

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh  
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**HOUSE**

Wednesday, April 2, 1975

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

Prayer by Rev. Daniel C. Tuttle of East Winthrop.

The journal of yesterday was read and approved.

**Papers from the Senate**

Bills from the Senate requiring reference were disposed of in concurrence, with the following exception:

Bill "An Act Relating to County Administration of Certain Federal Programs" (Emergency) (S. P. 416) (L. D. 1312) (Approved by a Majority of the Committee on Reference of Bills pursuant to Joint Rule No. 10)

Came from the Senate referred to the Committee on State Government and ordered printed.

(On motion of Mr. Rolde of York, tabled pending reference and tomorrow assigned.)

**Reports of Committees**

**Leave to Withdraw**

Committee on Veterans and Retirement reporting Leave to Withdraw on Bill "An Act Relating to Service Retirement of Employees in Direct Contact with Patients at State Hospitals" (S. P. 124) (L. D. 410)

Committee on Veterans and Retirement reporting same on Bill "An Act to Base Adjustments of Teacher and State Employee Retirement Allowances on the Consumer Price Index" (S. P. 235) (L. D. 814)

Came from the Senate read and accepted.

In the House, the Reports were read and accepted in concurrence.

**Divided Report**

**Tabled and Assigned**

Majority Report of the Committee on Veterans and Retirement reporting "Ought Not to Pass" on Bill "An Act Relating to Retirement of Deputy Attorneys General, Assistant Attorneys General and Staff Attorneys" (S. P. 237) (L. D. 790)

Report was signed by the following members:

Messrs. O'LEARY of Oxford  
COLLINS of Knox  
CLIFFORD of Androscoggin  
— of the Senate.

Messrs. NADEAU of Sanford  
LEONARD of Woolwich  
POWELL of Wallgrass Pl.  
MacEACHERN of Lincoln  
CURTIS of Rockland  
THERIAULT of Rumford  
MORTON of Farmington  
Mrs. LAVERTY of Millinocket  
Mrs. KELLEY of Machias

— of the House.

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

Report was signed by the following member:

Mr. USHER of Westbrook  
— of the House.

Came from the Senate with the Majority "Ought Not to Pass" Report accepted.

In the House: Reports were read.

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

Mr. USHER: Mr. Speaker, I would appreciate it if someone would table this

for one day. I am waiting to hear from the Attorney General on this.

Thereupon, on motion of Mr. Rolde of York, tabled pending acceptance of either Report and tomorrow assigned.

**Messages and Documents**

The following Communication:

**ANSWERS OF THE JUSTICES**

To the Honorable House of Representatives of the State of Maine:

In compliance with the provisions of Section 3 of Article VI of the Constitution of Maine, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following answers to the questions propounded on March 14, 1975.

**QUESTION NO. 1:** Would the provisions of Legislative Document No. 689 (Exhibit A) as amended by Committee Amendment "A" (Exhibit B) an Act now pending before the House of Representatives of the 107th Legislature if enacted into law unconstitutionally apportion and assess a tax upon real estate in violation of Article IX, Section 8 of the Constitution of the State of Maine?

**ANSWER:** We answer in the negative.

If enacted into law, Legislative Document No. 689, as amended by Committee Amendment "A", would not violate the provisions of Article IX, Section 8 of the Constitution of Maine. It imposes an excise tax rather than a property tax upon real estate; therefore, Article IX, Section 8, which prescribes limitations only as to "taxes upon real and personal estate" is inapplicable. *State v. F. H. Vahlsing, Inc.*, 147 Me. 417, 88 A.2d 144 (1952); see: *Opinion of the Justices*, 155 Me. 30, 46, 152 A.2d 81 (1959).

