

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Fifth  
Legislature***

**OF THE**

**STATE OF MAINE**

**Volume III**

**June 16, 1971 to June 24, 1971**

**Index**

**1st Special Session**

**January 24, 1972 to March 10, 1972**

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**KENNEBEC JOURNAL  
AUGUSTA, MAINE**

**SENATE**

Friday, March 3, 1972

Senate called to order by the President.

Prayer by The Honorable Richard N. Berry of Cape Elizabeth.

Reading of the Journal of yesterday.

**Joint Order**

Out of order and under suspension of the rules, on motion by Mr. Hoffses of Knox,

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Monday, March 6, 1972, at 1 o'clock in the afternoon.

Which was Read and Passed.

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

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

Bill, "An Act Providing 4-year Terms for County Attorneys and Full-time County Attorneys for Certain Counties." (S. P. 725) (L. D. 1983)

In the Senate March 1, 1972, Report "A" Ought to Pass in New Draft Under New Title: "An Act Providing for Full-time Elected District Attorneys" (S. P. 773) (L. D. 2053) and the Bill Passed to be Engrossed.

Comes from the House, Report "C" Ought to Pass in New Draft Under New Title: "An Act Relating to Full-time Prosecuting Attorneys" (S. P. 775) (L. D. 2055) and the Bill Passed to be Engrossed, in non-concurrence.

Mr. Berry of Cumberland moved that the Senate Recede and Concur.

Mr. Violette of Aroostook then moved that the Senate Insist and Request a Committee on Conference.

The PRESIDENT: The Chair would inform the Senator that a motion to insist is subservient to a motion to recede and concur. After the motion to recede and concur is disposed of, if it is in the negative, then the Senator may offer his motion.

The Chair recognizes the Same Senator.

Mr. VIOLETTE of Aroostook: Mr. President and Members of the Senate: I would hope that we would not go along with the motion to recede and concur. I think we have an opportunity here to do something in the area of our prosecution system in the state, and I think if we would insist and ask for a committee of conference that we could use that vehicle as a way of arriving at some compromise on this matter. I am very fearful, if we recede and concur, that it is going to be probably, or could be, the last or the end that we will hear of making some progress in the matter of a full-time prosecution system. So I hope that we would defeat the motion to recede and concur and then accept my motion.

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

Mr. CLIFFORD of Androscoggin: Mr. President and Members of the Senate: This bill was debated fairly well the other day or fairly thoroughly, so I am not going to take too much of the Senate's time in talking about it. But, just to bring you up to date on what has happened, Report "A" was accepted by the Senate, and Report "A" is elected district attorneys. Report "C" was accepted by the other body, and that is the report which calls for appointive district attorneys by the Attorney General.

Now, my extrasensory perception tells me that Report "C", if it receives passage, is very apt to get vetoed and, unfortunately, we will be left without anything, without anything to bolster the prosecution system in this state. I don't want to see that happen, not until we have made every effort that we possibly can, or explored every possibility of compromising this, of making some sort of adjustment between these two reports. I think we owe that to the people of the State of Maine, that we explore every possibility. And the only way we are going to be able to do that is to defeat Senator Berry's motion, and then make a motion to insist and ask for a committee of conference. So, I would urge you to support Senator Violette's

proposal and vote down the motion to recede and concur.

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

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I wish very much that our good friend, the Senator from Penobscot, Senator Tanous, were here. He is the Chairman of the Judiciary Committee, and I think the Senate would benefit from his thoughts on this. I cannot say how he would vote today on this, but I do know that all of us who have been interested in getting a full-time prosecution system in the State of Maine have been desirous of working out some compromise here, and I would just plead with you to let us have this opportunity to try to see if we can work out a compromise because, as far as law and order in the State of Maine, we desperately need a full-time prosecution system.

So, to that end I hope that, regardless of party because party goes down the drain when it comes to law and order, and we are all for law and order, so regardless of party, I hope you would vote against the motion of the Senator from Cumberland, Senator Berry, so we could come out of this session with a bill that all of us could support. When the vote is taken, I would ask that it be taken by division.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I echo the sentiments of the good Senator from Aroostook, Senator Harding, that partisanship should go down the drain where law and order is concerned, and I am sure it will.

We had a reasonably exhaustive debate on this the other day on the relative merits of Reports "A", "B" and "C". I would like to point out that I think we were in reasonable agreement that Report "B", which provided for six full-time county attorneys in the six largest counties would build in a system that would be extremely difficult in the future to change. We would have six attorneys who would have

reasonably good jobs, \$17,500 and \$18,500, and that this would give us a monolithic resistance to future change which everybody agrees certainly is needed.

Now, Report "A", which is being extolled by the three previous speakers, of course, is nothing but an enlargement of Report "B", the full-time district attorneys. The only difference is that they are elected. To my mind, this puts another coat of paint on it too, because it would be impossible to change this system once we instituted it. The minute we have sixteen elected full-time county attorneys we will always have them. I think this is a major objection to this proposal. I pointed out in that debate too that the inflexibility of Report "A" was a major problem, that to take an elected official from Aroostook County and ask him to come down and help the county attorney in Cumberland County, I strive to find a greater disparity than something like that ever happening in the State of Maine.

I would also recall to the members of the Senate that L. D. 701, An Act Relating to Powers and Duties of the Attorney General, was passed to be enacted by this body in concurrence with the other body, and I would take the time to point out that this was the same principle and that the following people voted for that bill, which is really Report "C" that we are asking you now to accept. These people voted for the same bill that we are now asking you to vote for: Senator Anderson, myself, Senator Carswell, Senator Clifford, Senator Conley, Senator Dunn, Senator Fortier, Senator Graham, Senator Greeley, Senator Harding, Senator Hichens, Senator Hoffses, Senator Johnson, Senator Katz, Senator Marcotte, Senator Martin, Senator Moore, Senator Peabody, Senator Quinn, Senator Sewall, Senator Shufte, Senator Tanous, Senator Violette, Senator Wyman, and Senator MacLeod. To complete the record, the only people that didn't vote that way were Senator Chick, Senator Kellam, Senator Levine, and Senator Minkowsky. Now, I would ask these gentlemen, in view of these statements we

have heard about being willing to compromise, and so forth, they supported this document once, and I would assume the only reason they are not supporting it now is that the Governor vetoed it. We have heard statements that partisanship was being placed aside now, and if there is any other reason than partisanship that they can't support this, I would like to know it.

There has been considerable mention of compromise here. I have had several conferences with interested individuals on this bill, and some of them have been with the previous speakers. I find that the point on this particular bill on which there seems to be no compromise is the election. I pointed out the danger of the election feature, and I have the impression from these gentlemen that they will not compromise on the feature of the election of county attorneys. So we have compromised. This bill, as it is before you in Report "C", has removed all the objections that the Governor had, with the exception of the method by which these people are put in office.

I think, with these items of background, that a vote in favor of receding and concurring would be consistent with what this body has done before, and it would place before the Governor a very workable tool for the enforcement of law and order. I urge you to vote "Yes" on the current motion.

