

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Sixth

Legislature

OF THE

STATE OF MAINE

1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Wednesday, March 21, 1973

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

Prayer by Father Thomas J. Joyce of Augusta.

The journal of yesterday was read and approved.

Orders Out of Order

Mrs. Clark of Freeport presented the following Order and moved its passage:

ORDERED, that Lynn Campbell, Valerie Slipp, Marcia Burnham and Jackie Sleeper of Freeport be appointed Honorary Pages for today.

The Order was received out of order by unanimous consent, read and passed.

Mr. Brawn of Oakland presented the following Order and moved its passage:

ORDERED, that Bruce J. Hillman of Oakland be appointed Honorary Page for today.

The Order was received out of order by unanimous consent, read and passed.

Papers from the Senate

Bills from the Senate requiring reference were disposed of in concurrence.

**Reports of Committees
Leave to Withdraw**

Report of the Committee on Natural Resources on Bill "An Act Relating to Disposal of Septic Tank or Cesspool Waste" (S. P. 289) (L. D. 836) reporting Leave to Withdraw.

Came from the Senate with the Report read and accepted.

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

Divided Report

Majority Senate Report of the Committee on Judiciary reporting "Ought to pass" as amended by Committee Amendment "A" (S-38) on Bill "An Act Relating to Hospital Reports" (S. P. 75) (L. D. 192)

Report was signed by the following members:

Messrs. McKERNAN of Bangor
HENLEY of Norway
GAUTHIER of Sanford
PERKINS

of South Portland
CARRIER of Westbrook
DUNLEAVY

of Presque Isle
Mrs. KILROY of Portland
Mrs. WHEELER of Portland
Mrs. BAKER of Orrington
Mrs. WHITE of Guilford

— of the House.

Minority Report of Same Committee reporting "Ought not to pass"

Report was signed by the following members:

Messrs. TANOUS of Penobscot
SPEERS of Kennebec
BRENNAN of Cumberland
— of the Senate.

Came from the Senate with the Minority Report "Ought not to pass" accepted.

In the House: Reports were read.
On motion of Mrs. Baker of Orrington, the Majority "Ought to pass" Report was accepted and the Bill read once.

Committee Amendment "A" (S-38) was read by the Clerk and adopted.

The Bill was assigned for second reading tomorrow.

**Non-concurrent Matter
Tabled and Assigned**

Bill "An Act Relating to Risk Sharing Plans in the Field of Property Insurance" (H. P. 189) (L. D. 229) which was passed to be engrossed in the House on March 13.

Came from the Senate with the Bill and reports indefinitely postponed in non-concurrence.

In the House:

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

Mr. O'BRIEN: Mr. Speaker, I move that we insist.

Thereupon, on motion of Mr. Ross of Bath, tabled pending the motion of Mr. O'Brien of Portland to insist and specially assigned for Monday, March 26.

Non-concurrent Matter

Bill "An Act Relating to Effective Date of Salary Increases of

County Officers." (H. P. 210) (L. D. 283) which was indefinitely postponed in the House on March 13.

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

In the House:

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

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

The SPEAKER: The gentleman from Strong, Mr. Dyar, moves that the House recede and concur.

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

Mr. DONAGHY: Mr. Speaker and Members of the House: I would ask for a division on this.

I would hope that we could go along after this vote on the motion to adhere to our previous wise move of the other day. I am afraid that we don't realize, or the other body did not realize the full implication of this.

Most of you, through your county delegation, realize that we go through a great deal with the county commissioners on their budgets and set it up. This would seem a complete waste of time if we, after doing that, come down here and find that a few people with friends in the right places can come in and have retroactive salary increases.

Now I can understand having them in the future, but I can't see why this county group feel that they should be above everyone else and have retroactive wage increases, because they ran for office on the basis of the salaries that were either already on the books or on the basis of what the commissioners had told them, perhaps, that they would work for in their budgets. But here we are going ahead and making it retroactive.

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

Mr. BRAGDON: Mr. Speaker and Members of the House: At the time we debated this in the House, my feeling was that the House was very decisive in its action that it took on this. I am sure that the Aroostook County delegation was

very nearly unanimous in their feeling in favor of the House action.

I hope that you will vote against the motion of the gentleman from Strong, Mr. Dyar, in order that we may either vote to adhere or to insist on our former action.

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

Mr. DYAR: Mr. Speaker and Members of the House: I think we heard a lot of emotionalism here the other day, people getting up and making speeches on something that they weren't too well acquainted with. The gentleman from Lubec this morning has made implications that this bill was put through and lobbied by people in county government. I would like to correct that impression. This bill was brought about by experience on the Committee on County Government. Last session we had problems with county salaries that we have at this time. We want to clarify and make all county salaries take effect at the same time, simple as that.

This is the way the law used to be and then it was changed in the 101st and 102nd. The only thing that would be affected is the salaries for one year to get them back in line where they belong.

As I stated the other day, we have statutory officers — and you say these people knew what they were paying when they were elected — we have statutory officers where the odd year such as this year, these people are making less money than their deputies. This makes a lot of good common sense when the so-called administrator or boss is making less money than the people he is working over.

This is all this bill does, is set the salaries back to the point where they all start receiving the salary increase the same date. Once again, there has been no pressure from any lobby from county government whatsoever on this bill. It will not affect the pay increases whatsoever. After this one year the thing will level out, there will be no problem in the future whatsoever. But until we, somewhere along the line, take

some action and either make the non-statutory people's salary increases take effect the following year or bring the statutory officers back to the year that the nonstatutory people get their pay, you are going to have problems. This bill is an attempt to straighten it out.

I think there was discussion in the other body, and I think they knew what they were talking about over there.

The SPEAKER: The Chair recognizes the gentleman from Chelsea, Mr. Shaw.

Mr. SHAW: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps we don't know what we are talking about, but I have been around here when this bill was the other way around. We do have a lady in the House who was House Chairman of the Towns and Counties the last time we operated under this system, and I would like to have her opinion when I sit down on what she thinks of retroactive pay.

This is an emergency bill. When it goes through it is effective immediately and they can set the date of pay the first of July or any other date that they want to. I don't think we have to give any gifts to anybody this year.

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

Mr. FINEMORE: Mr. Speaker and Ladies and Gentlemen of the House: Mr. Dyar from Strong has made this sound very good about the bosses being paid less than the workers. But you will find as you travel over the county form of government, that the bosses are not working only maybe one day a month or maybe one day every two weeks or maybe in there one hour a day. So naturally the workers are going to get more money.

I am against this bill and have always been against it for the simple reason that they knew what they were going to get when they went in there, and if they get a raise at the end of one year they are doing better than they should do. Because if you take a position, same as the position in this House, we know that we are going to have so much for one year or the two

years. We take it and keep quiet. If we want a raise for the next year, all right.

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

Mr. BUSTIN: Mr. Speaker and Ladies and Gentlemen of the House: I think one of the concerns here the other day as I was listening to the debate, there is something in this bill that was going to give the authority to the county commissioners to set the salary increases. I have checked it out. Of course all this does is establish the effective date, as Mr. Dyar has said. We will still draft the pay increases and this bill just makes the effective date January 1. So I would support the motion to recede and concur and I hope that the House will go along with it.

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

Mr. HENLEY: Mr. Speaker and Ladies and Gentlemen of the House: I am going to be brief. I said all mainly that I was going to say the other day. All I can do is just to summarize it. As to deputies getting more than the elective job, that is done all over the country. A good many times the elective job, especially at the county level, originally was mostly a figurehead. Their deputy did the work and they got the money. And I stated the other day that there is a good example of when deputies, even hard working deputies and hard working executives have a variation in pay, which is an example in our own state government of the Governor and his heads of departments, in some cases making almost twice as much as the Governor.

So that argument has no grounds whatsoever. And furthermore we have been operating under this basis and another thing, if we pass this in an emergency measure now, the taxes have been set in a lot of counties and they would have to raise additional money to make up for this because it is not now on the books.

I know in my county it is all settled. We have had our town

meeting and the tax rates have been set, that is the tax amounts. So what would we have to do about it? We killed the bill the other day and I hope that you will go along with defeating the motion to recede and concur, then we can insist or adhere.

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

Mr. CROMMETT: Mr. Speaker and Ladies and Gentlemen of the House: I am grateful to those who agree with me. I fought very hard for this bill in the 101st Legislature. To recede and concur with the Senate, you would have to change your previous vote on this when we killed this the other day by 31 votes.

I hope you do not vote to recede and concur.

The SPEAKER: The pending question is on the motion of the gentleman from Strong, Mr. Dyar, that the House recede and concur. All in favor of receding and concurring will vote yes; those opposed will vote no.

A vote of the House was taken.

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

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

Mr. CROMMETT: Mr. Speaker, I move that we adhere to our former action.

Thereupon, Mr. Jalbert of Lewiston requested a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, I move we insist and ask for a Committee of Conference.

The SPEAKER: The gentleman from Standish, Mr. Simpson, moves that the House insist and ask for a Committee of Conference.

Mr. Bustin of Augusta requested a roll call vote.

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

Mr. FINEMORE: Mr. Speaker and Members of the House: This time I hope you will vote this motion down to insist so we can do away with this. The vote is so

big, as you noticed on the tote board, there is not much need in carrying this along and wasting time. I hope that we will go along and defeat this motion to insist and move to adhere.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Standish, Mr. Simpson, that the House insist and ask for a Committee of Conference. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Berry, G. W.; Berube, Birt, Bragdon, Brown, Bustin, Cameron, Carrier, Carter, Chonko, Churchill, Connolly, Cooney, Cote, Cottrell, Curran, Curtis, T. S., Jr.; Dam, Dow, Dyar, Farrington, Fecteau, Fraser, Goodwin, H.; Greenlaw, Jackson, Jalbert, Kelleher, LaPointe, Lawry, Lewis, J.; MacLeod, Maddox, Mahany, Maxwell, McCormick, Morton, Mulkern, Murray, Najarian, Norris, O'Brien, Ricker, Ross, Shute, Simpson, L. E.; Soulas, Sproul, Stillings, Theriault, Tyndale, Walker, Webber, Wood, M. E.

NAY — Albert, Baker, Berry, P. P.; Binnette, Bither, Brown, Bunker, Carey, Chick, Clark, Conley, Cressey, Crommett, Davis, Donaghy, Drigotas, Dunlevy, Dunn, Emery, D. F.; Evans, Farnham, Ferris, Finemore, Flynn, Garsoe, Gauthier, Genest, Good, Hamblen, Haskell, Henley, Herrick, Hobbins, Hoffses, Hunter, Immonen, Kelley, Kelley, R. P.; Keyte, Knight, LaCharite, LeBlanc, Lewis, E.; Littlefield, Lynch, Martin, McHenry, McKernan, McNally, Merrill, Mills, Morin, L.; Morin, V.; Murchison, Palmer, Parks, Perkins, Peterson, Pratt, Rolde, Rollins, Shaw, Silverman, Smith, S.; Snowe, Susi, Talbot,

Tanguay, Trumbull, Wheeler, White, Willard.

ABSENT — Boudreau, Briggs, Deshaies, Dudley, Farley, Faucher, Gahagan, Goodwin, K.; Hancock, Hodgdon, Huber, Jacques, Kilroy, McMahon, McTeague, Pontbriand, Santoro, Sheltra, Smith, D. M.; Tierney, Trask, Whitzell.

Yes, 55; No, 72; Absent, 22.

The SPEAKER: Fifty-five having voted in the affirmative and seventy-two in the negative, with twenty-two being absent, the motion does not prevail.

Thereupon, on motion of Mr. Crommett of Millinocket, the House voted to adhere.

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

Mr. DONAGHY: Mr. Speaker, I move we reconsider our action and I want you to vote against me, please.

The SPEAKER: The pending question is on the motion of the gentleman from Lubec, Mr. Donaghy, that the House reconsider its action whereby it voted to adhere. All in favor of reconsideration will say yes; all opposed will say no.

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

Non-Concurrent Matter

Bill "An Act to Transfer the Pesticides Control Board to the Department of Environmental Protection" (H. P. 1125) (L. D. 1460) which was referred to the Committee on Natural Resources in the House on March 13.

Came from the Senate referred to the Committee on State Government in non-concurrence.

In the House: The House voted to recede and concur.

Petitions, Bills and Resolves Requiring Reference

The following Bills were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following committees:

Fisheries and Wildlife

Bill "An Act Excluding Log Rafts from Carrying Life Preservers" (H. P. 1200) (Presented by Mr. Snowe of Auburn)

Bill "An Act Repealing License Fee for Sporting Camps" (H. P. 1202) (Presented by Mrs. White of Guilford)

(Ordered Printed)

Sent up for concurrence.

Health and Institutional Services

Bill "An Act Relating to Location of the Women's Correctional Center and Operation of the Half-way House Program" (H. P. 1201) (Presented by Mrs. White of Guilford)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act Relating to Commitment of Juvenile Offenders" (H. P. 1203) (Presented by Mrs. White of Guilford)

(Ordered Printed)

Sent up for concurrence.

Labor

Bill "An Act Relating to Seasonal or Casual Farm Laborers under Workmen's Compensation Act" (H. P. 1204) (Presented by Mr. Farley of Biddeford)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act Establishing the Maine Land Sales Full Disclosure Act" (H. P. 1205) (Presented by Mr. Norris of Brewer)

(Ordered Printed)

Sent up for concurrence.

Orders

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, is the House in possession of Senate Paper 151, L. D. 385, "An Act Providing for Municipal Coordinator for Election Division of Department of Secretary of State?"

The SPEAKER: The Chair would answer in the affirmative.

Mrs. CLARK: Mr. Speaker, having voted on the prevailing side, I move that we reconsider our action of yesterday whereby L. D. 385 was enacted.

The SPEAKER: The gentlewoman from Freeport, Mrs. Clark, moves that the House reconsider

its action of yesterday whereby this Bill was passed to be enacted.

Mr. Simpson of Standish requested a vote on the motion.

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

Mr. ROSS: Mr. Speaker and Members of the House: If my friendly adversaries but knew it, they appear not to be talking about an examiner, advisor or coordinator, they actually described a treatment of another man mentioned by the poet, Robert Service.

"There are strange things done neath the midnight sun by the men who mool for gold

And the Arctic trails of their secret tales would make your blood run cold.

And the Northern Lights have seen strange sights, but the strangest they ever did see

Was the night on the marge of Lake Lebarge when I cremated Sam McGee."

This attempted cremation is being done in the name of economy and an impression that the Secretary wants to build an empire. Both charges are wrong. The clerks and registrars need help; and at the hearings held all last summer, they all admitted this. The laws are constantly changing, and even though somebody mentioned yesterday that they get copies of L. D.'s, they cannot keep up with the amendments and very few people, even in this House, can give accurate answers to many questions.