There is ambiguity in the legislative document under study insofar as it contains express language having both excise and property tax connotations and omits express language delineating substantive elements more suggestive of intention to impose an excise, rather than a property, tax. Concretely, although in express language the tax is labelled an "excise" tax, other language states expressly that the tax is imposed "on . . . parcels of . . . land." Further, there is a failure to specify in express terms that the tax is imposed on the "performance of an act, the engaging in an occupation or the enjoyment of a privilege" —

these being the types of subject-matter upon which an excise tax is normally imposed. See: *State v. Western Union Telegraph Co.*, 73 Me. 518, 531 (1882); *Opinion of the Justices*, 123 Me. 573, 577, 578, 121 A. 902 (1923); *Opinion of the Justices*, 155 Me. 30, 46, 152 A.2d 81 (1959). Hence, notwithstanding the "excise" label, the textual language delineates substantive matters indicative of a property tax on real estate rather than an excise tax on an activity, or the engaging in an occupation or the enjoyment of a privilege.

Despite these deficiencies of draftsmanship we are satisfied that Legislative Document No. 689, as amended, manifests legislative intention to impose, and may reasonably be interpreted to embody substantive provisions adequate to effectuate the imposition of an excise tax.

The "Statement of Fact" explicitly refers to the "forests of Maine" as a "resource" important to the "economy" of the State. Throughout the proposed legislation the references to "forests" as an important "economic resource" of

Maine are linked with the Tree Growth Tax Law — 36 M.R.S.A. Chapter 105, subchapter 11-A — which defines "forest land" as

"land used primarily for growth of trees and forest products" and excludes as "forest land" that which is "unsuitable for growing a forest type" i.e.,

" . . . a stand of trees characterized by the predominance of one or more groups of key species which make up 75 percent or more of the sawlog volume of sawlog stands, or cordwood in poletimber stands, or of the number of trees in seedling and sapling stands."

In this manner, the legislative document focuses, albeit implicitly, upon the commercial activity of producing trees and forest products.

Such concentration upon commercial forestry activity combined with the express identification of the tax as an "excise" tax is sufficient in our view to establish that the tax imposed is an excise tax on the commercial activity of using land for the production of trees and forest products.

That the rate of the proposed excise tax as specified by reference to land acreage does not destroy the "excise" nature of the tax. Land acreage has rational relationship to the activity on which the excise tax is imposed since, first, land as such is inextricably involved in the production of forest products, and, second, a tax-rate determination in terms of acres of land, in light of peculiarities inherent in commercial forestry, facilitates efficient administration of the tax.

**QUESTION NO. 2:** If the answer to the first question is in the affirmative, would the provisions of Legislative Document No. 689 (Exhibit A), if enacted into law without Committee

1 We recognize that the basic subject-matter of the Tree Growth Tax Law relates to property, rather than excise, taxation insofar as that law "implements the 1970 amendment of Section 8 of Article IX of the Maine Constitution providing for valuation of timberland and woodlands according to their current use. . . ."

The Tree Growth Tax Law, however, makes abundantly clear that in many of its provisions it is concerned with the "operation" of forest lands "on a sustained yield basis" and seeks to "promote better forest management" as well as the "planting, culture and continuous growth of forest products" in relation to the "potential for annual wood production. . ." See: 36 M.R.S.A. § 572.

Our present interest is in these aspects of the Tree Growth Tax Law highlighting that the enterprise of commercial forestry, as conducted in Maine, is a "unique economic . . . resource" of this State.

The references in the instant legislative document to the Tree Growth Tax Law, as that law treats with forestry as a commercial venture, have the legal effect of assisting in identifying the activity of commercial forestry as the subject-matter upon which the tax, expressly designated an "excise" tax, is intended to be imposed.

Amendment "A" (Exhibit B), unconstitutionally apportion and assess a tax upon real estate in violation of Article IX, Section 8 of the Constitution of the State of Maine?

**ANSWER:** Since our answer to Question No. 1 is in the negative, the question is inapplicable.

**QUESTION NO. 3:** If the provisions of Legislative Document No. 689 (Exhibit A) with or without Committee Amendment "A" (Exhibit B) do not violate Article IX, Section 8 of the Constitution of the State of Maine is the classification of persons subject to the tax in violation of the Constitution of the State of Maine?