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

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: I am sure what the Senators have noticed in the calling of the list, I feel that I can speak with some confidence as not veering from a previous position, having been one of the three or four people who have opposed this bill from its inception as being a step backward rather than a step forward. When I say "this bill", I am referring, of course, to the Report "C" that the good Senator from Cumberland, Senator Berry, is trying to resurrect and place back on the Governor's desk again,

which I feel serves no useful purpose.

If we do in fact recede and concur on this bill, I would feel what we are doing is giving up on the theory of having some full-time prosecution and trying to improve our judicial system.

I have for the last four years tried to get some voice in having a full-time prosecutor system, and the Report "A", which we have accepted, does not accept my views, but it is better. What it does, in effect, is equalize the work load of the various county attorneys and does make for better prosecution in that we would not have some of the very thinly populated counties having very little case load while some other counties have a very large case load. In other words, it does take away from, say, Cumberland County, which does lose a portion of its county into the adjoining county. I feel that this is a step in the right direction. I don't like the elective process myself, but the proposal that I have espoused for many years of having the prosecuting system placed upon an equal footing with the district court system, and giving tenure to prosecutors so we can get really good experienced men on the job, at least this would be a step toward that, and we could eventually change the elective system to an appointive system once we equalize the case load and set the district boundaries for the prosecutors.

So I would hope that we would defeat the pending motion and maybe give it one more time to try to insist and have a committee of conference. If the good Senator from Cumberland goes not wish to do that, it would seem to me it might be a little more reasonable just to adhere and be done with it today, rather than take up our time over and over again with this same bill.

I had hoped when we started this session, from one of my discussions with various people, that they had finally sublimated their desires to build up a bureaucracy on the second floor and that we were going to get down to cases on how to actually solve our prosecution

problems, but apparently that is not the case, and we are now in the same position we were, I guess, a year or so ago, except that I have got a little more company. I certainly very much hope that the more enlightened members of the Senate will realize that we are just making a futile attempt here in trying to go back to Report "C", and that Report "A" really does do something to help the State of Maine. That is the reason I support it. As I say, it is not my first choice either.

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

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I wish to commend the good Senator from Cumberland, Senator Berry. I think if I was standing here debating him on engineering matters of how badly I would do, and I commend him on his ability to debate a legal matter here and do very well. However, there were some small inconsistencies in that which he mentioned.

I would tell you that the bill does not provide for sixteen full-time elected county attorneys. It provides for thirteen full-time district attorneys. And as far as the county attorney or district attorney from Aroostook County coming down here to Cumberland County, of course, he wouldn't do that. However, it is flexible in that there would be two full-time prosecutors for Aroostook County, and those people would be interchanged, of course, at various times as would the district attorneys who serve Androscoggin and Cumberland Counties, they could be interchanged. This is the purpose of it.

I concur fully with the remarks of the good Senator from Cumberland, Senator Kellam, that to recede and concur in this instance is, in effect, to adhere. So if we were to recede and concur, we are costing the taxpayers a lot of money here and rather, to avoid that waste of time, the adhere motion would be much more in order. So, I just make this final plea, that I hope we can come out of here with something, and

I hope that you will not close the door on us being able to come out with something. So I hope you will vote against Senator Berry's motion, and 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 Chick.

Mr. CHICK of Kennebec: Mr. President and Members of the Senate: I hadn't intended to say anything on this this morning, but I arise to support the motion of the Senator from Cumberland, Senator Berry.

It is very difficult for me, as a matter of fact, I cannot understand the thinking of some of the opponents of this bill. We have been snowballed with a lot of material from the front office here on the third floor, explaining to us the desirability of having, not only the heads of the departments, but many of the subordinates, appointed by the Governor to have more efficient state government, the idea being that by such action the Chief Executive has more responsibility over the operations of the department. So, following that thing through, I say that we have heard from many of the attorneys about the deplorable condition of our prosecuting system here in the state at the present time and I think, following the same line of reasoning, the only way perhaps we are going to straighten it out is by having the chief prosecutor in the state have some say in selecting the people who are going to improve this situation.

So, I think that the same line of reasoning that the Governor has presented of asking us to let him appoint the heads of departments would still apply in this field, that we should let the chief prosecutor do the appointing.

Now, I suspect maybe on the chief thing that is bothering some people here, that if this bill called for the prosecutors to be appointed by the Governor, I haven't the least doubt that they wouldn't be hollering in opposition to this motion at the present time.

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

Mr. CLIFFORD of Androscoggin: Mr. President and Members of the Senate: When Senator Berry spoke with regard to this bill, I think the thrust of his comments was that every possibility had been explored and we are at a crossroads where we either go with Report "C" or we don't go with anything.

But I think there is a possibility that we haven't mentioned, that we haven't explored, and that is the possibility of electing an attorney general and letting him appoint his prosecution team. This hasn't been mentioned, to my knowledge, on the floor of the Senate. Whether it was mentioned in the other body, I don't know. But I certainly feel quite certain that the corner office would have no objection to this type of prosecution system, and this has not been talked about. It could be explored in a committee of conference, and I think that we would be doing the people of the State of Maine an injustice if we didn't explore this thing to its fullest. Then if we can't compromise or agree, fine, but let's do everything we can to see if we can't come up with something to bolster the system that we have that is falling apart.

The PRESIDENT: The Chair would ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Berry, to the rostrum to act as President pro tem.

Thereupon, the Sergeant-at-Arms escorted Senator Berry to the rostrum where he assumed the duties of President pro tem, and President MacLeod was then escorted by the Sergeant-at-Arms to the seat assigned Senator Berry on the floor of the Senate Chamber.

The PRESIDENT pro tem: The Chair recognizes the Senator from Penobscot, Senator MacLeod.

Mr. MacLEOD of Penobscot: Mr. President and Members of the Senate: I thought I should come down from the rostrum this morning to make one very important point. I would like to remind this body and, if the other body were here to listen, I would like to remind that body, that we are supposed to be a co-equal branch of government and we can do any-

thing in the way of legislation. That is a power given to us under the Constitution.

I have seen Senators in this body this morning stand up and say "We might as well make a motion to adhere as make a motion to recede and concur." A motion to recede and concur means we are in concurrence with the other body and it means perhaps we would enact this piece of legislation and put it on the Governor's desk, but the clear inference is that the Governor would veto it, that, therefore, we are powerless, we can't do anything.

Well, if we are truly interested in a full-time prosecuting system for the State of Maine, we can over-ride a veto. We don't have to be lackeys to that man in the corner office just because he doesn't happen to like the Attorney General.

Now, these same Senators who voted for this same bill that has now been cleaned up, will all the objections removed, except one, from the regular session, now these same Senators are voting the other way and saying "Well, there is no point; we need Report "A" because that is the only one we can enact into law." We can enact any report we want to into law; we have that power, because two-thirds of the people here present and voting can override any Governor, which is as it should be. Sure, there are such things as party loyalty and party discipline, but when it is carried to the point of everyone in here saying that they are for law and order, and for a full-time prosecuting system, and that the Republicans won't compromise, the Republicans won't do this, or it is going to be our fault if we don't have one, let's make sure that the blame lies where it belongs. Thank you for your attention.

