the Public Utilities Commission to determine whether we should have reflectorized surfaces along with the switch lights that they now have on these switch targets. The original draft would mandate that the railroads do have, in addition to switch lights, also a reflectorized type surface put on these switch targets. So it is just a matter of taste, which one you would prefer.

As I mentioned originally this was for express trains only, and it was for the protection of your passengers but now, as I understand it, the unions caused the original bill to be put in so that, in addition to switch lights, you might also have these reflective type surfaces throughout the state on these switch targets.

I can't enlighten you any more than this except to say that it is a choice that you have to make: you can either accept the original bill that was presented or the new draft, which would somewhat fulfill the same needs except that it would leave it up to the Public Utilities Commission to determine whether it is necessary to have a reflective type surface in addition to the lights as requested by L.D. 456.

If there are any other questions that some of you might have, I would be most pleased to try to answer them. Thank you.

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

Mr. LEVINE of Kennebec: Mr. President and Members of the Senate: I would like to disagree with my good friend, Senator Tanous from Penobscot.

I think this is just a plain bill, a good bill, and I don't think we have to change it. If you change it there will be more cost involved

in it. They are just asking for safety and it wouldn't cost the railroads too much.

I am not just trying to say anything against attorneys or anything, but if you change it to the new draft then one party or the other would have to hire lawyers and it would be more expensive. So if Senator Tanous feels that both of them are all right, I hope that he would change his mind and go along with the original draft and it would save everybody problems. They are both all right but the first one is plainer. There is nothing involved in it so either side would need attorneys or anything. It would just add a little bit more safety for our men who are working on the railroads. So I would like the Senate to vote against the motion of Senator Tanous.

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

Mr. MARCOTTE of York: Mr. President and Members of the Senate: L. D. 456 was signed by the majority of the Committee because they realized that this was the correct bill. What I mean by that is that the bill is designed to provide greater safety for the railroad employees.

While I recognize that the other one has the same intent, I feel we are losing the uniformity in that you have the option of one or the other. In this case we would have a uniform program, and I think that this would be the proper bill to pass in the Senate. Consequently, I urge the members of this body to support L.D. 456, as amended by Committee Amendment "A".

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I hate to disagree with my two worthy colleagues from the Labor Committee, but I do challenge them on the need of either one of these bills, because there wasn't one shred of evidence presented before our Labor Committee that there was any need for either one of these bills.

There was no proof that there were any accidents or that this

would prevent any accidents and that the existing system isn't operative as it is. I don't recall any evidence being presented to our Committee that any accidents have occurred as a result of the lack of this legislation. And if you want to call a spade a spade, you are just adding more expense to your railroads and, as you well know, there is a bill pending before this legislature now asking for some assistance from the State of Maine because of financial difficulties that the railroads are having. If you add on more expense by passing legislation of this type, then we will have to seriously consider giving them some assistance.

For the life of me, I can't understand why the unions want to add on more expense to the railroads when they are only taking bread and butter out of their very own hands when they come up for negotiations the next time around.

As I say, there wasn't a bit of evidence presented at the hearing really on the necessity for either one of these two bills, but I just felt that I ought to put a new draft in there to give you a choice as to which one you would prefer. I still think that if we left it up to the Public Utilities Commission, that our decision would be wiser if it was left up to another body which is more familiar with the need for such action.

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

Mr. LEVINE of Kennebec: Mr. President and Members of the Senate: I feel that if the only problem the railroads had was installing these safety measures that the union is asking for now that they would be in very good shape.

I never like to call a doctor when a man is dead. It is a very small expense, and I would hate to see a major accident happen where we would have to afterwards consider legislation on that issue.

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

Mr. HARDING of Aroostook: Mr. President, I would ask for a division when the vote is taken.

The PRESIDENT: A division has been requested.

The pending question before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Minority Ought to Pass in New Draft Report of the Committee on Bill, "An Act Relating to Switch Targets under Railroad Law." As many Senators as are in favor of accepting the Minority Ought to Pass in New Draft Report of the Committee will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Fifteen Senators having voted in the affirmative, and fourteen Senators having voted in the negative, the Minority Ought to Pass in New Draft Report of the Committee was Accepted in non-concurrence, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

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

HOUSE REPORTS — from the Committee on State Government on Bill, "An Act Appropriating Funds for Overtime in State Employment and Establishing Hours for a Work Day and a Work Week for Certain Employees." (H. P. 278) (L. D. 367) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass.

Tabled — March 25, 1971 by Senator Johnson of Somerset.

Pending — Acceptance of Either Report.

On motion by Mr. Harding of Aroostook, retabled and specially assigned for April 1, 1971, pending Acceptance of Either Report.