**ANSWER:** We answer in the negative.

We interpret this question to be directed to whether citing the class of persons subject to the proposed tax to numbers of "parcels consisting of more than 500 acres of forest land", insofar as said land is "subject to mandatory classification as forest land pursuant to... the Tree Growth Tax Law", is an invidious discrimination contravening the "equal protection of the laws" clause of Article I, Section 6-A of the Constitution of Maine.

We find no such invidious discrimination. The classification bears a rational relationship to a primary purpose of the tax, achieving manageable harvesting of the spruce-fir forests as necessary for the forest industry, and, in addition, is designed to facilitate efficient administration of the tax by avoiding the gross burdens which would result if every owner of a small tract of land used primarily for the growth of trees were made subject to the tax.

Dated at Portland, Maine, this twenty-eighth day of March, 1975.

Respectfully submitted:

Signed:

ARMAND A. DUFRESNE, JR.  
RANDOLPH A. WEATHERBEE  
CHARLES A. POMEROY  
SIDNEY W. WERNICK  
JAMES P. ARCHIBALD  
THOMAS E. DELAHANTY

The Communication was read and ordered placed on file.

#### Petitions, Bills and Resolves Requiring Reference

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

##### Agriculture

Bill "An Act Relating to the Officials, Judges and Starters at Harness Horse Race Meets" (H. P. 1256) (Presented by Mr. Kelleher of Bangor) (Approved for introduction by a Majority of the Committee on Reference of Bills pursuant to Joint Rule 10)

Bill "An Act Relating to License and Enforcement of Custom Establishments under Maine Meat Inspection Law" (H. P. 1262) (Presented by Mr. Wilfong of Stow) (Ordered Printed)

Sent up for concurrence.

##### Tabled and Assigned

Bill "An Act to Provide for Reimbursement of Court Appointed Attorneys for Reasonable Disbursements made on Behalf of Their Clients" (H. P. 1265) (Presented by Mr. Wilfong of Stow)

Committee on Reference of Bills suggested the Committee on Appropriations and Financial Affairs.

(On motion of Mr. Gauthier of Sanford, tabled pending reference and tomorrow assigned.)

##### Appropriations and Financial Affairs

Bill "An Act to Amend the Catastrophic Illness Program by Exempting Senior Citizens from Certain Requirements and Assuring Reimbursement under Certain

Circumstances" (H. P. 1287) (Presented by Mrs. Berry of Madison) (Cosponsor: Mrs. Morin of Old Orchard Beach) (Ordered Printed)

Sent up for concurrence.

##### Business Legislation

Bill "An Act to Increase Certain Volume Fees under the Maine Consumer Credit Code" (H. P. 1251) (Presented by Mrs. Clark of Freeport)

Bill "An Act Concerning the Agency Collection Act" (H. P. 1258) (Presented by Mrs. Clark of Freeport)

Bill "An Act to Amend the Laws Relating to Savings Banks and Savings and Loan Associations" (H. P. 1267) (Presented by Mrs. Clark of Freeport)

Bill "An Act Providing for No-Fault Motor Vehicle Insurance" (H. P. 1282) (Presented by Mr. Birt of East Millinocket)

Bill "An Act to Improve the Enforcement of the Federal Flammable Fabrics Act" (H. P. 1293) (Presented by Mr. Peterson of Windham)

Bill "An Act to Redefine the Term Finance Charge under the Consumer Credit Code so as not to Include a Discount for Cash Payment" (Emergency) (H. P. 1319) (Presented by Mrs. Clark of Freeport)

Bill "An Act to Require Health Care Coverage for Newly Born Children" (H. P. 1324) (Presented by Mr. Farnham of Hampden)

Bill "An Act to Authorize Barbers to Practice Barbering in a Beauty Shop" (H. P. 1330) (Presented by Mr. Ault of Wayne) (Ordered Printed)

Sent up for concurrence.

##### Education

Bill "An Act Relating to the Regional Technical Vocational Centers and the Vocational Education Regions" (H. P. 1278) (Presented by Mr. Lynch of Livermore Falls)

(Ordered Printed)

Sent up for concurrence.