We hope to employ not just another person out of college or anybody but a former clerk or registrar with some basic knowledge of the law.

It is said that you only need to call Mr. Edgar. I will admit that he is the most knowledgeable in this field in the state, but he is Secretary of State and has a great many duties. His chief duty is in charge of the Motor Vehicle Division. He is in charge of the Election Division, the Corporation Division, the Universal Code Division, the Archives, which probably most of you haven't seen but have ten miles of shelving filled with records. All certificates or documents bearing the seal of the

state must be signed personally by him and he is also Secretary of the Governor's Council.

Now I will not go into Mr. Damborg's duties unless I have to but he has a great many, not only during the legislative session but after we are done.

If anyone needs an assistant to coordinate the work with the clerks and registrars, he does. That is why the committee met all last summer and gave this the highest priority to the election law problems at a cost of only \$22,000 every two years.

I ask for a roll call vote and hope you do not reconsider this question.

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

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

The SPEAKER: The pending question is on the motion of the gentlewoman from Freeport, Mrs. Clark, that the House reconsider its action of yesterday whereby An Act Providing for Municipal Coordinator for Election Division of Department of Secretary of State, Senate Paper 151, L. D. 385, was passed to be enacted. All in favor of reconsideration will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Berry, P. P.; Berube, Binnette, Briggs, Carey, Carrier, Carter, Chick, Chonko, Clark, Connolly, Cote, Crommett, Dam, Davis, Dow, Dunleavy, Dunn, Dyar, Finemore, Fraser, Garsoe, Genest, Goodwin, H.; Henley, Hobbins, Hunter, Jacques, Kelleher, Keyte, LaCharnite, LaPointe, Lawry, LeBlanc, Lewis, J.; Littlefield, Lynch, Mahany, Martin, McHenry, McKernan, Mills, Morin, V.; Mulhern, Murray, Perkins, Peterson, Ricker, Rolde, Silverman, Smith, D. M.; Smith, S.; Soulas, Talbot, Tanguay, Theriault, Wheeler, Whitzell, The Speaker.

NAY — Ault, Baker, Berry, G. W.; Birt, Bither, Boudreau, Bragdon, Brawn, Brown, Bunker, Bustin, Cameron, Conley, Cooney, Cressey, Curran, Curtis, T. S., Jr.; Donaghy, Drigotas, Emery, D. F.; Evans, Farnham, Farrington, Fecteau, Ferris, Flynn, Good, Greenlaw, Hamblen, Haskell, Herrick, Hoffses, Huber, Immonen, Jalbert, Kelley, Kelley, R. P.; Knight, Lewis, E.; MacLeod, Maddox, Maxwell, McCormick, McNally, Merrill, Morin, L.; Morton, Murchison, Najarian, Norris, O'Brien, Palmer, Parks, Pratt, Rollins, Ross, Shaw, Shute, Simpson, L. E.; Snowe, Sproul, Stillings, Susi, Trask, Trumbull, Tyndale, Walker, Webber, White, Willard, Wood, M. E.

ABSENT — Churchill, Cottrell, Deshaies, Dudley, Farley, Faucher, Gahagan, Gauthier, Goodwin, K.; Hancock, Hodgdon, Jackson, Kilroy, McMahon, McTeague, Pontbriand, Santoro, Sheltra, Tierney.

Yes, 60; No, 71; Absent, 19.

The SPEAKER: Sixty having voted in the affirmative and seventy-one having voted in the negative, with nineteen being absent, the motion does not prevail.

Mr. Birt of East Millinocket presented the following Order and moved its passage:

WHEREAS, it appears to the House of Representatives of the 106th Legislature that the following are important questions of law, and that the occasion is a solemn one; and

WHEREAS, Article II, Section 1, Constitution of Maine, makes certain provisions regarding durational residency requirements for voting; and

WHEREAS, the decision of the Supreme Court of the United States in *Dunn v. Blumstein*, 405 U.S. 330, seems to cast some doubt on the validity under the Constitution of the United States of the durational residency requirements in Article II, Section 1, Constitution of Maine; and

WHEREAS, there is pending before the House of Representatives of the 106th Legislature a "Resolution, Proposing an Amendment to

the Constitution Reducing Residency Requirement for Voting to Thirty Days" (House Paper 9, Legislative Document 9); and

WHEREAS, it is important that the Legislature be informed as to the validity under the Constitution of the United States of the present provision in Article II, Section 1, Constitution of Maine, concerning durational residency requirements and of the proposed amendment thereto; now, therefore, be it

ORDERED, that in accordance with the provisions of the Constitution of the State, the Justices of the Supreme Judicial Court are hereby respectfully requested to give the House of Representatives their opinion on the following questions:

1. Is the present provision concerning durational residency requirements for voting in Article II, Section 1, Constitution of Maine, valid under the Constitution of the United States?

2. Would the "Resolution Proposing an Amendment to the Constitution Reducing Residence Requirement for Voting to Thirty Days" (House Paper 9, Legislative Document 9) if passed by the Legislature and adopted by the electorate be valid under the Constitution of the United States?

The Order was read.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: This order allows the contents of L. D. 9 to be considered by the Supreme Court of the State of Maine. I know the question has been asked as to just where we stand with the recent Supreme Court decision.

The recent Supreme Court decision was a ruling on another state in which it said that 50 days was not excessive for residency, but it was getting up close to the limit. It is my feeling that it still might be interesting to pose this question to the Supreme Court of the State of Maine and see what their judgment might be on just how far we can go. The present law requires 90 days residency.

This bill that is before us, this constitutional change, is 30 days.

It may give us some guidelines as to where in between the 30 and the 90 we might be able to finally arrive at. I think that sending this to the court might be worthwhile, and I hope the House will consider that action.

Thereupon, the Order received passage. (Later reconsidered)

House Reports of Committees Ought Not to Pass

Mrs. Berry from the Committee on Health and Institutional Services reporting "Ought not to pass" on Bill "An Act to Amend the Eating and Lodging Recreational Place Licensing Law" (H. P. 327) (L. D. 445)

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

Leave to Withdraw

Mrs. McCormick from the Committee on Health and Institutional Services reporting "Leave to Withdraw" on Bill "An Act Relating to Reimbursement to Municipalities for Aid to the Aged, Blind or Disabled" (H. P. 853) (L. D. 1138)

Report was read and accepted and sent up for concurrence.

Referred to Committee on State Government

Mr. Haskell from the Committee on Appropriations and Financial Affairs on Bill "An Act Relating to Salaries of County Attorneys and Assistant County Attorneys" (H. P. 964) (L. D. 1285) reporting that it be referred to the Committee on State Government.

Report was read and accepted, the Bill referred to the Committee on State Government and sent up for concurrence.

Divided Report Tabled and Assigned

Majority Report of the Committee on Health and Institutional Services reporting "Ought not to pass" on Bill "An Act to Establish Information and Referral Service in the Department of Health and Welfare" (H. P. 642) (L. D. 858)

Report was signed by the following members:

Messrs. HICHENS of York
GREELEY of Waldo

MINKOWSKY

of Androscoggin
— of the Senate.

Messrs. LEWIS of Bristol
GOODWIN

of South Berwick
DYAR of Strong

SANTORO of Portland
Mrs. BERRY of Madison

Mrs. McCORMICK of Union
Mrs. MORIN

of Old Orchard Beach
— of the House.

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

Report was signed by the
following members:

Messrs. LaPOINTE of Portland

SOULAS of Bangor

WHITZELL of Gardiner

— of the House.

Reports were read.

(On motion of Mrs. White of
Guilford, tabled pending accep-
tance of either Report and tomor-
row assigned.)

Consent Calendar

First Day

(H. P. 505) (L. D. 657) Bill "An
Act Requiring Constructed Public
Buildings Be Made Accessible to
the Physically Handicapped" —
Committee on Health and Institu-
tional Services reporting "Ought to
pass"

(S. P. 227) (L. D. 662) Bill "An
Act Extending the Appeal Period
under Employment Security Law"
— Committee on Labor reporting
"Ought to pass"

(S. P. 286) (L. D. 833) Bill "An
Act to Extend Law Relating to
Construction and Effect of
Repealing Acts to Include
Municipal Ordinances" — Commit-
tee on Legal Affairs reporting
"Ought to pass"

(H. P. 643) (L. D. 859) Bill "An
Act to Revise the Law Prohibiting
the Location of Dumps within 300
Feet of Classified Bodies of Water"
— Committee on Natural
Resources reporting "Ought to
pass"

(S. P. 315) (L. D. 981) Bill "An
Act Relating to Time Period for
Use of Marriage Certificate" —
Committee on Judiciary reporting
"Ought to pass" as amended by
Committee Amendment "A" (S-39)

(S. P. 335) (L. D. 1034) Bill "An Act Appropriating Funds to Department of the Attorney General to Print Reports of Two Attorneys General" (Emergency) — Committee on Appropriations and Financial Affairs reporting "Ought to pass"

(S. P. 364) (L. D. 1078) Bill "An Act Transferring Funds from Appropriations to other Departments to the Department of the Attorney General" (Emergency) — Committee on Appropriations and Financial Affairs reporting "Ought to pass"

No objection having been noted, were assigned to the Consent Calendar's Second Day list.

Consent Calendar Second Day

Tabled and Assigned

(S. P. 162) (L. D. 417) Bill "An Act to Place the Position of Director, Bureau of Aeronautics and Director, Bureau of Waterways in the Classified Service" (Emergency)

On the request of Mr. Talbot of Portland, was removed from the Consent Calendar.

(On motion of the same gentleman, tabled pending acceptance of the Committee Report and specially assigned for Monday, March 26.)

(S. P. 219) (L. D. 635) Bill "An Act to Authorize Application and Service Fees to be Charged by the Maine Municipal Securities Approval Board" (C "A" - S-33)

(H. P. 690) (L. D. 897) Bill "An Act Defining Life Agent under Insurance Laws"

(H. P. 778) (L. D. 1010) Bill "An Act Providing for Temporary License as Insurance Adjuster"

(S. P. 338) (L. D. 1037) Bill "An Act to Permit the State Board of Education to Reimburse the City of Portland for School Construction" (C "A" - S-35)

(H. P. 834) (L. D. 1093) Bill "An Act Providing for Mandatory Retirement for Teachers" (C "A" - H-111)

(S. P. 455) (L. D. 1408) Bill "An Act Relating to Pollution Control in Discharge in Tidal Waters"

No objection having been noted, were passed to be engrossed and sent to the Senate.

Tabled and Assigned

(S. P. 459) (L. D. 1409) Bill "An Act to Reconstitute and Place a Public Member on the Maine Real Estate Commission"

On the request of Mr. Carrier of Westbrook, was removed from the Consent Calendar.

(On motion of the same gentleman, tabled pending acceptance of the Committee Report and specially assigned for Monday, March 26.)

(H. P. 1198) (L. D. 1484) Bill "An Act Repealing Notice Provision for Multiple Licensing of Life and Health Insurance Agents"

No objection having been noted, was passed to be engrossed and sent to the Senate.

Second Reader Indefinitely Postponed

Resolution, "Proposing an Amendment to the Constitution to Permit Appointment of Judges of Probate" (S. P. 292) (L. D. 839) (C "A" - S-34)

Was reported by the Committee on Bills in the Second Reading and read the second time.

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

Mr. KELLEHER: Mr. Speaker and Ladies and Gentlemen of the House: I move that this bill and all its accompanying papers be indefinitely postponed and I would like to speak to my motion.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves that the Resolution and all accompanying papers be indefinitely postponed. The Chair recognizes the same gentleman.

Mr. KELLEHER: Mr. Speaker and Ladies and Gentlemen of the House: If you people have not been following this bill along, this takes the right of individuals in your respective counties on who they would like to have for judge of probate. This bill infringes on the sacred rights of the voters, the very people who elect you and I to come down here and represent them and the very people who elect the other various office holders, not only in the county but in the state. A bill like this bothers me to no end because I do not want to see

the rights of the people taken away from them. I do not want to see anyone anointed or appointed to these positions. I think the people have sound enough judgment that they can determine who should fill a position such as this or any other elected official, whether it is in the county or in the state.

I am always disturbed when I see these bills come in here because to me all they seem to be doing is you eliminate the opportunity for the voters to select who they want for these positions and then the bureaucrats will find some of their friends to put in there.

I hope that you people will go along with me this morning and indefinitely postpone this bill because you are taking the rights away from the people and that is one thing that we do not want to do in this House. I know that I do not want to do it and I am sure that you people do not. So I hope that you will go along with me this morning in killing this bill.

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

Mr. CURTIS: Mr. Speaker and Ladies and Gentlemen of the House: I rise to oppose the pending motion. The reason is that this is a unanimous committee report from the State Government Committee. After we heard the testimony presented on this bill, discussed it, decided it, in our opinion the most logical way to handle the entire matter of the choice of the judge of probate is the same way that we choose the other judicial offices, that is by gubernatorial appointment.

The matter, as a matter of fact, is a long way from final decision, even if we decide today not to accept the pending motion because the question we are dealing with here is a proposed constitutional amendment. If this legislature passes this proposal, of course it will go to the people for a vote as any other constitutional amendment does. Then as you will see under filing number S-34, Committee Amendment "A" to the proposal provides that even when finally passed by the people as a constitutional amendment, the

amendment shall become effective at such time as the legislature by proper enactment shall establish a different probate court system with full-time judges.

Finally, I would suggest that when people go to the polls to vote they really desire to vote intelligently and to know a good deal about the offices for which they are voting. And I would suggest that most people who vote are unfamiliar with the probate court system, unfamiliar with the candidates. And finally, it really is an appropriate position, that of judge of probate, to be treated like all the other judicial positions. So finally I hope that you will oppose Mr. Kelleher's motion.

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

Mr. HENLEY: Mr. Speaker and Ladies and Gentlemen of the House: The people have already decided on this. In 1967 this went to referendum. It was passed by the people in vote, the people of the State of Maine. The only reason that it has to be done over again is because of a technical error and it has got to be done all over again.

But I say to my friends Mr. Kelleher, that the people have already decided in favor of appointment rather than election. So I do not know why we should debate it again here. I hope you will vote against the move that we postpone this bill.

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

Mr. GAUTHIER: Mr. Speaker and Ladies and Gentlemen of the House: I have to rise ladies and gentlemen, to agree with Mr. Kelleher. I think, number one, we have to respect the people of this state; they know how to vote, and I have to disagree with Mr. Curtis. I disagree with Mr. Curtis because that when he says that the people apparently — from what I understood him to say — that the people can't vote intelligently on this, well I disagree with that because I know in my town, my people want to know who is going to represent them and also want to know when they do vote, they vote very intelligently.