At this point the Sergeant-at-Arms escorted President MacLeod to the rostrum where he assumed his duties as President of the Senate, and the Sergeant-at-Arms then escorted Senator Berry to his seat on the floor of the Senate Chamber.

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

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: We don't very often get a chance to hear our good President speak to the body because of his position. It is unfortunate the few times that he does he has to be wrong.

I think the objection to this bill with the Attorney General, insofar as I am concerned, and I have said it a dozen times and I have said it for a dozen years, is that there is no tenure involved in it. What happens, as a practical matter, with the Attorney General's office is that he hires attorneys who are available. Attorneys who are available to be hired by the Attorney General are not the best attorneys, and I think that is a fact which we can readily document. They are not the experienced attorneys. They are attorneys out of law school. Now, I would ask this body, if they have any question whatever, to go down and check the last thirteen or fourteen people hired by the Attorney General and see what their ages were, what their prior experience was, what their batting average is when they get into court, for that matter. When we get right down to the facts of the matter, I think you will find that it isn't any great shakes to talk about. That is my objection, or my principal objection, to this particular bill. That is, I will readily admit that Report "A" is not my first choice, but it does do this: it provides for a little longer term of office; it gives four years instead of two. It makes it a little more attractive to more experienced people. It pays more money which, in effect, will make it more attractive to more experienced people. It equalizes the case load; it cuts the number down from sixteen to thirteen, and this is going to make it more attractive to more people and it is going to allow a greater area. What opportunity now is there in one of our small counties? We have a few along the coast there where, for all practical purposes, one of the political parties can't even field a candidate, or have had times in the past when they couldn't field a candidate, because there is no lawyer living there. Now, what

sense does that make? What kind of a prosecution system will you have with that when you have a county with four or five lawyers and they parcel out the county attorneys job to the youngest man just out of law school, who happens to be a son of somebody else? It is ridiculous. That is the present system, and I admit it is ridiculous.

This Report "A" would correct that. It would equalize the case load by equating the county attorney to the district in which he is going to serve, which would be, of course, in some areas a much larger district than the county attorney now has, and in some areas it would be a smaller district. These are the advantages of the bill, and they are advantages which I should think would be obvious to everybody over what the situation is today.

The other bill, Report "C", is pure and simple a desire to get more people under the A.G.'s office. Now, many of the last few people he had had to take time off during election time in order to campaign for him. Now, what is the desire of that? Why should we hire people down there to work for him who are going to go out and run his political campaigns a couple of years later? We are interested in prosecution. We want attorneys to prosecute cases in the courts, and do nothing else. And this particular report at least will help.

Now, the bill that I have stumped for for many years, and I am glad that Senator Berry read the voting list from the last time around, I will not compromise my position on that and go along with Report "C". I wouldn't go along a year ago. I won't go along now, and I won't go along next year. If it is not better, we shouldn't do it, and that is not better. At least Report "A" is an improvement. Then if we have an equalized case load by virtue of reducing the number of attorneys that are prosecuting, and we wish to go into a better system, we can do so. These very same people could be people who would later be appointed to a longer tenure of office.



This is what we did in the district court system.

Now, a dozen years ago I worked pretty hard around here trying to get the district court bill passed, and we did absorb the better municipal court judges into that system, and many of the trial justice aspects of it, the poorer aspects of the court system, we left out. We can do the same thing with the prosecution part of it if we just have a little gumption to do it, and forget all about how many people are going to be working downstairs.

Now, I would ask you, and I am in all seriousness on this, that if you will just check yourself as to who the people are that are hired, and how much experience they have, whether you would go out and have them defend you or, if you had a crime committed against you, would you want them to prosecute the case, or would you rather have a person who had been practicing law for twenty years? The aspects of a prosecution system that you have got to have to induce good people is decent pay and a tenure of office which is compatible with giving up a practice. When you put this in the Attorney General's Department you have no tenure whatever, none. And when that situation exists, you will get people who are seeking experience. Well, I, myself, if I were hiring a lawyer, a doctor, or anybody else, I don't want a person seeking experience; I want a person who has experience. This bill at least would be a step in that direction.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Violette.

**MR. VIOLETTE of Aroostook:** Mr. President and Members of the Senate: It certainly is with reluctance that I have to disagree with the President of our Senate, but I do want to place a few things in proper perspective.

In the 104th Legislature we had a bill to place the prosecution system under the Attorney General. I opposed it then on the principle and on the basis that it was my feeling that the basic prosecution system in our state ought to be under the elective system. I said

then in the 104th Legislature that I had come to feel that we were to a considerable degree weakening our governmental system by removing more and more of our public officials from the elective system and placing them under the appointive system, and I opposed the legislation then.

In this regular session of the legislature my name is on a vote to go along with placing the prosecution system under the Attorney General. The Senator from Penobscot, Senator Tanous, the Senator from Aroostook, Senator Harding, I am sure, will tell you that they discussed this matter with me at least half a dozen times, and that I continually told them until the very end that it was my very, very strong feeling the the prosecution system should remain in the elective process of our government. Since that time I have come to feel more strongly that there has to be an elective process in the basic prosecution system of our state.

Experts throughout the nation in this field say that this is so and this ought to be so, because in our entire judicial system, in our entire system of justice, the elected prosecutor is the only one who has any basic responsiveness to the people because they are elected. This is a basic principle, I believe, in balancing our judicial system. This is what I believe today and this is why I oppose now the motion to recede and concur, because I feel that in the long run our people will best be served by an improved system of electing our prosecuting officials. In our system of justice, I think, there has to be responsiveness and there has to be an awareness of the people themselves, and only by having a part of that system retained in the elective process do we have any guarantee that any part of our system of justice will have some basic and inherent responsiveness to the people and to the electorate. There is nothing wrong with that, but this is the fundamental difference that I think we have today.

It makes no difference to me who occupies the office of Attorney General, but this is a system that

we are going to have for a long time, and the present man is not going to be there indefinitely; others will replace him. And there is going to be a replacement of the man in the corner office, so-called, but the system will remain. The system we introduce now, I think, is also going to remain so, all personalities aside, I am firmly convinced and feel more strongly than ever that the prosecution system should remain in the elective process of our people. This is why I oppose Report "C" and why I favor Report "A", at least as a step in that direction, and hope that this is what we will enact in this legislature.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: First of all, I would like to correct a statement made by my good friend, Senator Kellam from Cumberland, relative to the President of this body stepping down to speak to this group and the few times he has that he has been wrong. Senator Kellam was here during the 104th, and I am sure he remembers when the President of this body stepped down from the podium to address this honorable body on the enactment of the income tax. As I recall, at that time he received a standing ovation upon the completion of his words to this body, so apparently he wasn't wrong that time. I would merely like to correct the record on that, Mr. President.

Now, we have been talking about full-time prosecutors for quite a few sessions, and this is my second. We talked about it at the regular session of the 104th, we passed a bill then, and we rushed back here the following January in special session to repeal that law we passed then for full-time prosecutors, because it would have left us destitute of prosecutors under the elective system at that time. We tried again at the special session to enact a bill for full-time prosecutors, and we failed because of party politics.

At the regular session of the 105th, in the waning days of this

legislature, we passed a bill which, as I mentioned before, met with the almost unanimous approval of both bodies, only to be vetoed by the Governor.