##### Energy

Bill "An Act to Require Legislative Approval for the Construction of a Nuclear Power Plant used by a Public Utility to Generate Electricity" (H. P. 1261) (Presented by Mr. Wilfong of Stow)

(Ordered Printed)

Sent up for concurrence.

##### Fisheries and Wildlife

Bill "An Act to Amend the Fishing Laws of the State of Maine" (H. P. 1250) (Presented by Mr. Mills of Eastport)

Bill "An Act to Establish Certain Big Game Hunting License Categories and to Increase Certain Fees for Hunting Permits" (H. P. 1318) (Presented by Mr. Cooney of Sabattus)

(Ordered Printed)

Sent up for concurrence.

##### Health and Institutional Services

Bill "An Act Creating the Maine Arthritis Task Force" (H. P. 1280) (Presented by Mr. Blodgett of Waldoboro) (Cosponsors: Mrs. Clark of Freeport, Mr. Walker of Island Falls)

(Ordered Printed)

Sent up for concurrence.

##### Human Resources

Bill "An Act Relating to the Period for Commencing Civil Actions under the Human Rights Act" (H. P. 1269)

(Presented by Mr. Smith of Dover-Foxcroft)

(Ordered Printed)

Sent up for concurrence.

##### Labor

Resolve, Authorizing Suit for Severance Pay for Employees (Emergency) (H. P. 1322) (Presented by Mr. Farley of Biddeford) (Approved for introduction by a majority of the Committee on Reference of Bills pursuant to Joint Rule 10)

Bill "An Act to Except from the Definition of Employee in the Workmen's Compensation Law Persons Engaged in Commercial Fishing Related Activities while Engaged in Work Ashore" (H. P. 1337) (Presented by Mr. Greenlaw of Stonington)

(Ordered Printed)

Sent up for concurrence.

##### Tabled and Assigned

Bill "An Act to Limit Priority Liens in Individual and Group Health Insurance Policies" (H. P. 1252) (Presented by Mrs. Clark of Freeport)

Committee on Reference of Bills suggested the Committee on Judiciary.

(On motion of Mr. Gauthier of Sanford, tabled pending reference and tomorrow assigned.)

##### Judiciary

Bill "An Act to Create a Commission to Revise the Statutes Relating to Juveniles, Including the Statutes Relating to the Juvenile Court" (Emergency) (H. P. 1271) (Presented by Mr. Smith of Dover-Foxcroft)

Bill "An Act Relating to Public Compensation to the Victims of Crime" (H. P. 1279) (Presented by Mr. Perkins of South Portland)

Bill "An Act Concerning Justification for the Use of Force" (H. P. 1281) (Presented by Mr. Strout of Corinth)

Bill "An Act Concerning the Formation of Corporations without Capital Stock" (H. P. 1291) (Presented by Mr. Spencer of Standish)

Bill "An Act to Abolish the Defense of Sovereign Immunity in Certain Situations" (H. P. 1297) (Presented by Mr. Hewes of Cape Elizabeth)

Bill "An Act to Require the Carrying of a Concealed Weapons License when a Concealed Weapon is Carried" (H. P. 1301) (Presented by Mr. Goodwin of South Berwick)

Bill "An Act Relating to a Uniform Traffic Ticket and Complaint System for use Throughout the State of Maine" (H. P. 1334) (Presented by Mr. Joyce of Portland)

(Ordered Printed)

Sent up for concurrence.

##### Tabled and Assigned

Bill "An Act Converting Allagash Plantation into the Town of Allagash" (H. P. 1276) (Presented by Mr. Martin of Eagle Lake)

Committee on Reference of Bills suggested the Committee on Legal Affairs.

(On motion of Mr. Dam of Skowhegan, tabled pending reference and tomorrow assigned.)