I remember a few years ago, I was on the ethnic side, what they call the east side of Sanford and they said when we put these wards in, to have the people vote on these different articles, we are going to have quite a few mistakes. Well I was one of the first ward chairmen of my ward and I will tell you one thing, our ward was the one that made the least mistakes. So I say to you, don't take away the rights of the people, let them vote. They can vote intelligently.

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

Mr. MILLS: Mr. Speaker and Ladies and Gentlemen of the House: I hope that you realize here that the wealth of the state goes through the probate courts for a final decision. Now then, the people of my district are very well pleased with the person we have for judge of probate. I believe that we should keep it right in those districts and let the people themselves select who the judge of probate will be.

Without insinuating anything I can very well see that we will have an occurrence of what is happening in other states if we have this judge of probate done by appointment. I support the motion of Representative Kelleher.

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

Mr. JALBERT: Mr. Speaker and Ladies and Gentlemen of the House: I would submit to you that if we have this appointment made through the Governor's office, that the aim is to have a full-time judge of probate. And I hope that the gentleman, my very dear friend — and I am sincere when I say that — from Norway, Mr. Henley, listens to me when I say that that will jump from around the area of 8000 or 9000 in my area to about 30,000 to 35,000 for a judge of probate.

You have a further dilemma here and it is this. This bill passes, the judge of probate is appointed by the Governor, the registrar of probate is elected by the people and the people working in the offices are elected through the

judge of probate with the approval of the county commissioners. So you have a three way battlefront on your hands. Two is bad enough, but three, starts a real revolution. I would like to submit to the gentleman from Orono, Mr. Curtis, that when he makes comments that sometimes the people maybe do not know these people. I would respectfully take issue with him.

We have a former Speaker of the House in Cumberland County who is judge of probate who has veritably made a career of being judge of probate. He is not a member of my own party; and if I lived in Cumberland County, I would be very hard put. I probably would not vote for the Republican; but I might cross out the Republican's name, cross out the Democrat's name, and I might be tempted to put Nathaniel Haskell next to his name because he is an excellent judge of probate. We have a judge of probate in my county. Believe me, they know who they are voting for. They are voting for a very fine, honorable man in voting for Judge Laurier T. Raymond Jr. And so it goes down to these other areas.

What I think we ought to look forward to is this: The Legislative Research Committee set up, through order of the legislature, a study of some facets on fees and other areas of county government. I think that it is inevitable that eventually, for instance in Franklin County, sometimes they have had just as little as just one divorce court in the county. Yet there has been ten days that the Superior Court has been open. I think that what we are heading for, eventually when a real thorough study of the problem is made, is for district problems which would involve us with some other counties and justifiably so; and that means from the top to the bottom of county government.

I originally was on the committee that set this thing forward and I supported it. But after thinking it over and realizing the confusion that it would create in our judges of probate offices by having one appointed by the Governor, by having one elected

by the people, the registrar of probate working with them, and then having the people working in the office elected by either the judge of probate, nominated by the Governor, or the registrar of probate elected by the people and then O.K.'d by the county commissioners creates a massive amount of confusion.

For that reason and others I would support the motion of the gentleman from Bangor, Mr. Kelleher.

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

Mr. COTE: Mr. Speaker and Ladies and Gentlemen of the House: I rise this morning to support the gentleman from Bangor, Mr. Kelleher. I have been here quite a number of years, and I have always been against centralization of government here in Augusta. I say if we take government away from the people, if we keep on doing this, we will probably have dictatorship. That is one thing we do not want in Augusta. If we want dictatorship, then let us abolish the legislature completely and give it to the Supreme Court and let them run this state.

I am against them, or the Governor or anyone else appointing a judge of probate. To me county government is almost sacred because I feel that it is the government that is close to the people, and we should keep it that way as much as we can. It may be a little expensive, as some people seem to think it is, but still it is a pure form of government close to the people; and let the people make the decision who they want for their county office holders, the judge of probate included.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. Cooney.

Mr. COONEY: Mr. Speaker and Ladies and Gentlemen of the House: I hope other members of the committee might correct me if I am wrong here, but this particular measure is a permissive piece of legislation. It does not change the present probate court system that we have, at least this

is my understanding; but should we, as Mr. Jalbert mentioned, make studies and decide that some kind of probate districts would be advantageous for the state, and should we want to go to some different system, this would allow that.

Now there was some opposition from the County Commissioners Association who did feel that this was an effort to whittle away at county government. And I suppose I can understand that feeling, but it is my feeling that county government or regional government is in the stage of a comeback. It is becoming more and more important to us. I do not think that whether a probate court judge is elected or appointed should make that much difference to the size and scope and importance of county government. Nor do I think that we are centralizing government in causing dictatorships by allowing the Governor to appoint judges.

I am aware of the emotionalism of the arguments Mr. Kelleher and others have presented that we are taking the right away from the people to vote. But I think you and I all realize that we have to make decisions as to who we want to elect and who we do not want to elect and that that changes from time to time.

If you follow this reasoning that we should elect judges of probate and other county officials, you can continue to say that we should continue to elect more and more and more people to office so that the people have a say. Somewhere along the line it becomes ridiculous and somewhere along the line we want to set up administrative systems for running our government. And I do not think that is a matter of dictatorship.

So I hope that you will give passage to this. It is my understanding that it will not change the present probate court system; but should the legislature decide that an alteration is necessary in the future, this would allow us to make that alteration.

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

Mr. KELLEHER: Mr. Speaker and Ladies and Gentlemen of the House: This is just one of four or five other items that is going to appear before you to take the rights away from the people. I understand there is a bill in that the clerk of courts is going to be appointed by the judicial system and not elected by the people in the respective counties.

I dislike taking the rights away from the people. I cannot be as flowery as Brother Cooney here is, he is a much better speaker than I am; but it still comes down to this: That if you go along with his line of thinking, you are taking the rights away from the individuals in your respective counties. I do not want to do it, I am not up here beating the drum for a Democrat either. I will tell you, in Penobscot county our judge of probate is the Honorable Allen Woodcock. I am sure that some of you people who have been here more than three or four terms would remember him. He was a very able State Senator, belonged to the Republican party, a very capable man. He is so capable that even the Democrats up there don't want to put anyone against him because he is doing such a fine job. And the reason he does a fine job is the people trust him. They know he can do a fine job.

So I go along with the voters in my county and I think they have good judgment. Occasionally I think they do very well, they seem to send me back here once in a while, and I have to agree with them on that. But I do not think that we should go along with the thinking of the State Government Committee on this one. I think they are way out of line, and I am very disappointed that it came out unanimous as it did.

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

Mr. BRAGDON: Mr. Speaker and Ladies and Gentlemen of the House: I can say very sincerely I had no intention of injecting myself into this discussion. However, after listening to the debate, this thought occurs to me: If the gentleman, Mr. Kelleher, would present a bill to have all of our judges, our district court judges

and our Superior and Supreme Court judges elected by the people and would get it through, I would probably go along with him that we leave the probate court where it is.

However, I look upon the probate court as one of our important positions, as important as the judges of other courts; and if it is logical to have the other judges appointed, I feel in my own mind that it is just as logical that we go the other step and have the probate court judges appointed also.

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

Mr. CURTIS: Mr. Speaker and Ladies and Gentlemen of the House: Very briefly, the gentleman from Lewiston, Mr. Jalbert, interjected the name of Judge Haskell in talking about some excellent judges who have great discretion and so forth. But I think it would be pertinent at this point to mention that at the hearing Judge Haskell did testify in favor of this proposal. We have not talked to all the judges of probate throughout the state but my guess is that conversation with some of the judges of probate would indicate that they too think that they should be treated like other judicial officers of this state.

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

Mr. COTTRELL: Mr. Speaker and Ladies and Gentlemen of the House: I have sat here and sat here and sat here and sat here this session and what disturbs me I think more than anything else, because of my training here, is that we are so many times fruitlessly trying to upset here the committee reports.

Now none of us know everything about every bill. We know very little about most of the bills. But I have always been trained to rely on committees, and I have got to go along with the unanimous report. If we start the business of trying to upset unanimous committee reports, we are going to be here until next October.

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

Mr. JALBERT: Mr. Speaker and Ladies and Gentlemen of the House: I cannot help but remind the gentleman from Portland, Mr. Cottrell, it was only a couple of days ago that he voted against the November 11 date, which was a unanimous report of the committee.

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

Mr. CROMMETT: Mr. Speaker and Ladies and Gentlemen of the House: I hate to take issue with my dear, dear, dear friend, the gentleman from Lewiston, Mr. Jalbert. I know I am outclassed at the beginning. But listening to the proposal by Judge Haskell at the hearing before the State Government Committee, of which I am a member. I relied on the judgment of Judge Haskell.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that Resolution Proposing an Amendment to the Constitution to Permit Appointment of Judges of Probate, Senate Paper 292, L. D. 839, be indefinitely postponed in non-concurrence. All in favor of indefinite postponement will vote yes; all opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 59 having voted in the negative the motion did prevail.

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

Mr. KELLEHER: Mr. Speaker, I move we reconsider our action whereby this bill was indefinitely postponed and I hope you all vote against my motion.

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

Mr. BUSTIN: Mr. Speaker, I move the reconsideration motion lie on the table for two legislative days.

Thereupon, Mr. Simpson of Standish requested a vote on the motion.

The SPEAKER: The pending question is on the motion of the gentleman from Augusta, Mr. Bustin, that this matter be tabled for two legislative days. Those in

favor will vote yes; those opposed will vote no.

A vote of the House was taken.

24 having voted in the affirmative and 104 having voted in the negative, the motion did not prevail.

Mr. Cooney of Sabattus requested a roll call vote on the motion to reconsider.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that the House reconsider its action whereby this Resolution was indefinitely postponed in non-concurrence. All those in favor of reconsideration will vote yes; those opposed will vote no.

ROLL CALL

YEA — Berry, G. W.; Bither, Bragdon, Bustin, Chonko, Churchill, Clark, Conley, Cooney, Cottrell, Crommett, Curtis, T. S., Jr.; Deshaies, Dow, Dunleavy, Emery, D. F.; Farnham, Ferris, Fraser, Gahagan, Garsoe, Greenlaw, Haskell, Henley, Herrick, Jackson, Lewis, J.; Martin, McKernan, McTeague, Merrill, Morin, V.; Morton, Murchison, Murray, Najarian, Norris, O'Brien, Perkins, Peterson, Shute, Smith, D. M.; Smith, S.; Snowe, Sproul, Stillings, Susi, Tanguay, Wheeler.

NAY — Albert, Ault, Baker, Berry, P. P.; Berube, Binnette, Birt, Boudreau, Brawn, Briggs, Brown, Bunker, Cameron, Carey, Carrier, Carter, Chick, Connolly, Cote, Cressey, Curran, Dam, Davis, Donaghy, Drigotas, Dunn, Evans, Farley, Farrington, Fecteau, Finemore, Flynn, Gauthier, Genest, Good, Goodwin, H.; Hamblen, Hobbins, Hoffses, Huber, Hunter, Immonen, Jacques, Jalbert, Kelleher, Kelley, Kelley, R. P.; Keyte, Kilroy, Knight, LaCharite, LaPointe, Lawry, LeBlanc, Lewis, E.; Lynch, MacLeod, Mahany,

Maxwell, McCormick, McHenry, McNally, Mills, Morin, L.; Mul-kern, Palmer, Parks, Pratt, Ric-ker, Rolde, Rollins, Ross, Santoro, Shaw, She'tra, Silverman, Simp-son, L. E.; Soulas, Talbot, Theri-ault, Trask, Trumbull, Walker, Webber, White, Whitzell, Willard, Wood, M. E.

ABSENT — Dudley, Dyar, Faucher, Goodwin, K.; Hancock, Hodgdon, Littlefield, Maddox, Mc-Mahon, Pontbriand, Tierney, Tyn-dale.

Yes, 49; No, 88; Absent, 12.

The **SPEAKER**: Forty-nine hav-ing voted in the affirmative and eighty-eight having voted in the negative, with twelve being ab-sent, the motion does not prevail.

Sent up for concurrence.

Order Out of Order

Mr. Churchill of Orland presen-ted the following Order and moved its passage:

ORDERED, that James Brown and Keith Perkins of Bucksport be appointed Honorary Pages for to-day.

The Order was received out of order by unanimous consent, read and passed.

Passed to Be Engrossed

Bill "An Act Changing the Names of Certain State Institutions" (H. P. 362) (L. D. 477) (C "A" — H-96)

Bill "An Act to Authorize Alter-nate School Directors at School Administrative District No. 72" (H. P. 769) (L. D. 1003)

Were reported by the Commit-tee on Bills in the Second Reading, read the second time, passed to be engrossed and sent to the Sen-ate.

Bill "An Act Increasing Number of Trustees of Belfast Water Dis-trict" (H. P. 410) (L. D. 559)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mr. Webber of Belfast offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-110) was read by the Clerk and adopted.

The Bill was passed to be en-grossed as amended by House Amendment "A" and sent to the Senate.

Bill "An Act Increasing the Num-ber of Superior Court Justices and Official Court Reporters" (S. P. 61) (L. D. 187)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent to the Senate.

Bill "An Act Regarding the Mem-bership of School Committees and Boards of School Directors" (H. P. 1163) (L. D. 1375)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mr. Murray of Bangor offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-116) was read by the Clerk and adopted.

The Bill was passed to be en-grossed as amended by House Amendment "C" and sent to the Senate.

The **SPEAKER**: The Chair rec-ognizes the gentleman from Gardi-ner, Mr. Whitzell.

Mr. **WHITZELL**: Mr. Speaker, I would like to make a motion that we reconsider our action.

The **SPEAKER**: The gentleman from Gardiner, Mr. Whitzell, moves that the House reconsider its ac-tion whereby this Bill was passed to be engrossed.

The Chair recognizes the gentle-man from Bridgewater, Mr. Fine-more.

Mr. **FINEMORE**: Mr. Speaker and Members of the House: This bill has been gone over and gone over and gone over. In fact, yester-day we met on it and went over the bill and found that there was an error in the amendment. We had the amendment changed. I believe that Mr. Murray will agree with me and I hope that we do not reconsider it at this time.

The **SPEAKER**: The Chair rec-ognizes the gentleman from Gardi-ner, Mr. Whitzell.

Mr. **WHITZELL**: Mr. Speaker and Members of the House: The reason I have asked to reconsider our action is that it was pointed out to me this morning as I came through the hall that the engross-ing clerk has been going over this bill getting ready to prepare it for final form. It is noticed that there are two other areas at least in

the election laws that were not included in the bill that have to be included.

Now we can pass it now, but if we do, it is going to be inaccurate. There are areas under section 922 of the General Election Code where it says that individuals shall mark the square at the right. Well the square is no longer at the right. This bill actually provides for the removal of the square from the right to the lefthand side.

Mr. Simpson of Standish requested a point of order.