Now, we are trying, as we all want full-time prosecutors, but apparently we differ as to the method by which these full-time prosecutors will take office. We talk about the appointive system as being good, and those who oppose it speak of it as being bad. Those who favor the elective system speak of it as being the best, and those who oppose it speak of it being not the best, or perhaps as not acceptable to the majority. Well, members of the Senate, if we are truly and sincerely interested in adopting a full-time prosecutor bill, then we have got to look at the facts as they are right this morning, not what they will be next week or next year, but what they are here today.

Now, I went along with Report "A" yesterday, hoping that the other body might adopt Report "A", hoping that we would be in concert with them, but we apparently failed this area. The vote in the other body came back 80 to 32, so apparently this certainly was not down party lines. I don't think either party has caucused on this particular bill. So, if the other body has voted like this, we are now faced with a choice of either holding to Report "A" or joining them in accepting Report "C". I am sure you will all agree that if we stick to Report "A" we will be in non-concurrence, and then we will go to a committee of conference. And I am sure you are familiar with committees of conference; it is a rare occasion that you come out of a committee of conference with a report that you can put to both bodies that will be acceptable.

I disagree with the elective system, and I always have. I think, personally, that the appointive system is the best. When you speak about being close to the people, do you know that our judges at one time were elected, and apparently through this system we were getting some poor judges on the bench. Justice wasn't being meted out on the ability, but on the personality of an individual at

the polls. So we did away with this system and went to the appointive system, and it has certainly proven out to be the best system of both. I don't think anyone could dispute that.

Now, I am going to change my vote this morning. I am going to join the other body and hope that we can concur with them, and I hope that this body might go along with it. I realize there might be some snickers about this particular position I am taking, but I am interested in full-time prosecutors, and I think if we go along with the one that is most realistic that it can get through both of these bodies. I think we have no choice but to ultimately join the majority of both of these bodies and bring to the people of the State of Maine a full-time prosecutor system. Thank you.

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

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: It seems as though it was almost a year ago, and yet it was only approximately a month ago, when I came before the Reference of Bills Committee presenting a bill similar to this one - I guess we would probably say it was by title only - for the Reference of Bills Committee to consider. I very honestly stated at that time that the bill which was passed at the regular session was still lying on the Governor's desk, and I had no knowledge as to whether the Governor was going to veto or allow the bill to become law but that, in the event that the Governor did decide to veto the bill, we would have a document before us in this special session that we might consider and attempt to work out a compromise on.

Now, I heard the good Senator, that very dear, dear friend from Cumberland, Senator Berry, this morning when he opened up this session today with just a few words of prayer. I am sure they were very sincere words when he asked that we try to work together for the best interests of the people of this state. And it seems that since we have been sitting here just for this short period of time, with this very short calendar that we have

before us, that we have spent most of our time haranguing over this one particular item. It seems sad too that the presiding officer of this body has to come down from the rostrum to make a specific point in relationship to this document.

It is clearly obvious, I think, to everyone - we keep referring to the man in the front office going to veto it, and we are the legislative body and we are the ones who have the power to pass laws, and the Chief Executive has the right to either sign them, veto them, or allow them to become law without his signature - but if we are going to work in a spirit of compromise, then certainly the road that we are taking at this present moment to recede and concur certainly is not the correct one.

Now, the good Senator from Cumberland, Senator Berry, read off the roll call of the vote on the bill that was passed during the regular session, but we can recall, and I think if the good Senator from Penobscot, Senator Tanous, wanted to be completely and totally honest, he would state that this was a bill that was worked out amongst the attorneys as an amicable solution to the very serious problem of full-time prosecutors. I think most of us here in this Senate are just ordinary laymen who go back and do their jobs during the time we have allotted to us when we are not in session, and we depend, or at least I depend, very heavily on the recommendations of the attorneys, particular when it comes to the field of full-time prosecutors. And it disturbs me really because, I think, in a sense, we can almost say that we were taken in, and taken in because I think that in all good faith we went along with the recommendation.

Now, we recall that very briefly after the legislature adjourned following the regular session that the Governor did appoint a commission to study this thing. I forget how many members were on the commission, but I do recall that there was certainly a large variance of disagreement with respect to the bill that was passed, and I think in the report that came out of the number that was

appointed the plurality was by one who were in favor of sustaining the bill as passed or the law as passed. So, there was a large area of disagreement amongst the attorneys throughout the state. And I honestly feel, where we are meeting in special session, if we are sincere, honest, and are trying to do something, at least to serve the largest majority, in trying to rectify the various objections to the law that was passed, that we should try to do it. I think just to sit down and put a rubber stamp on practically the same measure that was passed in the last session is not a good road to take.

I continue to wonder myself, and I really hesitate to become embroiled in partisanship, but I think at this stage of the ballgame that this area has become so embroiled that actually we have polarized this entire issue to a point where there isn't anybody present here who doesn't know what is going to happen, but I do wonder really just how much effect and how much verbiage has been given by the present Attorney General downstairs on the adoption of this particular measure before us.

Now I, for one, would like to see this item just put on the table over the weekend to see if we can't go home and cool off and try to become reasonable people again, sit down and see if we can't come back Monday and try to work something out that will be acceptable to all.

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

Mrs. CARSWELL of Cumberland: Mr. President and Members of the Senate: Expertise in the ability to prosecute seems to be a matter of concern here, and rightly so. Now, which bill, if any, has qualifications listed for the individuals who will serve in these positions?

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: With their usual honesty and forthrightness, Senators Conley and Kellam have, of course, brought out in the open here what we are

talking, and it is nothing but partisan politics on their part. I would only recite to these gentlemen, in answer to Senator Kellam's inquiry, or statement rather, bald statement of fact, that the tenure of office of the present system of two years for the Attorney General, the life of the legislature, leads to ineffective and inefficient Attorneys General and, consequently, a poor administration of justice.

I have been up here ten, rounding out twelve, years now and I have had three Attorneys General, with whom I have had the privilege of working, consistently and uniformly helpful, completely capable, and in every single instance, if I alone had the opportunity of replacing them, I couldn't find a better man. I will start with Frank Hancock, and I will go to Richard Dubord, and I will go to the present Attorney General.

Senator Kellam also paid quite a lot of attention to law and order, and Senator Conley indicated likewise. From their remarks, I think they are extremely partisan, and I think their concern with law and order doesn't go very deep. And I recall the sorry spectacle of when the crime laboratory was being killed that we had a laughing gallery over in this wing, so happy to see something to do with law and order go down the drain. I am inclined to ask Senator Conley, Senator Violette, and Senator Harding why, gentlemen, why have you changed your minds?

The PRESIDENT: The Chair would remind the Senator from Cumberland, Senator Berry, that under Senate Rule 4, members, when referring to each other in debate, shall use in their addresses the title of Senator and, by way of distinction, name the county in which he resides.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I think, if the good Senator, Senator Berry from Cumberland, will recall, it was a member of the Appropriations Committee who had signed out a unanimous committee report on the crime laboratory and, when he

made the motion to accept the bill for the report, I, as one member of the Appropriations Committee, went along with him. And when he refers to a laughing gallery, I think the Senator can recall also, I believe, the vote in this Senate at that time was 29 to nothing, with two being absent, to refer this bill to the 106th Legislature.