##### Legal Affairs

Bill "An Act Relating to the Games of "Beano" and "Bingo" (H. P. 1277) (Presented by Mrs. Berry of Madison)

Bill "An Act Concerning Chainsaw Repairmen" (H. P. 1292) (Presented by Mr. Rollins of Dixfield)

Bill "An Act Relating to Licensing and Fee Requirements for Private Detective, Watch, Guard or Patrol Agencies" (H. P. 1299) (Presented by Mr. Stubbs of Hallowell)

Bill "An Act Concerning Transcripts of Hearings held before the Land Damage Board (H. P. 1304) (Presented by Mr. Carroll of Limerick)

Bill "An Act to Validate the Election of Municipal Officials in the City of Hallowell in 1971" (H. P. 1310) (Emergency) (Presented by Mr. Stubbs of Hallowell)

Bill "An Act Relating to Public Rest Room Facilities in Department Stores and Supermarkets" (H. P. 1312) (Presented by Mr. Wagner of Orono)

Bill "An Act to Deter Trespass in Forest Practices" (H. P. 1333) (Presented by Mr. Lynch of Livermore Falls)

(Ordered Printed)  
Sent up for concurrence.

#### Tabled and Assigned

Bill "An Act to Incorporate the Frye Island Village Corporation" (H. P. 1316) (Presented by Mr. Spencer of Standish) (By request)

Committee on Reference of Bills suggested the Committee on Legal Affairs.

(On motion of Mr. Dam of Skowhegan, tabled pending reference and tomorrow assigned.)

#### Liquor Control

Bill "An Act to Require Licenses for Employees of Malt Liquor Wholesalers" (H. P. 1248) (Presented by Mr. Jensen of Portland)

Bill "An Act Concerning the Income Requirements for Class A Restaurants under the Liquor Statutes" (H. P. 1296) (Presented by Mr. Pierce of Waterville)

(Ordered Printed)  
Sent up for concurrence.

#### Local and County Government

Bill "An Act to Establish Program Budgeting for Counties and to Require Submission of the County Estimates to the Secretary of State by the 20th Day of each January in which the Legislature Meets" (H. P. 1290) (Presented by Mr. Goodwin of South Berwick) (Co-sponsor: Mr. McMahon of Kennebunk)

Resolve, to appropriate funds to the West Somerset Historical Society (H. P. 1336) (Presented by Mr. Faucher of Solon)

(Ordered Printed)  
Sent up for concurrence.

#### Marine Resources

Bill "An Act to Modify the Laws Relating to Lobster Fishing Licenses" (H. P. 1253) (Presented by Mrs. Clark of Freeport)

Bill "An Act to Change the Beginning of the Scallop Season in Casco Bay" (H. P. 1264) (Presented by Mrs. Clark of Freeport)

Bill "An Act to Clarify Definitions under the Marine Resources Statutes" (H. P. 1295) (Presented by Mrs. Post of Owls Head)

Bill "An Act Establishing Classes of Lobster and Crab Fishing Licenses and Imposing a Trap Fee" (H. P. 1298) (Presented by Mr. Dyer of South Portland)

Bill "An Act to Correct Technical Errors in Laws Relating to Marine Resources" (H. P. 1338) (Presented by Mr. Greenlaw of Stonington)

Bill "An Act Relating to the Statutes Concerning Clams, Mussels, Quahogs and

Marine Worms" (H. P. 1339) (Presented by Mrs. Post of Owls Head)

Bill "An Act to Establish Statutory Provisions for a Retail Seafood Dealer's License" (H. P. 1340) (Presented by Mrs. Post of Owls Head)

Bill "An Act to Establish Statutory Provisions for a Wholesale Seafood Dealer's and Processor's License" (H. P. 1341) (Presented by Mrs. Post of Owls Head)

(Ordered Printed)  
Sent up for concurrence.

#### Natural Resources

Bill "An Act to Permit the Board of Environmental Protection to Accept Municipal Subdivision Permits in Lieu of Site Location Review and to Repeal the Minimum Lot Size Requirements" (H. P. 1272) (Presented by Mr. Garsoe of Cumberland)

Bill "An Act to Provide that Failures of a Municipal Reviewing Authority to Take Action within 30 Days of Receipt of an Application to Subdivide Shall Constitute Approval" (H. P. 1313) (Presented by Mr. Ault of Wayne)

Bill "An Act to Change the Setback and Frontage Provisions Relating to the Saco River Corridor" (H. P. 1323) (Presented by Mr. Farley of Biddeford)

(Ordered Printed)  
Sent up for concurrence.