Mr. SIMPSON: Is the gentleman referring to item 6 on page 5 or under the enactors?

Mr. WHITZELL: I am sorry, your point of order is well taken. I remove the reconsideration motion. I jumped the page and am on another area.

Mr. Whitzell of Gardiner requested permission to withdraw his motion, which was granted.

Passed to Be Enacted Emergency Measure

An Act Relating to the Taking of Alewives in the Salmon Falls and Great Works Rivers, York County (H. P. 147) (L. D. 180) (C. "A" H-86)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Authorizing a Deficiency Appropriation to the Department of the Attorney General for the Present Fiscal Year (S. P. 267) (L. D. 825) (C. "A" S-28)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of same and none against, and accordingly the Bill was

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

Passed to Be Enacted

An Act Creating Sagadahoc County Commissioner Districts (H. P. 89) (L. D. 109) (C. "A" H-88)

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

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

Mr. COTE: Mr. Speaker and Members of the House: I would like to have a roll call on this bill. My reason for asking for a roll call is this: I am against county commissioner districts in any of the counties because I found out in reading some of these bills over that the larger communities who furnish most of the taxes for the county are the ones that will have less representation. For that reason I am against it and I want a roll call. I want to be recorded as voting against it.

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

Mr. ROSS: Mr. Speaker and Members of the House: The delegation that has met on this, we are satisfied with splitting up this way. It still would be possible under this amendment to have two of the county commissioners come from the City of Bath. I will admit that the City of Bath certainly did send a great share of the money, but I have always thought that the other parts of the county should have some representation. And as I say, the delegation is entirely in favor of this bill.

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

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

The SPEAKER: The pending question is on passage to be en-

acted. All in favor will vote yes; those opposed will vote no.

YEA — Albert, Ault, Baker, Berry, G. W.; Berry, P. P.; Birt, Bither, Boudreau, Bragdon, Brawn, Briggs, Bunker, Cameron, Chick, Chonko, Churchill, Clark, Connolly, Cooney, Cottrell, Cressey, Crommett, Curtis, T. S., Jr.; Dam, Davis, Dow, Drigotas, Dudley, Dunleavy, Dyar, Emery, D. F.; Evans, Farley, Farrington, Fecteau, Ferris, Finemore, Flynn, Gahagan, Garsoe, Gauthier, Genest, Goodwin, H.; Greenlaw, Hamblen, Haskell, Henley, Herrick, Hobbins, Huber, Hunter, Immonen, Jackson, Kelley, Kelley, R.P.; Keyte, Kilroy, Knight, LaCharite, LaPointe, LeBlanc, Lewis, J.; Littlefield, Lynch, MacLeod, Martin, Maxwell, McHenry, McKernan, McNally, McTeague, Merrill, Mills, Morin, V.; Morton, Mulkern, Murchison, Murray, Najarian, Norris, Palmer, Parks, Perkins, Peterson, Pratt, Rolde, Rollins, Ross, Santoro, Shaw, Sheltra, Shute, Silverman, Simpson, L. E.; Smith, D. M.; Smith, S.; Snowe, Sproul, Susi, Ta'bot, Tanguay, Trask, Trumbull, Tyndale, Walker, Webber, White, Whitzell, Willard, Wood, M. E.

NAY — Berube, Binnette, Brown, Carey, Carrier, Carter, Conley, Cote, Curran, Fraser, Hoffses, Jacques, Jalbert, Kelleher, Lewis, E.; Mahany, Morin, L.; O'Brien, Ricker, Theriault, Wheeler.

ABSENT — Bustin, Deshaes, Donaghy, Dunn, Farnham, Faucher, Good, Goodwin, K.; Hancock, Hodgdon, Lawry, Maddox, McCormick, McMahon, Pontbriand, Soulas, Stillings, Tierney.

Yes. 110; No 21; Absent 18.

The **SPEAKER**: One hundred ten having voted in the affirmative and twenty-one having voted in the negative, with eighteen being absent, the motion does prevail.

Signed by the Speaker and sent to the Senate.

An Act Relating to Permits to Practice Hairdressing and Beauty Culture. (H. P. 312) (L. D. 414)

An Act Relating to Permits for State Entry of Animals and Birds (H. P. 331) (L. D. 449) (S. A. — S-37)

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

Enactor

Tabled and Assigned

An Act Relating to Content of Ballots (H. P. 442) (L. D. 591) (H. "A" H-80)

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

(On motion of Mr. Simpson of Standish, tabled pending passage to be enacted and specially assigned for Monday, March 26)

An Act Providing Fire Protection, Dump Services and Cemetery Maintenance in Certain Unorganized Territory of Piscataquis County (H. P. 638) (L. D. 853)

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

Enactor

Tabled and Assigned

An Act Relating to Recording Municipal Ordinances Relating to Land Control (H. P. 858) (L. D. 1001) (S. "C" S-36)

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

The **SPEAKER**: The Chair recognizes the gentleman from Sabattus, Mr. Cooney.

Mr. **COONEY**: Mr. Speaker, I move this lie on the table for one day.

Thereupon Mr. McNally of Ellsworth requested a vote on the motion.

The **SPEAKER**: The pending question is on the motion of the gentleman from Sabattus, Mr. Cooney, to table for one legislative day, pending passage to be enacted. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

91 having voted in the affirmative and 29 having voted in the negative, the motion did prevail.

Finally Passed

Resolve Appropriating Funds to Prevent Sawdust Pollution at

South Branch Lake and Saponac Pond in Penobscot County (H. P. 722) (L. D. 928)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, Resolve finally passed, signed by the Speaker and sent to the Senate.

The SPEAKER: Will the Sergeant-at-Arms kindly escort the gentleman from Eagle Lake to the rostrum?

Thereupon Mr. Martin assumed the Chair as Speaker pro tem and Speaker Hewes retired from the Hall.

Orders of the Day

On motion of Mr. McTeague of Brunswick, the House reconsidered its action of yesterday whereby Bill "An Act Relating to the Uniform Motor Vehicle Accident Reparations Act," Senate Paper 419, L. D. 1425, was referred to the Committee on Judiciary.

On further motion of the same gentleman, was referred to the Committee on Business Legislation in non-concurrence and sent up for concurrence.

On motion of Mr. Dam of Skowhegan, the House reconsidered its action of yesterday whereby Bill "An Act Authorizing Piscataquis County to Collect and Dispose of Solid Waste on a Regional Basis," Senate Paper 270, L. D. 795, was passed to be engrossed as amended by House Amendment "A".

On further motion of the same gentleman, the House receded from the adoption of House Amendment "A".

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

House Amendment "A" to House Amendment "A" (H-118) was read by the Clerk.

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

Mr. DAM: Mr. Speaker and Members of the House: This amendment I just offered kind of even confuses me because it was supposed to be on the desks a little earlier under orders but it didn't arrive. But now it says

House Amendment "A" to House Amendment "A". This is where I begin to be confused because I don't want to kill off—I want House Amendment "A" to still stay there except to add these few words in.

Does this leave it that way?

The SPEAKER pro tem: The Chair would answer in the affirmative.

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

Mr. SMITH: Mr. Speaker, an inquiry. What is the intent of this supposed to be as far as the effect of the legislation?

The SPEAKER pro tem: The gentleman from Dover-Foxcroft, Mr. Smith, poses a question to the gentleman from Skowhegan, Mr. Dam, who may answer if he chooses.

The Chair recognizes that gentleman.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: What this does, it takes out the word "join" and puts in the word "contract" because as the bill was before, it almost gave the—it could be questionable whether it would give the county commissioners the power over any municipality. and with the word "contract" in there, it clearly shows that the municipalities would have to be in agreement. For this reason, that is why it is there because it would clarify the bill.

I have talked with the sponsor of the original amendment "A", Mr. Dyar, and he told me there was no objection by him.

Thereupon, House Amendment "A" to House Amendment "A" was adopted.

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

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

Bill "An Act Increasing Compensation of Full-Time Deputy Sheriffs in all Counties" (H. P. 415) (L. D. 564)

Tabled — March 19, by Mrs. Boudreau of Portland.

Pending — Acceptance of Committee Report.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker, I move this be recommitted to the County Government Committee.

The SPEAKER pro tem: The gentlewoman from Portland, Mrs. Boudreau, moves that this item be recommitted to the Committee on County Government.

The Chair recognizes the gentleman from South China, Mr. Farrington.

Mr. FARRINGTON: Mr. Speaker and Members of the House: As House Chairman of the County Government Committee, I hope you do recommit this bill. I do apologize to Representative Boudreau for an oversight in the committee.

Thereupon, was recommitted to the Committee on County Government in non-concurrence and sent up for concurrence.

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

Resolve, to Reimburse Audrey G. Pray of Hersey for Loss of Poultry by Foxes (H. P. 554) (L. D. 734)

Tabled — March 19, by Mr. Emery of Rockland.

Pending — Acceptance of either Report.

On motion of Mr. Emery of Rockland, retabled pending acceptance of either Report and tomorrow assigned.

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

Bill "An Act Eliminating Waiting Period under Employment Security Law" (H. P. 560) (L. D. 739)

Tabled — March 19, by Mr. Hobbins of Saco.

Pending — Acceptance of either Report.

On motion of Mr. Goodwin of South Berwick, retabled pending acceptance of either Report and tomorrow assigned.

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

Bill "An Act to Provide Sales Tax Credit on Replacement of Lost or Destroyed Motor Vehicles" (H. P. 564) (L. D. 743)

Tabled — March 19, by Mr. Finemore of Bridgewater.

Pending — Acceptance of either Report.

On motion of Mr. Farrington of South China, retabled pending acceptance of either Report and specially assigned for Monday, March, March 26.

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

Bill "An Act Relating to Seizing Firearms Equipped with a Silencer" (H. P. 357) (L. D. 472)

Tabled — March 19, by Mrs. Baker of Orrington.

Pending — Acceptance of Committee Report.

On motion of Mrs. Baker of Orrington, retabled pending acceptance of the Committee Report and tomorrow assigned.

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

Bill "An Act to Provide Funds for the Development of an Airport in the Rumford-Mexico Area" (H. P. 462) (L. D. 611)

Tabled — March 19, by Mr. Henley of Norway.

Pending — Acceptance of Committee Report.

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

Mr. HENLEY: Mr. Speaker, I request that this be tabled for two legislative days.

Mr. Fraser of Mexico requested a vote on the tabling motion.

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Norway, Mr. Henley, that this matter be tabled pending acceptance of the Committee Report and specially assigned for Monday, March 26. All those in favor of tabling will vote yes; those opposed will vote no.

A vote of the House was taken.

64 having voted in the affirmative and 56 having voted in the negative, the motion did prevail.

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

Bill "An Act Appropriating Funds for a Local Government Center" (H. P. 766) (L. D. 999)

Tabled — March 19, by Mr. Martin of Eagle Lake.

Pending — Acceptance of Committee Report.

On motion of Mr. Carey of Waterville, the Report was accepted.

The Bill was read once and assigned for second reading tomorrow.

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

Bill "An Act to Permit Furloughs to Inmates or Prisoners from County Jails" (H. P. 562) (L. D. 741)

Tabled — March 19, by Mr. Genest of Waterville.

Pending — Passage to be engrossed.

On motion of Mr. Lewis of Bristol, retabled pending passage to be engrossed and specially assigned for Monday, March 26.

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

Bill "An Act Establishing Daylight Saving Time for All Year" (H. P. 542) (L. D. 724)

Tabled — March 19, by Mr. Emery of Rockland.

Pending — Passage to be enacted.

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

Mr. EMERY: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly. We are still in the process of getting an official report from the Attorney General's office relative to the legality of this bill with respect to Title 15 of the U. S. Code. I had hoped to have an answer at this time, but unfortunately it looks as though we are going to have to put this off again until next week. So I would appreciate it very much if someone would table this matter for two legislative days, please.

Thereupon, on motion of Mr. Birt of East Millinocket, tabled pending passage to be enacted and specially assigned for Monday, March 26.

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

Bill "An Act Relating to Bilingual and Bicultural Education" (S. P. 62) (L. D. 165)

Tabled — March 20, by Mrs. Lewis of Auburn.

Pending — Motion of Mr. Tyndale of Kennebunkport to Accept Majority Report "Ought to pass" as amended by Committee Amendment "A".

The SPEAKER pro tem: The Chair recognizes the gentleman from Kennebunkport, Mr. Tyndale.

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: We have had one or two problems with this bill. The motion to accept the majority "ought to pass in new draft" should be — the majority "ought to pass" report was the original bill with amendment "A". I would like to correct this. Furthermore, I was hoping someone would table it because there is another amendment I would like to check on on this bill.

The SPEAKER pro tem: First of all let me indicate to the members of the House that the gentleman from Kennebunkport is correct and the pending motion is his motion to accept the Majority Report "Ought to pass" as amended by Committee Amendment "A".

On motion of Mr. Birt of East Millinocket, tabled pending the motion of Mr. Tyndale to accept the Majority Report and tomorrow assigned.

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

Bill "An Act Providing Funds for Fishway on the Kennebec River" (H. P. 1193)

Tabled — March 20, by Mr. Norris of Brewer.

Pending — Motion of Mr. Parks of Presque Isle to refer to Committee on Fisheries and Wildlife.

Mr. Parks of Presque Isle requested permission to withdraw his motion, which was granted.

Thereupon, the Bill was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

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

Bill "An Act Relating to Definition of Real Estate Broker" (H. P. 390) (L. D. 519)

Tabled — March 20, by Mr. Donaghy of Lubec.

Pending — Motion of Mr. Trask of Milo to accept Majority Report "Ought not to pass"

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

Mr. DONAGHY: Mr. Speaker and Members of the House: I have an amendment in preparation and I would hope that someone would table this for one more day.

Thereupon, on motion of Mr. Hoffes of Camden, tabled pending the motion of Mr. Trask to accept the Majority Report and tomorrow assigned.

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

Bill "An Act Relating to Protection of the Public Water Supply" (H. P. 1191) (L. D. 1457)

Tabled — March 20, by Mr. Finemore of Bridgewater.

Pending — Motion of Mr. Simpson of Standish to reconsider passage to be engrossed.

On motion of Mr. Rolde of York, retabled pending the motion of Mr. Simpson of Standish to reconsider passage to be engrossed and tomorrow assigned.

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

Bill "An Act to Establish a Bureau of Property Taxation Within the Department of Finance and Administration" (S. P. 56) (L. D. 163)

Tabled — March 20, by Mr. Sproul of Augusta.

Pending — Passage to be en-

acted.

On motion of Mr. Sproul of Augusta, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

Bill "An Act to Clarify Certain Provisions of the Maine State Retirement Law" (S. P. 76) (L. D. 193)

Tabled—March 20, by Mr. Simpson of Standish.

Pending — Passage to be enacted.