Now, when he makes reference to the Attorney General downstairs, I mean, we all here present know how popular he is. It was quite an act to get him re-elected to this Constitutional office, as I recall, back last January. So, I think really, I mean, if we want to become embroiled in partisanship, that there are enough Democrats here in this Senate to be able to swap off with the Majority Floor Leader. But if we want to put partisan politics aside and try to sit down and really present some sort of a bill that is going to survive and is going to improve our county attorney system, I think that is what we should have in mind first, and not just the rhetoric that has been passed around here this morning.

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

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: Having served with the good Senator from Cumberland, Senator Berry, both in this body and down the hall, I have come to appreciate his discussions, both for their educational value as well as for their entertainment. I think in this particular instance he has drawn some wrong conclusions relative to my own position in this matter or, I should say, things that I have said, and that is probably due to a lack of cohesiveness on my part in speaking.

When I talk about tenure of office, I am making no reference whatever to the tenure of the Attorney General. My difficulty with the present bill relative to tenure is that there is no tenure for the prosecuting attorney, and that is, I feel, a very serious deficiency in Report "C".

When he discusses a lack of interest in the law and order issue, over the last dozen years, I feel,

on those bills that really merited support, I have supported them wholeheartedly. On the foolish bills which come before us occasionally, and seem to be predicated on some idea that was put forth at the last meeting of some group, usually one of our Constitutional officers, these bills come out and they sort of sweep across the nation, and the wise states are wise enough either not to bother to talk about them at all, or dispense with them. I am talking about the bills when you go back to the old bootlegging days of taking everybody's automobile when they find something in it, and things like that. We have had a series of them and, in all fairness to the good Senator from Cumberland, Senator Berry, his conduct in this regard is certainly much more commendable than the predecessor who handled this particular item last year and who was replaced by another Senator in the interim election. I am not wishing any bad luck on the good Senator from Cumberland, Senator Berry, and as far as I am concerned, I enjoy his company.

I wish to just sort of bring back what we are talking about here. We are talking about trying to have effective prosecution in office, and I suppose it is really not fair to equate it with the medical field but I did attempt to do that in trying to bring it home to everyone. I know that most of us here have had very little dealings with being prosecuted, but most of us have had some dealings with being treated by the medical profession, and I think we all agree that we like an experienced man to do the job. That is what I am talking about when I talk about experience.

What inducement is there that Report "A" and that Report "C" does not have to lead to effective prosecution? There are three items that come to my mind that would induce effective prosecution. The attractiveness of the pay is one item which we think about. I know most people don't think that a lawyer worries about pay, but I assure you they do consider it at times. The lawyer who is going to take this job will be paid a fairly decent

pay under Report "A". Under Report "C" he will be paid, I presume, the beginning salary of the Attorney General's office, if we have a new man come in. And I think that is what we are talking about; we are talking about adding to the staff of the Attorney General's office. The pay will be considerably better under Report "A" than "C".

The term of office in "A", and that is what I am talking about when I am referring to tenure, the term of office in Report "A" is four years. The term of office for the prosecutor in Report "C" is none. He is hired by the Attorney General and assigned to a particular position. He has no tenure, and any disagreement he has might result in his being out of a job. Not that there is likely to be disagreement, but it is possible. And it may be that Attorney Generals coming on the scene every two years may wish to replace attorneys that were appointed by their predecessor, and I assure you that this has happened in the past.

The third item that I am thinking about is experience. What is the inducement for experienced people to take this position with the Attorney General's office without tenure and without an attractive pay? There is none. I would say there is probably not any at all. The experienced man in Report "A" is going to receive a reasonable salary and he is going to receive a tenure of office of at least four years. And he has some reasonable expectation that if he does a good job he can campaign on that fact in the next election and be in for another four years. At least, in these three areas, very crucial areas of how to select a good man, he has a far superior position in "A" than he does in "C". That is my reason for supporting Report "A".

My actual feelings for the best prosecuting system is to go back to the regular session and pick up the bill I submitted and pass that one. But that is not going to happen so, in order to be reasonable, I would like to have this group go along with Report "A".

At no time have I ever mentioned the veto of the Governor's

office, but I am sure that you are aware that when I was heavily outvoted a year or so ago on this same Report "C" I let my opinion be known, and I thought that was one of the most worthy bills of a veto that had come down the road in a long, long time. And I don't think that I have all the influence that the bill would be vetoed on that basis alone, but it pleased me that it was vetoed. And if it passed by this body, if we go through this exercise in futility for the next three or four days, and it is vetoed again, I will be very pleased again. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senaor Anderson.

Mr. ANDERSON of Hancock: Mr. President, I move the previous question.

The PRESIDENT: The Senator from Hancock, Senator Anderson, moves the previous question. Is it the pleasure of the Senate that the previous question be entertained?

The motion prevailed.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Cumberland, Senator Berry, that the Senate recede and concur with the House. A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least 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 again. The pending question before the Senate is the motion of the Senator from Cumberland, Senator Berry, that the Senate recede and concur with the House on Bill, "An Act Providing 4-year Terms for County Attorneys and Full-time County Attorneys for Certain Counties." A Yes vote will be in favor of receding and concurring; a No vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Anderson, Berry, Chick, Dunn, Greeley, Hichens, Hoffses, Johnson, Katz, Moore,

Peabody, Quinn, Schulten, Sewall, Shute, Tanous, Wyman and President MacLeod.

**NAYS:** Senators Bernard, Carswell, Clifford, Conley, Danton, Fortier, Graham, Harding, Kellam, Marcotte, Martin, Minkowsky, and Violette.

**ABSENT:** Senator Levine.

A roll call was had. Eighteen Senators having voted in the affirmative, and thirteen Senators having voted in the negative, with one Senator absent, the motion prevailed.

### Joint Order

**ORDERED**, the Senate concurring, that the following be recalled from the Governor's Office to the House: Bill, "AN ACT Relating to Per Diem Allowance and Expenses for Members of the State Board of Barbers and State Board of Hairdressers." (H. P. 1580) (L. D. 2037) (H. P. 1603)

Comes from the House, Read and Passed.

Which was Read.

Mr. Berry of Cumberland then moved that the Joint Order be Indefinitely Postponed.

The **PRESIDENT:** The Senator from Cumberland, Senator Berry, moves this Joint Order be indefinitely postponed.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. **HICHENS** of York: Mr. President and Members of the Senate: After this bill was sent to the Governor's office, we discovered that the amount on the amendment limiting the barbers and hairdressers to \$600 for expenses had been over expended before the year is already through. So, in conferring with the Governor's office, I was asked by the sponsor if we would bring this bill back and change the amendment to allow them to have actual expenses along with a per diem allowance. So, I would like to ask for a division.

The **PRESIDENT:** A division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. **BERRY** of Cumberland: Mr. President and Members of the Senate: My purpose is making the motion was to avoid further

entanglement or squabble within the board involved here. In deference to Senator Hichens, I withdraw my motion.