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

SENATE REPORTS — from the Committee on State Government on Resolution Proposing an Amendment to the Constitution Providing for the Appointment of the Attorney General by the Governor, (S. P. 284) (L. D. 840) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass with Committee Amendment "A" — Filing S-43.

Tabled — March 25, 1971, by Senator Berry of Cumberland.

Pending — Acceptance of Either Report.

Mr. Kellam of Cumberland then moved that the Senate Accept the Minority Ought to Pass as Amended Report of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. KELLAM: Mr. President and Members of the Senate: This particular bill, while it is usually characterized as a governmental reform bill or something of that nature, leading one to believe that it has partisan political implications, it is my feeling that the selection of the attorney general under the present system is probably the worst method that could be devised.

Maine is the only state that does select its attorney general in this manner, that is, by virtue of having the legislature meet in joint convention to vote upon the person who will be the attorney general for the next two years. It seems to me that the selection is made by a system which becomes somewhat cloudy, to say the least, as to equating the relative merits of those who might be selected. It has become, particularly in recent years, something of a consolation prize among candidates within the party that holds the majority in the legislature.

We have somewhat lost sight of the need for legal advice within the executive department. While it may be all right to select some people in this way for administrative tasks, it strikes me that by the peculiar nature of the advisor or attorney for the executive department, that this person should be a man of the choosing of the chief administrator of the state.

Now, we are all well aware that this is the system used in the federal government, and it has worked out very well. The attorney general for the President of the United States is always a man whom the President has complete confidence in, who he approaches with problems, and it has worked out well. I believe that both parties would agree on that.

The attorney general for the State of Maine, however, has not been necessarily of the party of the governor and, even if of the party of the governor, not necessarily a man of his first choice. The attorney general should be a man in whom the governor has confidence, who does advise the governor and who does reflect the governor's opinions on various matters.

Now, we know that the governor has the ultimate responsibility for the administration of the laws of the State of Maine, and in that regard he should be able to select the attorney who is going to act for him.

There is no one of us, if we were conducting a business as large as the State of Maine, who would not want an attorney of our own choosing. Consequently, I would hope that we would move this constitutional amendment along and give it some thought, without having any regard to the present incumbents of these particular offices because, obviously, this is not the question before us. By the time the bill goes into effect we may well have different parties in the respective offices and, as far as I am concerned, I would just as soon forego the need for the change during the present incumbency of the governor if, in fact, we could pass this constitutional amendment.

So when the vote is taken I would like to have a division vote, and I would like to have the members realize that this is purely and simply a method of selecting an attorney to act for the executive branch who will reflect the duties and obligations that are on the governor and, although we may very well have very able and capable attorneys general, the present system is a very poor one indeed.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: In urging you to vote against the motion of Senator Kellam to accept the Minority Ought to Pass Report, I would like to point out several important differences of

opinion that exist between the two schools of thought.

I think that Senator Kellam really put his finger on the major flaw of the bill, and that is that he interprets that the attorney general exists to do the work of the chief executive of the state, and here is where I think we completely leave his thinking. The attorney general represents the State of Maine and all its residents. He represents the three branches of government, the legislative, the executive and the judicial and, as such, the attorney general is a very, very important person acting for the welfare of the state as a whole.

I think the concept of having the attorney general be the appointee of the governor epitomizes the dangers we are falling into by building up the executive into too powerful an office.

As Senator Kellam has pointed out, we have had outstanding attorneys general. I know of no better one than that outstanding Democrat, Dick Dubord.

I think this is the problem. It is possible that there may be other ways of selecting the attorney general. I certainly don't say that the legislature is the only means of doing it, but I do point out to the members of the Senate that the legislature has established an enviable record for selecting very, very capable attorneys general. It cannot be held up that under the guise of reform we should discard a proven method of running the department of the attorney general. Too often we do say that change is for the good. I think here that change would not be for the good along the means proposed in this measure, and I urge you to vote against the pending motion.

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

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I am always tempted after I hear my good friend, the Senator from Cumberland, Senator Berry, speak on a matter to comment because his remarks are always interesting.

I am sure that the high school students who are here will recall that basically in our government,

and they learned this in first - year civics, that we have three branches of government: the executive, the legislative and the judiciary. The attorney general certainly does not represent the judiciary because the judiciary interprets the law. He should not represent the legislature because the legislature makes the law. He should, however, represent the executive because the executive has the responsibility to enforce the laws of the state, and this is the procedure which is used in almost all of the states.

For a moment I would like to tell you of an incident that will show you how unfair the existing set - up is, and it casts no reflection on any of the occupants of the offices, but this is just one little incident. I remember it was at the 103rd Legislature that the governor had taken a certain action, and on the way down I heard on the radio that the attorney general had ruled that that action was illegal. So the legislature of this state asked the Supreme Court to rule on that fact, as to whether or not the action the governor had taken was illegal. When I got here I asked for an appointment with the governor, and I asked him if the attorney general had submitted his opinion to the governor. The governor advised me that he only knew about it what I knew, of what came in on the radio.