On motion of Mr. Shaw of Chelsea, retabled pending passage to be enacted and tomorrow assigned.

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

Bill "An Act Relating to Purchase of Back Service Credits for Local Participating Districts and Individual Employees under Maine State Retirement System" (S. P. 183) (L. D. 491)

Tabled — March 20, by Mr. Simpson of Standish.

Pending — Passage to be enacted.

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

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

Bill "An Act Including Representatives of a Council of Governments under State Retirement System" (H. P. 430) (L. D. 579)

Tabled — March 20, by Mr. Simpson of Standish.

Pending — Passage to be enacted.

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

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

Bill "An Act Repealing the Law Requiring Municipalities to Remove Worthless Trees within the Limits of Ways and Streets" (H. P. 491) (L. D. 645)

Tabled — March 20, by Mr. Finemore of Bridgewater.

Pending — Passage to be enacted.

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

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

Bill "An Act Repealing Certain Provisions of the Legal Fence Law" (S. P. 245) (L. D. 696)

Tabled — March 20, by Mr. Hamblen of Gorham.

Pending — Passage to be enacted.

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

At this point, Speaker Hewes returned to the rostrum.

SPEAKER HEWES: The Chair thanks the gentleman and commends him for a good job.

Thereupon, the Sergeant-at-Arms escorted Mr. Martin to his seat on the floor, amid the applause of the House, and Speaker Hewes resumed the Chair.

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

House Order relative to House Rule 49-A.

Tabled — March 20, by Mr. Simpson of Standish.

Pending — Passage.

On motion of Mr. Simpson of Standish, retabled pending passage and tomorrow assigned.

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

Bill "An Act Relating to Taxation of Farmland." (H. P. 773) (L. D. 1007)

Tabled — March 20, by Mr. Pratt of Parsonsfield.

Pending — Acceptance of Majority Report "Ought not to pass."

The **SPEAKER:** The Chair recognizes the gentleman from Freedom, Mr. Evans.

Mr. EVANS: Mr. Speaker and Ladies and Gentlemen of the House: On November 3, 1970, the voters of the State of Maine voted an amendment to the constitution allowing land to be taxed for the value of the use of the land rather

than the value that anybody could dream up. Now this constitutional amendment went through by a vote of about two to one.

So in the legislature of 1971 there was a bill introduced to implement this law. Well, it came out of committee way back in June of that year and finally was passed and signed. But they changed the penalty to ten years rollback, which was excessive and the farmers, after looking at it, said that they did not want anything to do with it. And I do not blame them. It is an excessive penalty, way beyond reason, especially when you tack on eight percent interest on that penalty.

Now I have been checking some of the other states — especially one that I have noticed, New Jersey — which put in the law and they have some of the highest taxes, of course in the nation on farm land. But they have been losing about 50,000 acres a year to urbanization. After putting in their bill, it was dropped from 50,000 acres a year to 10,000 acres for last year.

When this bill was put through here in the State of Maine, we put it through with the idea to maintain some of the small farms in the State of Maine, because practically the whole framework of the State of Maine is farming. We are losing a great deal of land to other uses. And whenever a farm is used for something else, it never goes back to farming.

Now a lot of these small farms provide shelter for the animals that are hunted by the sportsmen, also for other types of sports and outdoor activities. I believe that we should cut this penalty to five years because it is very excessive and it does not give the farmer a chance.

Now you take a farmer that is 50 years of age. Possibly he would like to leave the farm to his son but something comes up that he has to sell it by the time he is 60 because he does not have enough social security to keep him going. He likes to get a little money out of the farm to keep going. With this penalty, he will not get enough to say so. Now the idea has been

suggested that the buyer would pay this tax. Well now the buyer isn't that big a fool. He is going to cut the price if he has to pay the tax. You can only get so much for an acre of land unless you can find some sucker and they don't grow on every bush.

So when the vote is taken, I would ask you to vote against accepting the majority "ought to pass" report that has been made. And then we can accept the minority report which is the proper report that should be accepted. And I ask for a division, Mr. Speaker.

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

Mr. DAM: Mr. Speaker and Ladies and Gentlemen of the House: This bill did appear before the Taxation Committee and it had a good hearing and the majority report is that it ought not to pass.

Now Mr. Evans has said that the farmers in the State of Maine are interested in preserving their farm land. Well, there is only one thing that kind of confuses me, is that if they are interested in preserving their farm land, then really they should have maybe a 15 or a 20 year roll-back penalty in here instead of trying to reduce it to five years. Because the way I understand this bill, if we reduce it to five years, this will give them a chance after five years to sell their land with no penalty. And if they really want to preserve the land as they are saying, then there should be no objection to the ten year clause in here.

And I think this is a good bill the way it is, without any changes as far as the years because this does not really work any undue hardship or a burden on anyone that really wants to be a farmer. But it would work an undue burden on anybody that wants to hold their land under the farmland provision and then later on turn around and sell it and make a good killing on the land. And I don't think that this was the intent of the law. I think the intent of the law was to preserve farms and I do not see any need for a change now.

The SPEAKER: The chair recognizes the gentleman from Freedom, Mr. Evans.

Mr. EVANS: Mr. Speaker and Ladies and Gentlemen of the House: If you had to pay as much tax as that bill would do for ten years with the interest, it makes just about the same amount of tax as though you hadn't put it into it. You have to go through all that red tape for a little saving. Well, a man does not want to tie himself up for ten years with what little saving there is in it. If something happens to him and he has to sell it, why he is really licked on it. And the penalty that has been put on this is way beyond the penalty other states are putting on. I think it is very much beyond reason, the amount of penalty.

I think that if you want to keep your farms, drop the penalty. We never thought we would have pollution but look at how we stand now. We never thought we would have any trouble with getting gasoline, but it is a possibility that this year, this coming summer, it may be rationed.

Well now, if you keep on ignoring the loss of farm land, eventually you are going to wake up and find that you are behind the eight ball and it is too late then. So I say drop the penalty.

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

Mr. DAM: Mr. Speaker and Ladies and Gentlemen of the House: This bill does not force any farmer to go in under this program to get a better tax structure on his farm land. This is entirely voluntary. And if the man does not want to tie himself up for ten years, then he does not have to go under the program; but what I am saying, that if you want to reap the benefit of lower taxes, then too, you should be able to go along with the bill the way it was written originally and take the ten year penalty. I just don't think that anyone or any group of people should live off the taxpayers' back and enjoy any special privileges. And I think this is what this bill would be doing if we rolled it back to five years, would be giving special privileges to one special interest. I think if you are going to have the benefit

of the tax relief, then too, so should you take the benefit or have the penalty of the rollback.

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

Mr. SUSI: Mr. Speaker and Ladies and Gentlemen of the House: The sponsor of this bill, the gentleman from Freedom, Mr. Evans, has expressed to us very clearly his concern about the high level property taxes on our agricultural community, and I certainly couldn't argue with him on that. Property tax relief is needed for them as it is needed for, I think, all elements who are subjected to this extreme burden. But I doubt that we want to use this means to give relief to one narrow segment of our society.

As has been explained previously there was a constitutional amendment. There was a proposal made apparently in 1969, to this legislature to adopt what was known as "green belt" legislation. It is a conservation measure, and it entices people to keep land in its natural state; and it has been particularly effective in the more urban areas so that we don't completely develop all of the entire state.

We needed support to get this through. I was a supporter of this. I have no regrets about it, and the agricultural community did support it because it does furnish them tax relief; and their tax relief is not denied them under the present law. And so the agricultural community did support it and the constitutional amendment was passed. In the next session we did put through the implementing legislation and the mechanics of it is this — I think it is important that you understand this so that you know what this question is. A person owns say a farm. Say he bought it ten years ago for \$10,000 and natural inflation has brought it to a present value as a farm at \$20,000; but it shores on a stream or a lake and it will bring for recreational purposes say \$100,000, which isn't an extreme instance in today's market. Say at highest and best use for recreational purposes, at 3 per cent his tax would be \$3,000 per

year which is an unreasonable tax for a person operating a small farm.

So he goes to his tax assessor and petitions the tax assessor to assess him not at highest and best use, which would be recreational, but for existing use, which is agricultural. So then the assessor has to honor his request. He will then begin assessing at the value of this land for agricultural purposes, \$20,000 and call that a \$600 tax; and the rest of the community is picking up the other \$2,400. They are assuming this other \$2,400 which would, under the ordinary law, be applied to this land just so that this land can be kept in its natural state.

Now, in order to accomplish the purposes of this "green belt" legislation, there were two prongs. First off, there was the enticement of this reduction in taxes. Secondly, there was a provision that should at any time the person owning this property sell it for its highest and best use rather than its existing use and get the \$100,000 for it, then the difference between the \$600 and the \$3,000 assessment for each year for \$2,400 a year would then be due the community. Now this was sort of a club over the head of people. Now so long as the farmer keeps it in the form of a farm, he can continue to get a \$600 rate on this forever and ever under the present law. It is only when he sells it at the high price that he has to pay the taxes for up to ten years.

Now the legislation that is before us asking for this rollback period to be reduced from ten to five. Now let's take this to the ultimate where there would be no recovery, if it went back to zero. Then it becomes purely a tax relief act for the agricultural community and that wasn't the intent of it to start with. The intent was a conservation measure and the assurances again were to give the enticement of lower taxes and secondly, the claiming repayment for what the rest of the community has offered to the owner of this land in order for him to keep it in its natural state.

I hope you support the seven to three "ought not to pass" report

on this and I hope later that we will make a serious attempt in this legislature to give tax relief on property tax which is at a punishing level throughout our state. I think we would be making a mistake today to give an "ought to pass" on this one.

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

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: You have heard part of the story. There is a lot more to it than you have already heard here today. I was the author of the constitutional amendment. I believe very strongly in this type of legislation. The figures that the gentleman from Pittsfield gave you are most interesting but his change in values from \$20,000 to \$100,000 I think are excessive.

I would like to point out that after the last session of the legislature when this bill that we are now trying to amend was passed, the Tax Department sat on this legislation until the 13th day of March and then the towns were given the forms, just a few copies, for farmers to apply for relief for this "green belt" type of thinking. I went to the town manager in one town where I own land that I have owned for close to 40 years and some of the most productive farmland in the country to get his help on the thing. The problem was that the way the law was passed, it said that three out of the five preceding years the farmer must have grossed \$1,000, gross revenue. The form that the Tax Department came out with wanted to know how much money you grossed off your farm land each of the last five years. Did you report it on your income tax? What was the value of the farm machinery used at that time and what would be the replacement cost of it new, and a few more things.

Well this went out on the 13th day of March. Then the assessors held a meeting up here in Augusta. They were informed, "Forget this. We have delayed it so long that nobody will know about it and it won't be effective this year." Now that is the type of cooperation we have had on this thing. The "green

belt" philosophy, if you will check the laws in many of our eastern states, you will find that they have much more protective laws in many of these states than we have here in Maine to try to preserve some of our farm lands and woodlands, particularly in the more urban areas and where they are most needed.

Those of you that have been interested in agriculture realize the loss of farm lands throughout the State of Maine. If you go back into history in 1840 when the State of Maine became a state, you had approximately 70 or more percent of the people in the state gainfully employed in agriculture. Today I believe you have less than eight percent. I would like to point out, for example, what the State of Maryland has done and they have got a fast growing and strong agricultural economy down there on soybeans and corn, field corn, which are in very short supply today incidentally. I saw one farm sell down there for a little over one half a million dollars. There were 71 acres of cropland and four acres of house and surrounding, just the house lot part of it. The taxes — because the land was being used commercially to grow corn on that particular farm, corn and soybeans — were under \$300 a year. Those people down there, within an hour and a half drive of our nation's Capitol, recognized the necessity of maintaining some open space.

I do believe that the ten years that was put in this law is excessive, that it should go back to five years. I am sure any of you who have invested in land over a period of years realize that today if you were to sell this land, figure out what it has cost you to hold it and then compare if you would put that same money into some blue-chip stocks, instead of into lands and sold them today, how much better off you would be financially with the stock thing. I hope that you will support the minority report of the committee on this bill.

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

Mr. SMITH: Mr. Speaker and Ladies and Gentlemen of the

House: We should keep in mind that this legislation is involved in land use policy and not tax relief policy. As such, we should make the decision on whether it is going to be effective as land use policy or not.

The whole thrust of this effort is to preserve some of the open space that we know and love about Maine. Then the question becomes does a ten year rollback prevent this land use policy from happening and the answer clearly is yes. I have only been able to find one farm operator who has applied for and is using the assessment procedure under this act and the reason is because of the ten year rollback.

The problem is that most farmers do not achieve a lot of cash during their working years and they use their farm as their retirement policy. Therefore, if they have a ten year rollback and that penalty takes most of the equity that they have built up in their farm, then this in effect wipes out their retirement policy. Obviously with that situation, they are not going to apply for the assessment features in this bill.

I don't know if five years is the best year, but I do know that ten years is too much because it is not working. If you are concerned as I am about keeping Maine with open spaces and friends, then I think we have got to try a five-year rollback. Now if that works too well, we may want to go to a six or seven-year rollback later. The ten-year rollback is not working. It is too excessive and if we do want a land use policy that holds some open areas in Maine, I urge you to vote against the motion and to support the minority "ought to pass" report.

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

Mr. DYAR: Mr. Speaker and Members of the House. It has been discussed here this morning, relative to the term "green belt", the gentleman from Pittsfield, Mr. Susi, referred to the farmer having farm land bordering a lake who are possibly getting \$3,000 for an acre of land. There is an unorganized township in this state,

21,000 acres, state evaluation 1971, \$101,000. The tax rate in 1971, 8½ mills. My industrial friends now are leasing land there. The lease fee is \$2,000 per year per acre. If you sign a lease for five years, you pay five years in advance. At the end of the five years the landowner still owns the land. If you do a little figuring you will find out that land back in 1971 was taxed at about five cents an acre. So I think there is a little discrimination between the "green belt."

If the farmer had had that acre lot next to a lake and he had sold that lot for \$2,000 and transferred title, he would then have said, "All of my land is worth \$2,000 an acre and you can sock it to me in taxes."

Mr. Bragdon of Perham requested that the Committee Report be read.

Thereupon the Committee report was read by the Clerk.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I would like to urge you to support the minority report and I feel quite confident that I could have gotten the message to you, but Mr. Smith has already taken the steam out of the conversation that I was going to make before the House this morning.

In my area, I do have a lot of farming area. As a matter of fact, I come from back in the part known as the sticks. We do have some farms along with the sticks, but it is like this: The people are not using this. It is ten years. It is so excessive they are not using this. This is the point and Mr. Smith has done a pretty good job, Representative Smith, and quite adequately in explaining this to you. I am not sure that five years is the right amount but I would like to see us try five years and if it isn't enough, maybe six or seven. And really, when you get along in years, 62 and 63 and 65 and you are getting ready to retire, five years then seems like quite a long time.