#### Public Utilities

Bill "An Act Concerning Disconnection of Electric, Gas and Water Utilities to Leased or Rented Property" (H. P. 1249) (Presented by Mr. Faucher of Solon)

Bill "An Act to Permit Interstate Public Utility Hearings" (H. P. 1254) (Presented by Mr. Kelleher of Bangor)

Bill "An Act Relating to Proceedings Before the Public Utilities Commission" (H. P. 1259) (Presented by Mr. LaPointe of Portland)

Bill "An Act to Remove the Expenses of Promotional Advertising from the Determination of Electric Utility Rates" (H. P. 1284) (Presented by Mr. Jensen of Portland)

Bill "An Act Concerning the Regulation and Supervision of Dams and Reservoirs" (H. P. 1302) (Presented by Mr. Stubbs of Hallowell)

Bill "An Act Relating to Utility Rate-making Treatment of Certain Advertising and Sales Promotion Expenses of Electrical Companies" (H. P. 1306) (Presented by Mrs. Post of Owls Head)

Bill "An Act to Extend the Territorial Limits of the Hallowell Water District" (H. P. 1311) (Presented by Mr. Stubbs of Hallowell)

Bill "An Act to Promote Efficiency in Public Utilities" (H. P. 1315) (Presented by Mr. Henderson of Bangor)

(Ordered Printed)  
Sent up for concurrence.

#### State Government

Bill "An Act Establishing the Code of Fair Practices and Affirmative Action as the Equal Opportunity Standard for all State Financed Educational Activities" (H. P. 1257) (Presented by Mrs. Clark of Freeport)

Bill "An Act to Register Recreation Administrators" (H. P. 1260) (Presented by Mr. Goodwin of South Berwick)

Resolution, Proposing an Amendment to the Constitution to Establish a Judicial Nominating Commission (H. P. 1266)

(Presented by Mr. Silverman of Calais)

Bill "An Act to Amend the Law Relating to the Maine Guarantee Authority" (H. P. 1268) (Presented by Mr. Smith of Dover-Foxcroft)

Bill "An Act Authorizing the Use of Facsimile Signature on Certain Documents by the Secretary of State" (H. P. 1270) (Presented by Mr. Mahany of Easton)

(Ordered Printed)  
Sent up for concurrence.

#### Tabled and Assigned

Bill "An Act to Establish the Department of Indian Police" (H. P. 1274) (By request) (Presented by Mr. Binnette of Old Town) (By request)

Committee on Reference of Bills suggested the Committee on State Government.

(On motion of Mr. Talbot of Portland, tabled pending reference and tomorrow assigned.)

#### State Government cont'd.

Bill "An Act Authorizing Regulations Relating to Governmental and Commercial Buildings within the Capitol Complex Area" (H. P. 1275) (Presented by Mr. Lewin of Augusta)

Bill "An Act to Authorize the Leasing of Space in the Cumberland County Building by the Supreme Judicial Court" (H. P. 1283) (Presented by Mr. Joyce of Portland)

Bill "An Act Relating to Restriction on Powers and Duties of the Baxter State Park Authority" (H. P. 1285) (Presented by Mr. Winship of Milo)

Bill "An Act to Promote the Orientation of State Employees in the Functions and Purposes of State Government" (H. P. 1289) (Presented by Mr. Cooney of Sabattus)

Bill "An Act to Provide for Citizen Gardens on Suitable State Land" (Emergency) (H. P. 1294) (Presented by Mr. Peterson of Windham)

Bill "An Act Concerning Membership on the Public Utilities Commission" (H. P. 1303) (Presented by Mr. Carroll of Limerick) (Cosponsor: Mr. Kelleher of Bangor)

(Ordered Printed)  
Sent up for concurrence.

#### Natural Resources

Bill "An Act to Provide for One Representative of the Fishing Industry on the Board of Environmental Protection" (H. P. 1307) (Presented by Mrs. Post of Owls Head)

Committee on Reference of Bills suggested the Committee on Natural Resources.