The **PRESIDENT:** The Senator from Cumberland, Senator Berry, withdraws his motion for indefinite postponement. Is it now the pleasure of the Senate that this Joint Order receive passage in concurrence.

Thereupon, the Joint Order received Passage in concurrence.

### Communications

The Senate of Maine  
Augusta

February 23, 1972

Hon. Kenneth P. MacLeod  
President of the Senate

Dear Sir:

Due to circumstances beyond my control I am submitting my resignation as Assistant Secretary of the Senate to take effect March 3rd, 1972.

I appreciate the opportunity of having served in the several positions of the Senate over the past forty-two years.

I shall always have pleasant memories of the many associates during this time.

Respectfully,  
WALDO H. CLARK

Which was Read.

On motion by Mr. Berry of Cumberland, tabled until later in today's session, pending Consideration.

### STATE OF MAINE

In the Year of Our Lord One  
Thousand Nine Hundred and  
Seventy-two

Joint Resolution in Recognition of  
Mr. and Mrs. Waldo H. Clark  
Upon Retirement

**WHEREAS**, one of life's greater moments comes in the twilight years with rest from human toil and the knowledge of a job well done; and

**WHEREAS**, Waldo Hilton Clark has reached that grand moment and in the charming company of his dear wife, Ruby, will enter upon a more leisurely life; and

**WHEREAS**, the departure of Mr. and Mrs. Clark on this date comes amid a sea of endless applause, affection and gratitude for their many years of faithful service; and

WHEREAS, Mr. Clark's work as an officer of the Senate is but a combination of a career long dedicated to the State which began in 1925; now, therefore, be it

RESOLVED, by the Senate and House of Representatives of the 105th Maine Legislature assembled this day in special session, that we, the members extend our most sincere thanks to Mr. and Mrs. Waldo H. Clark of Jefferson for their many years of outstanding service and accomplishment; and be it further

RESOLVED, in token of our endless gratitude and lasting affection that the Assistant Secretary of the Senate, Waldo H. Clark, be presented with his desk and chair; and be it further

RESOLVED, that the Secretary to the Assistant Secretary, Mrs. Ruby T. Clark, be presented with an engrossed copy of this Joint Resolution bearing the Great Seal of the State of Maine with our warmest wishes for their future happiness. (S. P. 782)

On motion by Mr. Berry of Cumberland, tabled until later in today's session, pending Adoption.

### Orders

On motion by Mr. Johnson of Somerset,

ORDERED, the House concurring, that the office of the Speaker of the House, President of the Senate and Minority Leader representing each House be provided with such legislative assistance as they deem necessary for the period prior to convening of the One Hundred and Sixth Legislature within the limits of funds allocated hereunder; and be it further

ORDERED, that there is allocated from the Legislative Account the sum of \$20,000 to carry out the purposes stated herein. (S. P. 783)

Which was Read and Passed.

Sent down for concurrence.

### Second Readers

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

#### House - As Amended

RESOLUTION, Proposing an Amendment to the Constitution Providing for Apportionment of

the House of Representatives into Single Member Districts. (H. P. 1543) (L. D. 1999)

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

### Senate

Bill, "An Act Implementing the Reorganization of the Department of Manpower Affairs." (S. P. 779) (L. D. 2058)

Bill, "An Act Reclassifying Part of the Waters of Presumpscot River, Cumberland County." (S. P. 777) (L. D. 2056)

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

Sent down for concurrence.

### Enactors

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

An Act Establishing a Forest Lands Taxation Policy Using a Productivity Approach. (H. P. 1577) (L. D. 2034)

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

Mr. MARTIN of Piscataquis: Mr. President and Members of the Senate: I would like to place my comments on this item on the record and, as you all have a copy of the comments, I would read as follows:

I wish to bring to your attention my reservations about rushing through legislation in the forest productivity tax bill. What we are discussing here is a major revision of taxing forest lands in the unorganized and organized townships. In the unorganized nearly 8½ million acres of land, almost half the acreage in this state is involved. More than 90 percent of this land is held by just 38 companies individuals or groups.

There are many major weaknesses in this bill which is primarily one developed through the efforts of the forest owners themselves. I will not take your time today to go over many of the obvious problems that appear to exist, problems that study committees have yet to fully resolve.

I will address myself to the major problem that appears uncertain at best, a problem which all



of us are clearly accountable for, — insuring that this new taxation approach will return a fair amount of tax dollars to our state and our cities and towns. It is my basic contention that what we are all interested in is a fair and equitable tax on the woodland resource. We all know that forest land has been undertaxed in Maine for some time — in part through discriminatory rates and in part through undervaluation of the land. I believe that estimates of increased taxes in the unorganized woodlands are not accurate, and, I would guess that we will possibly lose more money in local taxes in the cities and towns in this state than will be gained by the General Fund at the state level.

We hear again and again that the woodland tax issue is too complex except for a small handful of people to understand. Well I do not think my predictions are hard to understand nor the implication of the tax loss that will occur under this bill.

There are other important aspects in regard to the operation of this bill. It is the forest products industry itself which can control prices of forest production — and in turn under this bill, the amount of taxation. Further, such factors as accessibility of the forest land — a standard for determining production value — can easily alter actual production values and in turn the amount of tax revenue to the state.

I oppose the State Tax Assessor setting productivity values, for as everyone knows, the State Tax Assessor has in the unorganized townships under assessed forest lands for many years. Even Ralph Nadar criticized past actions of the State Tax Assessor in regard to forest valuations. I do not think it is wise for us to place again the administrative machinery in the hands of the same man that has done an inadequate job in the past. I suggest that the Maine Valuation Appeals Board with its five members who each have three - year terms is preferable to the single state tax assessor appointed once every seven years. The power given to the State Tax Assessor in this bill is too much

for one man, and the interest of the people would be better protected and better represented through the appeals board.

Further, it is well known that only half the woodland of Maine is currently used for production purposes, but we are required under this bill to place all of the significant forest lands in this category for taxing purposes whether the land is providing harvest for paper products in or not.

What we should be demanding here today is a thorough study of the financial impact of this legislation. Too many dollars are at stake to make this move to productivity taxation without adequate information and income projections.

In summary, we are being asked to buy a new tax system with incomplete estimates of income by those who are the prime movers behind the bill — by many of the same interests who were the prime movers behind constitutional revision — and by many of those same concerns who now benefit from admittedly discriminatory tax rates.

Let us move to study the revenue picture to have the same quality of information available as in our other tax decisions. Let us not abdicate our responsibility in insuring adequate taxation of the forest lands. In particular, let us establish the impact on the organized municipalities. Let us not buy the unknown factors in this bill before study. Thank you, Mr. President.

Mr. President, I move that this bill and all of its accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Piscataquis, Senator Martin, moves that An Act Establishing a Forest Lands Taxation Policy Using a Productivity Approach, be indefinitely postponed.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: We have been through this rather thoroughly in two sessions of the Legislature, in the Taxation Committee, and the Blue Ribbon Committee appointed by the Governor. I think most of the objections have been met, and I cer-

tainly oppose this motion of the Senator from Piscataquis, Senator Martin. Your three Senate members of the Taxation Committee signed this unanimously Ought to Pass, and I hope you oppose the motion of Senator Martin.