I think we would be doing the right thing and I think if this had

gone to the right committee, the people that understand farming and understand that isn't being used — I don't think that there is any member of this House from any District in the State of Maine that can show you that this ten years, with this ten year thing in there, that it is being used. I know of no cases in my particular town and I wish I could have had time this morning to call the other towns in my district but I know at least in the town that I am living in, I don't believe there is anyone that has used it. In the town of Howland that I represent nobody has used it. But I would like to have had time to call the towns of Lagrange which has a lot of farming area — and the town of Maxfield and Sebobeis and these other towns.

In my opinion it is about the same situation in those towns as it is in the ones that I am familiar with. Ten years is so long a time that it is not being used so we are not accomplishing what the bill was intended to and I hope the House will go along and let's try it for five years. Accept the minority report and try it for five years. If it doesn't work, certainly some of us will be here to try to put it to six or seven or extend it a little bit. Certainly, I want to impress one thing upon the House, that ten years is really too much and I hope you try five years for a change.

The SPEAKER: The Chair recognizes the gentleman from Easton, Mr. Mahany.

Mr. MAHANY: Mr. Speaker and Ladies and Gentlemen of the House: I would have to go along with the motion of Mr. Evans. I think the five years is plenty of a length of a period to try out a new experiment and this is experiment on this land use deal. I hope you go along with the motion of Mr. Evans.

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

Mr. BRAWN: Mr. Speaker and Ladies and Gentlemen of the House: There is two sides to every coin. I heard someone say here that they didn't think that this new law was put into effect. Let me

quote: In the town of Oakland where I live — and I like to refer to this town because I do like it — Messalonskee Lake, East Pond, Salmon Lake, McGraw Pond, which is the majority of the Belgrade Lakes chain, is within my municipality.

When this law was enacted for land to be taxed at its present usage — we are near Colby College, we have professors living in my town who own shore property. What did they do? They went out and they bought a few sheep. They said it was a farm. They came in before us to get their taxes reduced and under the law we had to reduce them. Now gentlemen, they have some of the best shore property in my municipality. Now the men like Mr. Evans, who is truly a farmer, I am on his side 100 percent; but I think there should be some way in here to say that when a man's main livelihood is something else, they should not come under this law. So it is being abused in some places and mine happens to be one of the municipalities.

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

Mr. COTTRELL: Mr. Speaker and Members of the House: I don't know as I will have a good effect on this law or a bad effect but as a signer of the majority report on the Taxation Committee, I feel I must explain my position.

It has been explained that by a constitutional amendment we could put a law like this into effect and so Governor Curtis set up a special committee and they drafted the legislation and it has now been in effect two years. If a farmer should sell his land now, he would only have two years taxes to be concerned with. If he sold it next year, he would only have three years. Coming to 1975, he would have five years.

Now the majority opinion of the committee felt that this change was a little premature because until 1975 he will never have to pay more than five years. Our whole land situation is in flux and we felt that this could be dealt with by the next legislature when

it went beyond five years and that is, I think, the main reason for the committee report as it was.

I feel that the whole State of Maine is on its way. We don't know where we are going but we are on our way. I think that this bill should be supported at this time and the next legislature will have a clearer vision and can make any needed changes.

The SPEAKER: The Chair recognizes the gentleman from Hulton, Mr. Bither.

Mr. BITHER: House. Speaker and Members of the House: I certainly am not going to clear up a thing here because I don't know what this is all about really. But as I understand it — and I wish someone would correct me if I am wrong — in the case of open space land, the maximum recapture penalty shall be for a period not to exceed 15 years.

Now I am going to speak not necessarily for my hometown but one of my two or three hometowns and that is Jonesport. Right near me in Jonesport is a large section of land, blueberry land, obviously taxed as blueberry land. Now under the present law that is taxed very very lightly. That is on the shore and shore property down there now is worth \$100 a foot, a front foot. He has got nearly one mile, this man has nearly one mile of shore property that is being taxed almost for nothing. Well, I don't know how the people in Jonesport really feel about this but I know how I feel because when his land is not taxed, my taxes go up and I am not very happy about that.

Now as I understand it under this present law — and I know this doesn't change the law — but under the present law, the recapture clause in here goes for 15 years and if he should sell that anytime after 15 years, he has to pay 15 years back taxes at the rate of valuation for shore property. I just can't see that he is ever going to be able to sell it and that is what is bothering me because I think the whole thing is ridiculous. It isn't only farm land as I understand it, this is any type of open land and you

have got a heck of a lot of blueberry land on the coast.

Mrs. Berry of Madison requested a roll call vote.

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

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

The SPEAKER: The pending question is the motion to accept the Majority "Ought Not to Pass" Report. All in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Boudreau, Bragdon, Bunker, Bustin, Carey, Churchill, Connolly, Cottrell, Dam, Deshaies, Dow, Drigotas, Dunleavy, Dunn, Farley, Fecteau, Ferris, Garsoe, Gauthier, Haskell, Huber, Immonen, Lawry, Littlefield, Lynch, Merrill, Morin, L.; Morton, Najarian, Norris, O'Brien, Palmer, Santoro, Sheltra, Silverman, Simpson, L. E.; Susi, Wheeler.

NAY — Albert, Ault, Berry, G. W.; Berry, P. P.; Berube, Binnette, Birt, Bither, Brawn, Briggs, Brown, Cameron, Carrier, Carter, Chick, Chonko, Clark, Conley, Cooney, Cote, Cressey, Crommett, Curran, Curtis, T. S., Jr.; Donaghy, Dudley, Dyar, Emery, D. F.; Evans, Farnham, Farrington, Faucher, Finemore, Flynn, Fraser, Gahagan, Genest, Good, Goodwin, H.; Greenlaw, Hamblen, Henley, Herrick, Hobbins, Hoffses, Hunter, Jackson, Jalbert, Kelleher, Kelley, Kelley, R. P.; Keyte, Kilroy, Knight, LaCharite, LaPointe, LeBlanc, Lewis, E.; Lewis, J.; MacLeod, Maddox, Mahany, Martin, Maxwell, McCormick, McHenry, McKernan, McNally, McTeague, Mills, Morin, V.; Mulkern, Murchison, Murray, Perkins, Peterson, Pratt, Ricker, Rolde, Rollins, Ross, Shaw, Shute, Smith, D. M.; Smith, S.; Snowe, Soulas, Sproul, Stillings, Talbot, Theriault, Trask, Trumbull, Tyndale, Walker, Webber, Whitzell, Willard, Wood, M.E.; The Speaker.

ABSENT — Davis, Goodwin, K.; Hancock, Hodgdon, Jacques, McMahon, Parks, Pontbriand, Tanquay, Tierney, White.

Yes, 39; No, 100; Absent, 11.

The **SPEAKER**: Thirty-nine having voted in the affirmative and one hundred having voted in the negative, with eleven being absent, the motion does not prevail.

On motion of Mr. Evans of Freedom, the Minority "Ought to pass" Report was accepted.

The Bill was read once and assigned for second reading tomorrow.

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

Bill "An Act Relating to Fees for Forest Lands and Wild Lands Posted Against Trespass" (H. P. 58) (L. D. 70)

Tabled — March 20, by Mr. Kelleher of Bangor.

Pending — Adoption of House Amendment "C" (H-113)

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

Mr. MARTIN: Mr. Speaker and Members of the House: In order to keep things straight in some legislative perspective, I am going to withdraw my amendment and reintroduce it after I go through some parliamentary maneuvers.

Thereupon, Mr. Martin withdrew House Amendment "C".

On motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed as amended by House Amendment "A".

On further motion of the same gentleman, the House reconsidered its action whereby House Amendment "A" was adopted and the Amendment was indefinitely postponed.

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

House Amendment "C" (H-113) was read by the Clerk.

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

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the

House: Could I ask through the Chair that Mr. Martin explain exactly what it is that we are voting for. I think maybe somebody else is as confused as I am on this.

The **SPEAKER**: The gentleman from Southport, Mr. Kelley poses a question through the Chair to anyone who may answer if he wishes. The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker and Ladies and Gentlemen of the House: Basically, we are voting on the amendment I ordered and explained yesterday, which was offered as House Amendment "C." Unfortunately, I had forgotten to kill House Amendment "A" before I proceeded. If we had gone any further and sent it to the other body, we would have sent it not only with the one I offered yesterday but with the one we had accepted prior, which had been reportedly, according to the votes in the other body, unacceptable.

Basically the amendment that you are voting upon right now would say that no person who is on foot can be denied right to an unimproved, by using the line that it is unimproved, in getting to a Great Pond and if there is no public access available. If there is, obviously, public access available to the Great Pond, such as an area which has been paid for by state-local funds, then there would be no question as to the fact that the public would have to use that access. If, on the other hand, there is no such accessibility, then we would go back to the colonial laws and basically what we are doing is making the colonial laws part of the laws in saying that the Attorney General shall bring suit on behalf of the citizen, so that he has, in effect, the power and the right, which all of us say he has and we all agree that he has, to get to the Great Pond.

Like I indicated earlier, I have discussed this with a great number of people both within and outside the industry and they feel that this would solve the problem that we are trying to get to. And you recall that the problem we are trying to

get to is one that we discussed some time ago now, and I do not recall how long ago, in reference to the remarks by the gentleman from Strong, Mr. Dyar.

The SPEAKER: The Chair recognized the gentle lady from Orrington, Mrs. Baker.

Mrs. BAKER: Mr. Speaker and Ladies and Gentlemen of the House: I would call your attention to the fact that in this House Amendment "C" we have a completely new bill even to a new title. This new bill has had no public hearing. However, it appears to reaffirm a privilege that is already in the law, access on foot to the Great Ponds, and it requires the Attorney General to defend that privilege. These two provisions seem to be entirely acceptable.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker and Ladies and Gentlemen of the House: I believe that this is just exactly the problem that we might have here. This amendment does replace an entire bill. It also replaces the title. I also have very serious reservations about the whole section after it says that no person on foot shall be denied access or egress over unimproved lands to a Great Pond. This is colonial law; it is in our statutes right now and I would agree with that and abide by it.

But after that, when we say that the Attorney General shall, upon complaint of a person — a person now — being denied said access or egress if in his judgment the public interest so requires, prosecute criminally or civilly, and I seriously question if we want to start to put the Attorney General's office in the position of prosecuting on behalf of individuals in this state and also in civil action. And I see absolutely no necessity for this amendment and I would move its indefinite postponement.

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

Mr. MARTIN: Mr. Speaker and Ladies and Gentlemen of the House: Obviously I cannot agree with that motion. Let me point out that first of all this bill that

supposedly the gentleman from Standish said is now part of the law, is not. The reference to the colonial laws which I made a while ago is that this was a court decision. As pointed out by the gentlewoman from Orrington, Mrs. Baker, this reaffirms that court decision and makes it part of the laws of this state.

Secondly, the question as to whether or not the Attorney General ought to prosecute, in my own mind, is settled by one quick decision and one reasoning which I would like to explain to you.

The average person who is going to be denied access to a Great Pond is probably making between three and five thousand dollars. If he wants to fight his denial of an access to the Great Pond, he can take it to court. He can take it to the Superior Court and perhaps if he is defeated there, take it to the Supreme Judicial Court of the state, and perhaps all the way to Washington.

But I ask you, a person who has a family, who is earning three to five thousand, who is out there hunting for one day of the year, is he going to have the funds, is anyone going to be able to act for him if he cannot do it? Of course, at the present time we have had two cases that were dropped because of lack of prosecution, with no one being able to prove, no one being willing to prove that they were being denied access to the Great Pond. One of them came in Franklin County and one of the others in Piscataquis or Aroostook, I am not sure which.

Now what this says, if someone is denied access and after investigation the Attorney General finds that is true, then the Attorney General will act on behalf of the citizens of Maine to bring the denying partner, whether it is I.T.T. or anyone else, to the courts. This is not unusual. This is done now. We do it, for example, in certain instances on such things as water cleanups where the Attorney General brings suit against the municipalities or against individuals for failure to protect the waters of this state. So bringing action by the A.G. is nothing new at all. I would ask you to vote

against the motion and would ask for a division.

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

Mr. LaPOINTE: Mr. Speaker and Ladies and Gentlemen of the House: Two points. I would like to quote from a book I have in front of me. It says, "By natural law itself these things are the common property of all — air, running water, the sea, the waves, and the shores of the sea." Now this is a quote by Justin in 533 A.D.

Furthermore, I would like to suggest to this body that the corporate conglomerate that is in question, and has been an integral part of the discussion throughout this debate on L. D. 70 is currently before the Congress, a Senate Committee, relative to their position influencing the affairs of the country itself, America.

I would suggest to you ladies and gentlemen of the House that none of us has the financial capacity to really go up against that corporation, and I would suggest, furthermore, that the State of Maine through the Attorney General should be able to do this. I hope that you vote against the indefinite postponement of this amendment.

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

Mr. DUDLEY: Mr. Speaker and Ladies and Gentlemen of the House: I support the indefinite postponement of this measure for this reason: I do not want this body, and by my act, to deceive anybody. I think if you compared this piece of legislation before us or this amendment to the original bill, there is almost no relation. For this reason, if this needs to be done, it should be done by a bill, by a public hearing, and proceed in an orderly manner, what I consider an orderly manner. In my opinion this is not an orderly manner. There is no relation that I can see to the real bill and it may be all right but I want to do it in an orderly manner so as not to deceive anybody. And I think in order to do this, you have to have a bill, a public hearing and

proceed in an orderly manner. For this reason I hope that this is indefinitely postponed.

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

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: I still am a little bit confused. I am wondering about the civil action in here. I am also wondering whether this bill permits the landowner to sue the trespasser or the trespasser to sue the landowner.

The SPEAKER: The gentleman from Southport Mr. Kelley poses the question as to whether the landowner can sue the trespasser or the trespasser can sue the landowner, on this bill.

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

Mr. MARTIN: Mr. Speaker and Ladies and Gentlemen of the House: I am not a lawyer and do not profess to be one, but I only will relate to you what I have been told by members of the bar, who I guess are sometimes honorable, depending which side we are on.

Members have told me that if the person is illegally trespassing then obviously the owner of the land has complete right to bring that person to court. And I suspect that the gentleman is concerned because he will have a bill that deals with trespassing. This does not affect that.

Further, according to lawyers, members of the bar, they have indicated to me that this question of criminal or civil is presently in certain laws which we are now using in this state and we allow the A.G. to proceed in that manner. So this to my knowledge — what I have been told and what I tell to you — is nothing new, what is presently being done in many instances in this state.