This matter was submitted to the Supreme Court on a brief. The governor had no one to represent him. He had to retain himself, from his private funds, people to represent the State of Maine on that particular point. As an aside, I might mention that the Supreme Court of Maine ruled that the attorney general's opinion was incorrect and that the governor was correct. But the humiliating part of it is that when the governor of this state, who is elected by all of the people, needs advice and counsel he must seek it from private counsel rather than from the attorney general, who should represent the people of Maine.

This is a very, very bad set-up. It is not duplicated in any other state in the union, and I would

hope there would be a change. So when the vote is taken I would ask that it be taken by the "Yeas" and "Nays".

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: What the Senator from Aroostook, Senator Harding, has so graphically and so beautifully pointed out to us this morning is not an error in the system, but in the implementation of the system.

I find it difficult to believe that communication between the governor and his attorney general, after a couple of years of incumbency, hasn't been better established so that the communication works.

I take a look at other states, and noticed in this morning's paper that a former governor of another state has been convicted of an impropriety. It has never happened here in the State of Maine, not to say it couldn't happen, and I think that if indeed the attorney general is the lawyer of all the people that he must be the lawyer of all the people, even with respect to the executive department, and maintain an independent stature from the judiciary and from the executive.

I think that is what our present system does. It may be that a change in procedure might be in order, but change for change's sake, and I am sure the Senator from Aroostook, Senator Harding, would agree with me, is not desirable at the legislative level. Consequently, I shall vote with relish against this constitutional change.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: Of course, one of the more empty arguments that was used by my good friend, the Senator from Aroostook, Senator Harding, in his dissertation was that I was in error in saying that the attorney general worked with all three branches of government.

He either was absent or was inattentive when I gave what I felt was an expression of thanks to the Department of the Attorney General quite recently for the outstanding work which that department did for the legislature in overseeing, correcting and doing an awful lot of homework on all the bills that this legislature is acting upon. And of course, as a member of the legal profession, he knows just as well as I do that the attorney general does work quite closely with the judicial branch.

It seems to me that his arguments point up again that he considers and the governor considers the attorney general the private lawyer for the governor, and this isn't what we want in the State of Maine at all.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Cumberland, Senator Kellam, that the Senate accept the Minority Ought to Pass as Amended Report of the Committee on State Government on Resolution Proposing an Amendment to the Constitution providing for the Appointment of the Attorney General by the Governor. A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The Chair will state the question once more. The pending question before the Senate is the motion of the Senator from Cumberland, Senator Kellam, that the Senate accept the Minority Ought to Pass as Amended Report of the Committee on Resolution Proposing an Amendment to the Constitution providing for the Appointment of the Attorney General by the Governor. A "Yes" vote will be in favor of the motion; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Bernard, Carswell, Clifford, Conley, Danton, Fortier, Graham, Harding, Kellam,

Levine, Marcotte, Martin, Minikowsky, and Violette.

NAYS: Senators Anderson, Berry, Chick, Dunn, Greeley, Hichens, Hoffses, Johnson, Katz, Moore, Peabody, Quinn, Schulten, Sewall, Shute, Tanous, Wyman, and President MacLeod.

Mr. Hichens of York was granted permission to change his vote from "Yea" to "Nay".

Mr. Bernard of Androscoggin was granted permission to change his vote from "Nay" to "Yea".

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

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

Sent down for concurrence.

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

HOUSE REPORTS — from the Committee on Taxation on Bill, "An Act to Eliminate Moose River from the Maine Forestry District." (H. P. 141) (L. D. 196) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass.

Tabled — March 26, 1971, by Senator Graham of Cumberland.

Pending — Motion by Senator Martin of Piscataquis to Accept the Minority Ought to Pass report.

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

Mr. WYMAN of Washington: Mr. President and Members of the Senate: I think that I have expressed my position on this last week, and I hope the members will go along and oppose the motion of the good Senator from Piscataquis, Senator Martin.

The PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President and Members of the Senate: In order to provide some information on this bill, I would like to point out that Moose River in the last five years has paid \$12,355.45 in Forestry District taxes. Suppression costs to Moose River have been in the amount of \$15.75 over one-tenth of an acre.

Senator Wyman of Washington, I think, made a mistake, without wanting to, last Friday when he mentioned that this tax was paid by the landowners only. This is incorrect. Forestry District tax is paid on all property within the member municipality or the member township based on its state evaluation. In this case the Forestry District tax is protection on the wood land within the town, and the owner of the wood land in question owns eighty percent of the taxable property within the municipality and pays thirty-four percent of the tax. In other words, the Forestry District tax in Moose River is paid by the owners of the buildings to the tune of \$1,968, and the owner of the wood land pays to the tune of \$984. These are the figures rounded out.