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

Mr. MARTIN of Piscataquis: Mr. President, when the vote is taken I would ask it be taken by a division.

I would further like to emphasize that this bill is going to hit directly every organized municipality in this state. The bill calls for a tax loss, revenue loss, to the organized municipalities of not more than ten percent. The value will be set by the State Tax Assessor. The assessors will have to use that value and use their rate, however, if the loss is greater than ten per cent, the local assessors will manipulate the value to arrive at not more than a ten percent tax loss.

It has been agreed, and it has been testified, that the owners of the lands in the unorganized assume that there will be a \$440,000 increase in their tax for one year. Well, I can predict, and I can honestly predict, because of the unknown factor, what will be the tax loss in the organized; that this tax gain in the unorganized will be supplemented by a tax loss within the organized. I say this is bad legislation. I say there are too many unknown factors in this bill. I say that the bill should be studied further.

I say that the productivity value has never been mentioned, and what is the productivity value going to be on an acre of mixed growth, on an acre of softwood growth, and on an acre of hard wood growth? This has not been mentioned at any time and nobody knows it. At least at this time we have the market value, the so-called ad valorem value, that one man has the only right to set the value on. I think you can all agree, and I have heard Senator Wyman of Washington mention time and time again, that the state value is not infallible, that the state evaluation is wrong in many cases. The only thing we have to do under our present system is to correct

the actual assessments of these lands. If it has been done in the past by one man, it can be done by a board of five, or more than one man, and correct the problem that now exists, instead of jumping into productivity tax with so many unknown factors in it.

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

Mr. FORTIER of Oxford: Mr. President and Members of the Senate: I think I have repeated before this body that I appreciate that this bill is not an absolute exact mathematical exposure of what it will do. There are unknown factors, I have admitted this before, and I think that these unknown factors will remain, no matter how much longer we may study this bill.

On the other hand I am inclined to believe that the good Senator Martin from Piscataquis is over-anxious over some of these vague areas. For example, he states in his statement that the industry itself will control prices. They will control prices to the extent of what they are willing to pay for the product. They will control prices to the same extent that you and I and the rest of the citizens control prices of beefsteak at our market, that we control the price of a loaf of bread or a pound of butter; it is a question of supply and demand.

Now, he also refers to the fact that other factors such as capitalization, such as growth rate, and so forth, should not be left in the hands of the assessor. I maintain that under this bill they are not completely left in the hands of the assessor, because there is a formula established. The assessor is simply more or less the office boy, he is the agent for this legislature, he is going to translate the formula into actual figures.

Now, the growth rate: We have a Forestry Division and we have a federal bureau who work on this constantly, whose information will be available to the tax assessor, and it is his interpretation of these rulings made by these bodies with expertise that will apply in this case.

The capitalization, I admit, it a vague area. We are getting something that we have never gotten

into before, but I maintain we could study this thing forever, and until we have some practical experience, until we have tried it out, we will have nothing more definite than we have at this time.

I do think, after all the study that has gone into these bills, that it would be a shame not to go any further, not to have anything practical, not to have anything definite. The capitalization rate, at the fear of some members of the legislature, was frozen into this bill so that it could not be played with indiscriminately. I do feel that under the circumstances, and taking into consideration the type of subject we are dealing with, that we have the best bill that has been turned out yet on this, and I do hope you will give it a chance.

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

Mr. MARTIN of Piscataquis: Mr. President and Members of the Senate: I will go along with Senator Fortier from Oxford that this has been studied. The productivity approach has been studied, but you can well understand and well see that many factors in this bill have not been studied. The productivity approach has been studied, but many items remain without answer up to this date.

What impact is this going to have in the 494 towns we have in the State? We have many cities without forest land, but we have many, many towns with forest land, and every owner with an acre of forest land may make application under this bill and become subject to the productivity tax, with an apparent and assumed ten percent tax loss to the area to the community. Who will absorb this ten percent tax increase but the property owners, the other type of property owners within the municipality. I say this should be studied.

I will bring to your attention again the fact that the interests involved in pushing this productivity tax have been in motion for a long time. In fact, if you will recall, when the land use bill came before us in the 104th and passed, and it was brought to referendum, who raised the money to advertise this land use bill and get the favorable referendum? Who

raised the money? I have been to the Secretary of State's Office, and at the 105th I distributed before you the persons involved in the contribution of over \$16,000 to advertise the concept of the land use method of taxation. Well, this \$16,000 comes from these large owners. Doesn't this, in a sense, place before you an element of suspicion of who is going to benefit by this method of taxation of 45 percent of our land within the state? I am not willing to buy a pig in the bag. I am willing to sit down and study this some more, but I am totally unwilling to accept this method of taxation, and I would hope that the Senate would go along with me and wait.

It is interesting to note also that every tax within the unorganized will fall into the General Fund. Now, you can well see what happened to the Forestry District Tax, the spruce budworm, so-called, at this session. We need \$400,000 times three, or over a million dollars, and these large owners are willing to increase their own taxes by one-third so they can contribute \$400,000 of this large cost. The unknown factor in this third is further implemented by a subsidy from the Forestry District member towns, which will absorb another twenty-five percent of this \$400,000 raised by the large paper industries, and reduce their cost to \$300,000. They are asking for \$400,000 from the General Fund, and they are getting it. They will get \$400,000 from the federal government, but what is going to happen if this tax passes? This will all come from the General Fund instead of a \$1.2 million next year, they will need everything under the sun to implement the forestry fire protection, and this will add to the cost. I am not willing to buy this.

Mr. President, I have asked for indefinite postponement, but I will change my motion and just ask for a division on the passage of the bill.

The PRESIDENT: The Senator from Piscataquis, Senator Martin, withdraws his motion to indefinitely postpone the bill.

A division has been requested. As many Senators as are in favor of enactment of this bill will please rise and remain standing

until counted. Those opposed will please rise and remain standing until counted.

A division was had. Twenty Senators having voted in the affirmative, and nine Senators having voted in the negative, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented the Governor for his approval.

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

Mr. HOFFSES of Knox: Mr. President having voted on the prevailing side, I move we reconsider our action whereby we passed the bill to be enacted, and I hope you vote against my motion.

The PRESIDENT: The Senator from Knox, Senator Hoffses, moves that the Senate reconsider its action whereby this bill was passed to be enacted, L. D. 2034. As many Senators as are in favor of the motion to reconsider will please say Yes; those opposed No.

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

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An Act Relating to Penalty for Sale of Certain Drugs. (H. P. 1582) (L. D. 2040)

On motion by Mr. Tanous of Penobscot, tabled and Tomorrow Assigned, pending Enactment.

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An Act Relating to Legislative Ethics. (H. P. 1588) (L. D. 2048)

Which was Passed to be Enacted and, having been signed by the President, was 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:

Bill, An Act Authorizing Town of Dresden to Vote on Certain Liquor Local Option Questions." (H. P. 1494) (L. D. 1937)

Tabled — March 2, 1972 by Senator Berry of Cumberland.

Pending — Enactment.

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

Mr. HICHENS of York: Mr. President and Members of the

Senate: For the last time, I hope, we have this most important Dresden Bill before us.