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

Mr. GAUTHIER: Mr. Speaker, Members of the House: I think we did a fairly good job a few weeks ago in passing this bill here because if you vote "ought not to

pass", you are denying your own people of this state to go fishing in their own ponds in this state. So I say to you let's not deny our own people the recreation which they solely deserve which is their own.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker and Ladies and Gentlemen of the House: If we pass this bill or if we don't pass this bill, we are still not denying the people of the State of Maine access to the great ponds. That is part of the Common Law and it is there right now; and if I am denied access to any great pond in this state, I have the right as an individual to bring suit against those people denying me that access. I don't believe that this particular piece of legislation takes that away or strengthens it in any way. I still support my motion to indefinitely postpone.

On the motion of Mr. Evans from Freedom, the Minority "Ought to pass" Report was accepted.

The bill was read once and assigned for second reading tomorrow.

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

Mr. GAUTHIER: Mr. Speaker and Members of the House: I would like to answer Mr. Simpson. It is just like Mr. Martin mentioned a few minutes ago. I am sure he has got plenty of money and he can afford to fight this and get onto the pond that he wants to get on but the person who is earning \$3,000 or \$4,000 a year, the common people of this state who certainly have the same right to go and fish as well as Mr. Simpson or I or anybody else, they have not got that kind of money in order to fight it in the courts and that is what we are deciding here today.

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

Mr. DYAR: Mr. Speaker and Members of the House: I think we have gone over this pretty good over the last month. This statute, Common Law that we are talking about, was passed by the Commonwealth of Massachusetts back in

1641. We inherited it in 1820. It is now 1973.

Now the gentleman from Standish stated that he has recourse, and I hope he has, because if he tampers with these big boys, he better have it if he wants to go all the way because he is going right through to the Supreme Court of the United States.

Now I was out in my district last Saturday up in the outpost, the Canadian border known as Curnburn Gore. There is about 14 families living in this unorganized town and I felt that they were probably pretty much cut off from civilization. I visited about eight houses there and this was the subject of conversation in this little town, that somebody at least was looking out for some of their basic rights. Because back in 1964 the same thing happened at Chain of Ponds when Mr. Gregoire from Canada came in and bought the land there. This gentleman based his assumption on the English law which Canada has that when a man buys a body of land that happened to have a body of water in it that he has the rights to that body of water.

Now this went to court back in 1964 and to my knowledge it hasn't been settled yet. I think there are over 1,000 petitions on that particular action. The reason it hasn't been settled yet is because nobody had the resources to carry this through to get a real legal determination. It ended up in Superior Court but it could have gone right up through. Nobody had the resources to push it.

Now it has been mentioned of a completely new bill here before you this morning. I think probably this complete new bill has had more discussion than the original bill did at its legislative hearing. That particular stormy afternoon I was there as a proponent and about twenty of my industrial friends were behind me as the opponents and that particular afternoon only one spoke representing that group. So I feel that if this is what we consider we have got to have a new hearing on a bill of this type, and it gets the same type of hearing it had, I mean from public participation as it did on the original bill, I think we

could probably do without public hearings and discuss matters on the floor of the House.

Now what we are doing here today on this amendment is allowing a man to have access to a great pond by foot provided he does not cross improved land; and we are saying that if he is kicked off of this land, he can make a complaint to the Attorney General and the Attorney General can prosecute if he finds enough evidence to warrant such.

Now if this is such a bad bill, I am quite sure that my friend who attacked it yesterday afternoon and started working on it — I assume that some of them worked on it in the past twelve or eighteen hours — but they were very willing to go along with this Amendment "C" provided we were sure that we had taken off the original House Amendment "A". And I would like to state here right now that I don't believe there was any collusion between myself and Mr. Martin or anybody else in this body to sneak House Amendment "C" through without removing House Amendment "A".

Now to my knowledge the big objectors to this original piece of legislation have had the power to alter the original intent of the bill down to a point that it is now and I am not belittling what we are ending up with. I think it is very important. I certainly hope that when the vote is taken here this morning that you will vote against the motion to indefinitely postpone.

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

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: The previous speaker mentioned a trespass bill of mine which absolutely has nothing to do with this problem. I was the first person to mention in debate on this bill the colonial ordinances. I believe in them very strongly; and as far as law cases are concerned, in our own Supreme Court you have Barrows versus McDermott, Barrett versus Rockport Ice Company, State versus Snowman. Conette versus Jordan. These are all Supreme Court cases that show the individual's right to go on foot to

get to a Great Pond and I want to make it clear for the record that I very strongly believe in these rights.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker and Members of the House: The original bill which I voted for in no part mentions anything about Great Ponds. We then brought on various amendments to this bill and we now have an amendment to the bill, Amendment "C", which the sponsor of the original bill himself says is a new bill. I think that we should indefinitely postpone this, that it should be presented as a new bill and handled as such.

I very much object to the part of this that after the first sentence where we, in essence, turn the right of trespass completely around. I agree with people's rights to reach Great Ponds but I question severely how they should reach these ponds. I mean, this opens it up to coming in it from any direction of the compass. I think we are dealing with not the original bill at all but a totally new thing. I question whether it is germane and I think that it should be indefinitely postponed.

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

Mr. KELLEHER: Mr. Speaker and Members of the House: I would like to have a ruling from the Chair where the debate has been concerned with this, this entirely rewrites this bill and under Rules of the House, 32 on page 99, it says, "No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment." I would like to have a ruling from the Chair.

The SPEAKER: The Chair will rule that this amendment is germane to the act relating to L.D. 70.

Mr. Gauthier of Sanford requested a roll call vote.

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

Mr. BIRT: Mr. Speaker and Members of the House: I move

this bill be recommitted to the committee for reconsideration.

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

Mr. MILLS: Mr. Speaker and Ladies and Gentlemen of the House: There is one point in our laws here that has not been taken into consideration at all. I am talking to you about our Fish and Game Department. Here we are talking about the Attorney General being asked to enforce this. It is my understanding that the Attorney General can refer such matters down to a county attorney.

Now then, on our Fish and Game setup here in the State of Maine we are selling licenses both for fishing and for hunting and that is the only revenue that is maintaining the Department of Inland Fish and Game. This should get serious consideration because if this bill here should be defeated, then there is no reason why the department can issue these fish and game permits with no right of trespass to the great lakes to fish. This is something very serious and should get a lot of consideration.

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

Mr. MARTIN: Mr. Speaker, could I pose a parliamentary question to the Chair?

The SPEAKER: The gentleman may pose his question.

Mr. MARTIN: Mr. Speaker, would not the amendment have to be taken care of before we can recommit the bill? We would merely be recommitting the amendment.

The SPEAKER: The Chair would rule that the commitment motion takes priority based on what I see as the order of priorities.

Mr. MARTIN: Mr. Speaker, I don't disagree. I agree that the motion to recommit does take priority over any of the motions thus far offered except that if we were to recommit at this point, we would merely be recommitting the amendment which I have offered which is House Amendment "C."

I have no objections to recommitment if this is the will of the House except to say that

this thing has been discussed by I don't know how many people including every pulp and paper lobbyist that I think I have been able to talk or who were willing to talk to me as well as people from all sides of the issue. And perhaps the time has come where we ought to vote on it. I am not sure that anything further would be accomplished by recommitting it at this point.

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

Mr. GAUTHIER: Mr. Speaker, you have ruled that this amendment is in order. If this amendment is in order, I don't see why we should have to have the whole thing reconsidered by the committee. I think we can thrash it right out right in here after your ruling has been taken care of. You have ruled that already.

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

Mr. FINEMORE: Mr. Speaker, my understanding of it, the Speaker is correct. This bill can be recommit right now and it is not going to bother anything else because it comes ahead of amending or anything. You can recommit a bill at any stage.

Mr. Norris of Brewer moved the previous question.

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

A vote of the House was taken.

The SPEAKER: Obviously more than one third of the members present having voted for the previous question, the motion is entertained. The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now? All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

89 having voted in the affirmative and 34 having voted in the negative, the main question was ordered.

The SPEAKER: The main question is the motion of the gentleman from East Millinocket, Mr. Birt, that L. D. 70 be recommitted to the Committee on Judiciary. All in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Martin of Eagle Lake requested a roll call vote.

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

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

The SPEAKER: The pending question is the motion of the gentleman from East Millinocket, Mr. Birt, that L. D. 70 be recommitted to the Committee on Judiciary. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Berry, G. W.; Birt, Bither, Bragdon, Brown, Bunker, Bustin, Cameron, Carey, Chick, Conley, Cressey, Curtis, T. S., Jr.; Donaghy, Dyar, Evans, Farrington, Ferris, Finemore, Flynn, Gahagan, Garsoe, Hamblen, Haskell, Henley, Herrick, Hoffses, Huber, Hunter, Immonen, Jackson, Kelleher, Kelley, Kelley, R. P.; Lewis, E.; Lewis, J.; Littlefield, MacLeod, Maddox, Mahany, Maxwell, McCormick, McKernan, McNally, Merrill, Morin, L.; Murchison, Norris, Palmer, Perkins, Pratt, Shaw, Silverman, Simpson, L. E.; Snowe, Soulas, Sproul, Stillings, Trask, Tyndale, Walker, Willard, The Speaker.

NAY — Baker, Berry, P. P.; Berube, Binnette, Boudreau, Brawn, Briggs, Carrier, Carter, Chonko, Clark, Connolly, Cooney, Cote, Cottrell, Crommett, Curran, Dam, Deshaies, Dow, Drigotas, Dudley, Dunleavy, Dunn, Emery,

D. F.; Farnham, Faucher, Fecteau, Fraser, Gauthier, Genest, Goodwin, H.; Greenlaw, Hobbins, Jacques, Jalbert, Keyte, Kilroy, Knight, LaCharite, LaPointe, Lawry, LeBlanc, Lynch, Martin, McHenry, McTeague, Mills, Morin, V.; Morton, Mulkern, Murray, Najarian, O'Brien, Peterson, Ricker, Rolde, Rollins, Santoro, Shute, Smith, D. M.; Smith, S.; Talbot, Tanguay, Theriault, Weber, Wheeler, White, Whitzell, Wood, M. E.;

ABSENT — Churchill, Davis, Farley, Good, Goodwin, K.; Hancock, Hodgdon, McMahon, Parks, Pontbriand, Ross, Sheitra, Susi, Tierney, Trumbull.

Yes, 65; No, 70; Absent, 16.

The SPEAKER: Sixty-five having voted in the affirmative and seventy having voted in the negative, with sixteen being absent, the motion does not prevail.

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

Mr. McTEAGUE: Mr. Speaker and Members of the House: I have tried to follow and work through the confusion that apparently has existed with the number of amendments involved and as I have heard the discussion, there seems to be no disagreement or at least there is no disagreement stated, that individual citizens should have this right to cross unimproved land on foot to go to the great ponds.

It strikes me, Mr. Speaker, that the points made by some of the gentlemen, including Mr. Dyar, the gentleman from Strong, to the effect that the right might exist but it is not practical for ordinary people on their own to fight great corporations. If we truly believe what we said here, that this should be a right, then there should be a remedy because if there is not an effective remedy, the right is meaningless.

I don't know if any of you happened to watch the news on T.V. last night and see the representatives of one of these great corporations before a committee of the United States Senate. The message that I got out of the appearance of that gentleman was that some great

corporations can control the governments of foreign countries through our own State Department and CIA. I hope and I think that they cannot control—

The SPEAKER: For what purpose does the gentleman rise?

Mr. BIRT: Mr. Speaker, a point of order.

The SPEAKER: The gentleman may make his point of order.

Mr. BIRT: Mr. Speaker, it is my understanding that when a previous question has been ruled, has been ordered, that it carries through to the final motion and —

The SPEAKER: The Chair would announce that the Chair rules that in the 106th that the previous question motion applies only to the particular item under discussion at that time. This matter is debatable but the Chair would admonish the speaker that the issue in question seems to be the right of a trespasser to sue a landowner and not what some large corporation is doing in South America.

Mr. McTEAGUE: Mr. Speaker, I accept the correction regarding South America but I respectfully decline to accept the characterization that I am talking about trespassers, Mr. Speaker. I am talking about our citizens that have a right to go across the land.

We say we believe they should have this right and yet I think all of us know—as the opponents of this right know—that unless we follow the remedy that is provided in this amendment to give the Attorney General the right to act as the lawyer for all the citizens in Maine, it won't be effective.

It is pretty clear that it is easy and perhaps it is popular to say you favor this right but if you really favor it, if it isn't just window dressing or the icing on the cake, then I think you will vote for this amendment which would allow the Attorney General to make that right effective.

We talk, Mr. Speaker, and we hear discussion that some of the young people are losing some confidence in this country. Whether they are or not, I suspect they can talk better than a person who is 35. I think it is rather important

that our laws mean what they say, that they not merely be on the statute books but that they be actual rights of our people and affect their right to go across this land. It is not practical, Mr. Speaker, for the individual citizen, unless he is happily wealthy, to deal with some of the larger land owners. It is right and proper when a large land owner excludes an individual citizen in violation of the law, the colonial ordinances, as has been discussed before; but the Attorney General is the lawyer for all the people in Maine who take action.

Mr. Speaker you will note also that the amendment provides that the Attorney General, if in his judgment the public interest so requires can take the action. We are not saying he has to, we are empowering him to exercise his discretion. And if he thinks it is an aggravated case, will do it.

Mr. Speaker, there may be members of this House that could work through their rights. I happen to be a member of the legal profession and I know that if I were excluded from the right of crossing the land that I wouldn't be able to spend enough time to fight one of the large corporations and I suspect many members of the House would be in the same position I was in.

If you really believe in the right given to us by the colonial ordinances, if you want to make them effective, this is a realistic way to do it. Because only the Attorney General can fight the large owners through the courts and can obtain an injunction against the large owners violating the law.

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

Mr. BRAGDON: Mr. Speaker and Members of the House: The remarks of the gentleman from the corner who just spoke are very interesting to me. It seems that they throw a lot of light on what is the real issue before us in this bill. I think he is saying that he would subscribe to the philosophy that the Attorney General defend in all cases all people who are not able financially to defend themselves in the courts of our state.

I am somewhat surprised to hear this type of remark from a practicing attorney.

It seems to me that if we subscribe to that philosophy, that we would have to provide a whole lot more public money for the office of the Attorney General. I don't think we really agree that we want these matters settled in the Attorney General's office, that they should be settled in our usual procedure before our courts and not overburden the office of the Attorney General in all these matters involving poor people who can't make use of our courts.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker and Ladies and Gentlemen of the House: One of the things that bothers me here is we speak of the giant corporations. What if I have ten or fifteen acres on a Great Pond and I own this as unimproved land? By this amendment anyone could get access through my land to that Great Pond even though there be a hundred other abutters on this Great Pond. If I denied them access, they could go to the Attorney General. This would affect everybody. It wouldn't just affect the large corporations.