In 1970, the Forestry District tax to Moose River was \$2,951. They also have their Fire Department, and this is a duplication in taxes. The Forestry District protects the buildings when the snow is off the ground, but does not do anything for the other property, except the wood land, when the snow is on the ground.

I therefore hope that my motion to accept the Ought to Pass Report would be accepted.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Piscataquis, Senator Martin, that the Senate accept the Minority Ought to Pass Report of the Committee on Bill, "An Act to Eliminate Moose River from the Maine Forestry District." A division was requested in earlier debate. As many Senators as are in favor of the motion of the Senator from Piscataquis, Senator Martin, that the Senate accept the Minority Ought to Pass Report of the Committee will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Thirteen Senators having voted in the affirmative, and nineteen Senators having voted in the negative, the motion did not prevail.

Thereupon, the Majority Ought Not to Pass Report of the Com-

mittee was Accepted in non - concurrence.

Sent down for concurrence.

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

Bill, "An Act Relating to Aids to Navigation and Regulatory Markers and Removal of Hazards for Safe Passage of Watercraft." (S. P. 116) (L. D. 295)

Tabled — March 26, 1971 by Sentor Berry of Cumberland.

Pending — Passage to be Engrossed.

Mr. Hoffses of Knox then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-48, was Read and Adopted, and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

Out of order and under suspension of the rules, the Senate voted to take up the following:

Committee Reports

House

The Committee on Legal Affairs on, Bill, "An Act to Establish a Boundary Line between the Towns of Wayne and Leeds." (H. P. 1057) (L. D. 1162)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (H-81).

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

Which report was Read and Accepted in Concurrence and the Bill Read Once.

Committee Amendment "A" was Read and Adopted in concurrence and, under suspension of the rules, the Bill, as Amended, given its Second Reading and Passed to be Engrossed in Concurrence.

Thereupon under further suspension of the rules, sent forthwith to the Engrossing Department.

(Senate at Ease)

Called to order by the President.

Reconsidered Matter

On motion by Mr. Katz of Kennebec, the Senate voted to reconsider its action of yesterday whereby, Ratification Resolution for 18 -

Year - Old Vote Amendment, (H. P. 1223), was referred to the Committee on State Government in non - concurrence.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. KATZ: Mr. President and Members of the Senate: The Senate is faced with a couple of alternatives, and I would like to go over the possible alternatives with respect to this ratification process of Congress's action in enacting a proposed constitutional amendment to the Federal Constitution.

It comes at a time when we have taken state action also. We have enacted a constitutional amendment at state level which we are referring to the people in referendum. It might be that there would be those who would say that the Maine Legislature should defer action on the federal question until Maine people have had a chance to vote in referendum on the state question as an indication as to how Maine people feel about the eighteen year - old voting. I don't think that this is a practical consideration, because I think that the legislature in both houses has very clearly indicated that we feel that eighteen year - olds should have the privilege of voting. If this is indeed the case, the alternative then comes before us as to what should we do about the federal question, the ratification of the proposed federal constitutional amendment. There we have two possibilities in front of us: one, we can refer the question to the Committee on State Government for public hearing or, two, in concurrence we can ratify the action of the federal government by a vote within the State Senate. I suggest that the first alternative really is not very constructive. The assignment of this proposed ratification to a joint committee of the legislature really is going to go over grounds that have already been thoroughly plowed in previous hearings. We are talking in terms of one of the very busiest committees, State Government, the workload of which is appalling, a

Committee that is one of the hardest working in the state legislature.

It occurred to me over the weekend that nothing would be gained by referring this matter to committee, and perhaps the proper thing for us to do—and this is the question I would like to raise before the Senate today—the proper thing to do would be to face it, without reference to committee, in concurrence, and indeed ratify at state level the action of the congress in proposing this constitutional amendment. If I am correct, we have just reconsidered our action and, therefore, Mr. President, I would move now that the Senate ratify the action in concurrence with the House.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that this Joint Resolution be adopted in concurrence. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Thereupon, on motion by Mr. Berry of Cumberland, tabled and specially assigned for April 2, 1971, pending the motion by Mr. Katz of Kennebec to Adopt the Joint Resolution.

Out of order and under suspension of the rules. The Senate voted to take up the following:

Enactors

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

Emergency

An Act to Establish a Boundary Line between the Towns of Wayne and Leeds. (H. P. 1057) (L. D. 1162)

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

(Off Record Remarks)

On motion by Mr. Hoffses of Knox,

Adjourned until 10 o'clock tomorrow morning.