I never imagined that the wishes of one man moving into our great State of Maine to change our laws for his own profit could mushroom into one of the most discussed and the most frequently tabled measure of this special session. I was further confounded to read the words of the sponsor of this bill in his final argument for passage when he stated that the mere presence of a certain individual in the Senate Chambers last week influenced two Senators to change their vote and oppose passage of this bill. I just can't believe that these two men, voting their own conscience, were influenced one way or the other by seeing this individual here. Should they vote differently today, I may be proved incorrect. Possibly the placing of a scotch flavored sucker on my desk yesterday morning was meant to influence my vote. It looks very tempting but it is still here.

Members of this Senate, I think by this time you are as much fed up as I am with the maneuvering of the industry in the state to increase their own profits. I hope you vote against final passage of the bill this morning, and allow the residents of Dresden to express their desires according to our present laws, and I request a roll call.

The PRESIDENT: A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least 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 less than one-fifth having arisen, a roll call is not ordered.

Thereupon, this being an emergency measure and having received the affirmative votes of 21 members of the Senate and, 21 being less than two-thirds of the entire elected membership of the Senate, the Bill Failed of Enactment.

Sent down for concurrence.

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

Bill, "An Act Relating to Revenue Sharing and Financial Relief to Counties for Expenses of the Superior and Supreme Judicial Courts." (S. P. 712) (L. D. 1986)

Tabled — March 2, 1972 by Senator Harding of Aroostook.

Pending — Motion by Senator Martin of Piscataquis to Recede and Concur.

On motion by Mr. Tanous of Penobscot, retabled and Tomorrow Assigned, pending he motion by Mr. Martin of Piscataquis to Recede and Concur.

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

Bill, "An Act to Revise the Maine Land Use Regulation Commission Law." (S. P. 709) (L. D. 1890)

Tabled — March 2, 1972 by Senator Johnson of Somerset.

Pending — Passage to be Engrossed.

Mr. Violette of Aroostook then presented Senate Amendment "C" and moved its Adoption.

Senate Amendment "C", Filing No. S-388, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. VIOLETTE of Aroostook: Mr. President and Members of the Senate: What this amendment does, with regards to what I am sure were the challenged provisions of the previous amendment which I proposed yesterday on this bill, it removes the provisions for the additional members, but it does make provisions for the permanent members, the Director of Parks and Recreation, Forestry Commissioner, and State Planning Officer, to have their designated alternate attend the deliberations of the Commission at times when the directors of the Commission are unable to attend.

Certainly this is not a solution to what I feel is a major deficiency in the composition of this Commission, but at least, until such a time as that change can be effected, I think it will go to some extent toward assisting the Commission in having better participation on

the part of the present members of the Commission.

The other provisions in the amendment are identical to those which were submitted yesterday, and which I do not believe are in question, so I hope that the Senate would accept this amendment.

The PRESIDENT: Is the Senate ready for the question?

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

Sent down for concurrence.

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

Bill, "An Act Relating to Guarantees by the State Industrial Building Authority and the Maine Recreation Authority." (S. P. 706) (L. D. 1887)

Tabled — March 2, 1972 by Senator Sewall of Penobscot.

Pending — Consideration.

On motion by Mr. Sewall of Penobscot, retabled and Tomorrow Assigned, pending Consideration.

#### (Off Record Remarks)

The President laid before the Senate the Communication tabled earlier in today's session by Mr. Berry of Cumberland.

Pending — Consideration.

Thereupon, the Communication was placed on File.

The President laid before the Senate the Joint Resolution, Senate Paper 782, which was tabled earlier in today's session by Mr. Berry of Cumberland:

Which was Read and Adopted.

Sent down for concurrence.

Mr. Berry of Cumberland was granted unanimous consent to address the Senate.

Mr. BERRY: Mr. President and Members of the Senate: Mere words at this time would be a let down from the noble words in our Joint Resolution, but I would like to add the personal thanks of every member of this body to Waldo for the good job he has done for us, his unfailing good nature and his efficiency. I could add his superior

intelligence, because while we will be laboring here next Tuesday, perhaps productively, and perhaps fruitlessly, Waldo and Ruby will be on the way to Florida. I am sure with them go all our best wishes to both of you for a most successful and happy time, not only there, but in the years to come.

On behalf of the members of the Senate, it is my pleasure to present to Waldo an engraved sterling platter, which reads: Presented to Waldo Hilton Clark in appreciation of his long time service to his State of Maine on the occasion of his retirement as Assistant Secretary of the Maine State Senate on March 3, 1972. (Applause)

And on behalf of the Senate, it is my pleasure to present to Ruby a bouquet of flowers along with our best wishes for a happy trip and a good stay in Florida. (Applause)

Mr. Chick of Kennebec was granted unanimous consent to address the Senate:

Mr. CHICK: Mr. President and Members of the Senate: I didn't want this occasion to go by without reminiscing a little bit. When Waldo first came to work for the Maine Senate as second folder I held the position as first folder. So, I have known Waldo for a good many years, and I will always cherish the many pleasant times we have had together over the years. He has been a very dedicated public servant, and I am sure that I, as well as the rest of you, realize that through the applause he has received today. Thank you.

Mr. Katz of Kennebec was granted unanimous consent to address the Senate:

Mr. KATZ: Mr. President and Members of the Senate: First, I would like to invite the Senate to remain overnight if they wish in Augusta; we would be glad to put you up. Second, I just want to add a personal note about Waldo. Times get pretty turbulent for all of us here in the Senate, and I just wanted to say it is my personal experience that the one man who has had a magnificent sense of timing to encourage me to help

smooth the wounds a little bit when things got terribly tough, in my case, has always been Waldo, and from this one guy from Kennebec, you will be sorely missed.

#### (Off Record Remarks)

Mr. Violette of Aroostook was granted unanimous consent to address the Senate:

Mr. VIOLETTE: Mr. President and Members of the Senate: I want to add to the words of appreciation to our retiring Documents Clerk, Waldo, and Mrs. Clark for their dedicated service. First of all, I say that it is with regret that I see him retire, because many of us rely on him so often for assistance, not only on him, but on Mrs. Clark.

I personally want to thank him for all the dedication and for all the cooperation he has given me, and I am sure every member of the Senate, during the time that I have been here. I have never really worked with someone who was more helpful and more willing to assist you with all the problems that you have. I want to wish him and Mrs. Clark a happy retirement. I must say as he leaves here today that I rather envy him. I hope we will not be too far behind him, at least in recessing this session of the legislature.

Mr. Berry of Cumberland then nominated May M. Ross as Assistant Secretary of the Senate of Maine.

On motion by Mr. Tanous of Penobscot, Mr. Hoffses of Knox was authorized to cast one ballot on the part of the Senate in favor of May M. Ross for Assistant Secretary of the Senate. This was done, and May M. Ross of Augusta was declared duly elected Assistant Secretary of the Senate for the remainder of the political year.

Mrs. Ross subsequently appeared before the Governor and Council and took and subscribed the oath of office.

The Adjournment Order having been Read and Passed in the House in concurrence, on motion by Mr. Hoffses of Knox, adjourned until Monday, March 6, 1972, at 1 o'clock in the afternoon.