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

Mr. MARTIN: Mr. Speaker and Members of the House: In reference to the question posed, I can only say that under colonial laws that right is given to every citizen. What this in effect does is allow that colonial law to be enforced. It is really that simple; and I suppose if they decide to use his five acres to get to it, then they have chosen those five acres rather than another five. The point is though that the public lot — I am sorry, that water body is public property, is owned by all the citizens of this state. If there is no way for us to get to that public water, what is the sense of having it public? Let's make it private and give them the land and everything else that goes with it. But at this point in time, it is public water owned by the public, owned by the citizens of this State.

Colonial laws says that we have access to that on foot. What we are in effect doing is allowing someone to make it possible to verify that that is the case. When someone is standing there with a gun, which has been done, and says you can't get to the Great Pond and you happen to earn \$3,000 working in a mill somewhere, you are not going to push the issue. You are going to back off like a good little boy and you are going to go back to your hometown and scream like heck to your state representative and say, "Help me." and that is where it is going to stop unless we do something here today. And it is really that simple.

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

Mr. GAUTHIER: Mr. Speaker and Members of the House: I think that we have debated this and I don't think I am going to change any votes of anybody else so I move for the previous question at this time.

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

A vote of the House was taken.

The SPEAKER: Obviously more than one third of the members present having voted for the previous question, the motion is entertained. The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member.

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

Mr. JALBERT: Mr. Speaker, Members of the House: I do not intend to speak on this bill. I don't even know how I am going to vote, I am that confused. However, I have seen a couple of mikes up and, I mean, if we can debate a pheasant bill for three days, we can debate this thing here. We should extend the courtesy when some mikes are up of not moving the previous question.

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

Mr. HENLEY: Mr. Speaker and Ladies and Gentlemen of the House: I believe that there is increased mystification of just where we stand on this and I feel that before we decide this issue, now that we have gone so far that we must have a little bit more discussion. I know I would like some more and I would like to state some more. So I hope we put off the previous question and have some more discussion on it.

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

Mr. CONNOLLY: Mr. Speaker and Ladies and Gentlemen of the House: I too would like to make a couple of very brief points about this bill, and I would pose a parliamentary question, Mr. Chairman. If the motion to put the question for a vote is voted favorably upon, would I have an opportunity then to get up and ask for unanimous consent to address the House on the record before the bill is voted? Would I have the opportunity to ask that?

The SPEAKER: The Chair would state I doubt if you would get unanimous consent to talk on that issue at that time.

Mr. CONNOLLY: The point then, Mr. Chairman, I agree with Mr. Henley, that I, too, would like to speak very briefly on the motion.

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

Mr. NORRIS: Mr. Speaker and Ladies and Gentlemen of the House: I agree that we are all confused and I think further debate is simply going to confuse us further. The hour is late. We have rattled this thing back and forth and back and forth and I think it is time that we all took a stand now and vote one way or the other.

The SPEAKER: The pending question is, shall the main question be put now? All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

60 having voted in the affirmative and 62 having voted in the

negative, the motion does not prevail.

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

Mr. HENLEY: Mr. Speaker and Ladies and Gentlemen of the House: First I would like to state that I am not specifically opposed to the amendment. I was opposed to the original bill. I also will state that I do not believe that this should be enacted, because the bill is changed so tremendously.

I have a little complaint with the amendment. I am critical of specifically passing the responsibility on to the Attorney General. We have all kinds of protective laws in the state. And if we establish it seems to me rather a precedent of setting this up, which involves the rights of, you might say class rights and specify that it be the Attorney General that shall enforce these rights, I feel that we are establishing a wrong precedent. That is why I was hoping that the whole bill could be recommitted. Then we would take the bill and the amendment and try to perhaps reshape them.

I am in complete agreement that we must honor the colonial law on this, and if it requires that we repeat that in our statutes and publicize it, fine. But it seems to me that the bill has nothing to do now with what it originated as. Nothing was said originally about Great Ponds, nothing whatever. It just stated relative to owners of wildland of 500 acres or more, that if they barred people from entering that they be taxed a fee. That is the way the bill started and I opposed it strongly. As such it was killed in the other body, and now we are trying to produce almost an entirely different concept.

Now I would hesitate to vote for this amendment as it now reads, that's all. There are only two alternatives, either to table the whole thing and rewrite the amendment or I shall have to oppose the amendment, that's all. That is why I wanted to make my stand clear on it.

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

Mr. CONNOLLY: Mr. Speaker and Ladies and Gentlemen of the House: I would just like to point out to Mr. Henley, Mr. Jackson, Mr. Simpson and others who feel as they have spoken, that this amendment would not in every case require the Attorney General to prosecute. The amendment, if you read it, says, "if in his judgement the public interest so requires." These gentlemen on the one hand say, yes, there is a problem, but on the other hand they would deny access to individual citizens the use of the legal resources of the office of the Attorney General. And I just think that it is about time that we stopped denying use of Maine's natural resources by the individual citizens because of wealthy people or because of big business corporations.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker and Ladies and Gentlemen of the House: As one of those who opposed Mr. Dyar's original bill and who opposed his first amendment, I want to say here now that I can go along one hundred percent with the amendment under discussion. It does nothing more than reaffirm the old colonial law that you can go anywhere you want on foot and it does not compel the Attorney General to take any action. In fact, I think if we pass this bill, the message will get back to those people who are denying the right to cross unimproved land on foot, will get the message and we will not have any more problems with it.

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

Mr. DONAGHY: Mr. Speaker and Ladies and Gentlemen of the House: I would like to ask through the Chair of the gentleman from Eagle Lake why he keeps referring to unimproved land. As far as I know, and I am quite sure it is true because I have been involved in this to some extent, colonial law does not refer to improved or unimproved land. You have the right of access and I agree with it. Why are we just talking about unimproved land? Is this a trick to

try to make people think we are just talking about big bad corporations? As far as I know you can cross anyone's land if it is needed to be used to get access to a Great Pond.

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

Mr. MARTIN: Mr. Speaker and Ladies and Gentlemen of the House: I want to assure the gentleman from Lubec that I was not trying to trick him. I want to emphasize the point that the term unimproved land comes from the colonial ordinances and that is where it is taken and that is why it appears in the bill as you have it now.

It seems to me, and speaking only as an individual only, in terms of talking about improved land, I am not sure I want to give the right to someone to cross over improved land if there was no other way of access to that pond. I take, for example if the area is entirely divided up into 200-foot lots around that lake, and no one is bothering to buy land for the general public, I still would hesitate to give the right to anyone to cross over that land that has been improved for the right of any individual.

This applies to land that is unimproved. We are basically talking about land in the unorganized territory and in the wildlands of the State of Maine.

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

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: I think part of the confusion here is because the amendment quoted part of the colonial law as it was pertinent to the question but it did not mention the very important part which has been referred to by the gentleman in the left hand corner, and that is, if there is public access to the water or town landing or public landing or anything of this sort, then the right to go across another man's land does not exist. This is one of the reasons why I voted for reconsideration.

I would hope that it could be tabled and the amendment

redrawn to take care of this question because it is spelled out in the colonial ordinances and Mr. Jackson raised the question that in all probability that type of pond would have one or more public access points. So I do not believe that it was the intent of this amendment to send people down through somebody's front lawn if there was public access.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Dunleavy.

Mr. DUNLEAVY: Mr. Speaker, having voted on the prevailing side whereby we did not recommit to Judiciary Committee, I now move that we reconsider our vote on that motion.

The SPEAKER: The gentleman from Presque Isle, Mr. Dunleavy, moves that the House reconsider its action whereby it failed to recommit this Bill to the Committee on Judiciary.

The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker and Ladies and Gentlemen of the House: I am sorry that I am getting up again to speak. I know one gentleman here in the House that does not like to hear me talk too often but that is all right.

I would say to you, ladies and gentlemen of this House, that you are not going to gain anything by sending it back to committee. It has been debated back and forth. You are going to have the very same vote that you had the last time. And I say to you, let us get rid of it right now one way or the other.

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

Mr. CARRIER: Mr. Speaker and Ladies and Gentlemen of the House: I agree with the gentleman from Sanford. I am on the Judiciary Committee and I do not think that it will do any good to send it back there. I think that we spent a lot of time on it over there. I do not think that we will come out with any magic solution to it and I will vote the way I think is right. I am against recommitting it to the Committee

on Judiciary. We have plenty to do up there and it takes us a long time to do it.

The SPEAKER: The pending question is on the motion of the gentleman from Presque Isle, Mr. Dunleavy, that this Bill be recommitment to the Committee on Judiciary. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken. 54 having voted in the affirmative and 74 having voted in the negative, the motion did not prevail.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Standish, Mr. Simpson, that House Amendment "C" to Bill "An Act Relating to Fees for Forest Lands and Wild Lands Posted Against Trespass," House Paper 58, L. D. 70, be indefinitely postponed. All those in favor of that motion until will vote yes; those opposed will vote no.

For what purpose does the gentleman rise?

Mr. GAUTHIER: I rise for a point of order.

The SPEAKER: The gentleman may state his point of order.

Mr. GAUTHIER: In a roll call isn't anyone sitting in his seat have to vote on this question?

The SPEAKER: The gentleman is correct. Everyone sitting — for what purpose does the gentleman rise.

Mr. JALBERT: I rise on a point of personal privilege.

The SPEAKER: The gentleman may state his personal privilege.

Mr. JALBERT: Number one, I was deliberating as to how to vote and you shut the vote and justifiably so. I am not criticizing you in any manner. But the point

of personal privilege that I arise on is twofold.

The gentleman from Sanford, Mr. Gauthier, earlier this morning insinuated that somebody might think that he would be speaking too often. I don't know if he was referring to me but I don't have any doubt that he was referring to me.

I can recall that I was shut off after asking unanimous consent to address the House for the third time and I was refused and I know where the loud no came from. But I do remember the same gentleman having spoken five times on the bill and nobody objected to it. That is my first complaint of personal privilege.

The SPEAKER: The Chair would rule that that is not a grounds for personal privilege.

Mr. JALBERT: The second point of personal privilege is this. If I gave an honest explanation as to why my vote was not cast and I don't want to cast any reflections but I can dig up the record and show a certain gentleman that has not voted at least twenty times since I have been here on certain measures.

The SPEAKER: The Chair would inform the House that Rule 19 states, "Every member who shall be in the House when a question is put where he is not excluded by interest shall give his vote, unless the House for special reasons shall excuse him, and when yeas and nays are ordered, no member shall leave his seat until the vote is declared." And it goes on. So the Chair would state that every member in the House must under the rules vote if they are here in the House.

The Chair would further state that it is the Chair's understanding that a person may not speak more than twice without unanimous consent of the House unless there is an intervening motion. And although several members have spoken on this bill more than twice, it is the Chair's recollection that each time there was an intervening motion or a request for a roll call.

In conclusion, the Chair would have to order that every person would have to vote on this issue unless there is a special reason

the gentleman can be excused by leave of the House. The Chair would ask how the gentleman from Lewiston would vote on this matter?

Mr. JALBERT: If I may I would like to rise again on another point of personal privilege.

The SPEAKER: The gentleman may state his point of personal privilege.

Mr. JALBERT: My point of privilege, Mr. Speaker, is you allowed somebody a couple of weeks ago to speak on a bill. The roll call had been called for and you allowed him to walk out of the House. I would vote no anyway.

The SPEAKER: The gentleman from Lewiston votes "No."

ROLL CALL

YEA — Ault, Birt, Bither, Bragdon, Brown, Bunker, Cameron, Carrier, Cressey, Donaghy, Dudley, Dunn, Farrington, Flynn, Hamblen, Henley, Hoffses, Hunter, Jackson, Lewis, E.; Littlefield, MacLeod, Maddox, Merrill, Norris, Pratt, Shaw, Simpson, L.E.; Snowe, Soulas, Trask, Walker, Wheeler, White.

NAY — Albert, Baker, Berry, G.W.; Berry, P.P.; Berube, Binnette, Boudreau, Brawn, Bustin, Carey, Carter, Chick, Chonko, Clark, Conley, Connolly, Cooney, Cote, Cottrell, Crommett, Curran, Curtis, T. S., Jr.; Dam, Deshaies, Dow, Drigotas, Dunleavy, Dyar, Emery, D. F.; Farnham, Faucher, Fecteau, Ferris, Finemore, Fraser, Gahagan, Garsoe, Gauthier, Genest, Goodwin, H.; Greenlaw, Haskell, Herrick, Hobbins, Huber, Immonen, Jacques, Kelleher, Kelley, R. P.; Keyte, Kilroy, Knight, LaCharite, LaPointe, Lawry, LeBlanc, Lewis, J.; Lynch, Mahany, Martin, Maxwell, McCormick, McHenry, McKernan, McNally, McTeague, Mills, Morin, L.; Morin, V.; Morton, Mulhern, Murchison, Murray, Najarian, O'Brien, Palmer, Parks, Perkins, Peterson, Ricker, Rolde, Rollins, Santoro, Shute, Silverman, Smith, D. M.; Smith, S.; Sproul, Talbot, Tanguay, Theriault, Trumbull, Tyndale, Webber, Whitzell, Willard, Wood, M. E.

ABSENT — Briggs, Churchill, Davis, Evans, Farley, Good, Goodwin, K.; Hancock, Hodgdon, Kelley,

McMahon, Pontbriand, Ross, Shelta, Stillings, Susi, Tierney.

Yes, 34; No, 98; Absent, 17.

The SPEAKER: Thirty-four having voted in the affirmative and ninety-eight in the negative, with seventeen being absent, the motion to indefinitely postpone House Amendment "C" does not prevail.

Thereupon, House Amendment "C" was adopted.

The Bill was passed to be engrossed as amended and sent to the Senate.

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

Bill "An Act Prohibiting the Use of the Name Accountant Unless Registered as a Public Accountant" (H. P. 143) (L. D. 176) New Draft (H. P. 1171) (L. D. 1410)

Tabled — March 20, by Mr. Donaghy of Lubec

Pending — Passage to be engrossed.

On motion of Mr. Donaghy of Lubec, retabled pending passage to be engrossed and tomorrow assigned.

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

Mr. BIRT: Mr. Speaker and Members of the House: Earlier today I introduced an order relative to sending a question to the Supreme Court. In going through the rules we find that Rule 41 says, "A proposition to require the opinion of the Justices of the Supreme Judicial Court as provided by the Constitution shall not be acted upon until the next day after such proposition is made." Therefore I would hope that this could be tabled for one day. As a result of this I would ask reconsideration of this order.

Thereupon, on motion of Mr. Birt of East Millinocket, the House reconsidered its action of earlier in the day whereby this Order received passage.

On motion of Mr. Simpson of Standish, tabled pending passage and tomorrow assigned.

On motion of Mr. Simpson of Standish,

Adjourned until one thirty o'clock tomorrow afternoon.