On motion of Mr. Cooney of Sabattus, referred to the Committee on Natural Resources, ordered printed and sent up for concurrence.

#### State Government cont'd.

Bill "An Act to Establish the Maine State Ferry Advisory Board" (H. P. 1308) (Presented by Mrs. Post of Owls Head)

Bill "An Act Concerning the Exemption of Certain Law Enforcement Officers from the Requirement of Attendance at the Maine Criminal Justice Academy" (H. P. 1328) (Presented by Mr. Stubbs of Hallowell)

Bill "An Act Relating to Vacation and Employment of State Employees who are Members of Volunteer Fire Departments"

(H. P. 1314) (Presented by Mr. Ault of Wayne)

Bill "An Act Relating to Forester Registration and Licensing" (H. P. 1329) (Presented by Mr. Palmer of Nobleboro)

Resolution, Proposing an Amendment to the Constitution to Provide a Judicial Nominating Commission (H. P. 1335) (Presented by Mr. Faucher of Solon)

(Ordered Printed)  
Sent up for concurrence.

#### Taxation

Bill "An Act to Exempt Community Based Mental Retardation Services from the Sales Tax" (H. P. 1255) (Presented by Mr. Kelleher of Bangor)

Bill "An Act Relating to Certain Property and Excise Tax Exemptions" (H. P. 1263) (Presented by Mrs. Najarian of Portland) (Cosponsors: Mr. LaPointe of Portland, Mr. Pelosi of Portland, Mr. Henderson of Bangor)

Bill "An Act Concerning Abatement of the Property Tax on Certain Camps in the Unorganized Territory Owned by Persons 65 Years of Age or Older" (H. P. 1288) (Presented by Mr. Birt of East Millinocket)

Bill "An Act Exempting Sales of Commercial Fishing Vessels, Machinery and Equipment Thereupon from the Sales Tax" (H. P. 1305) (Presented by Mrs. Post of Owls Head)

Bill "An Act to Reduce the Residence Requirement for Qualification for a Veteran's Tax Exemption on his Estate" (H. P. 1317) (Presented by Mr. McMahon of Kennebunk)

Bill "An Act to Exempt the Young Men's Christian Association and the Young Women's Christian Association from the Sales Tax" (H. P. 1320) (Presented by Mrs. Byers of Newcastle)

Bill "An Act to Amend the Real Estate Transfer Tax" (H. P. 1321) (Presented by Mr. Drigotas of Auburn)

Bill "An Act Exempting Machinery and Equipment used for Manufacturing and Research from Sales and Use Tax" (H. P. 1325) (Presented by Mr. Farley of Biddeford)

Bill "An Act to Exempt Nonprofit Historical Societies and Museums from Payment of Sales Tax" (H. P. 1326) (Presented by Mrs. Saunders of Bethel)

Bill "An Act to Establish a Tax Credit for Dependents under the Maine State Income Tax" (H. P. 1327) (Presented by Mr. Wilfong of Stow)

Bill "An Act Establishing an Occupancy Tax for Persons Staying at a Hotel or Rooming House" (H. P. 1332) (Presented by Mr. Cooney of Sabattus)

(Ordered Printed)  
Sent up for concurrence.

#### Transportation

Bill "An Act Relating to a Ferry Between Chebeague Island and Cousins Island" (H. P. 1273) (Presented by Mr. Garsoe of Cumberland)

Bill "An Act to Exclude Car Carriers from Being Operated with Dealer Plates under Motor Vehicle Laws" (H. P. 1286) (Presented by Mr. Jacques of Lewiston)

Bill "An Act to Allocate Additional State Aid Funds to the Town of Chelsea for Repair of the Windsor Road" (Emergency) (H. P. 1300) (Presented by Mr. Stubbs of Hallowell)

Bill "An Act to Establish a Sign on the Maine Turnpike Near the Augusta Exit to Indicate the City of Hallowell" (H. P. 1309) (Presented by Mr. Stubbs of Hallowell)

Bill "An Act Relating to Responsibility

for Maintenance of Highways and Town Ways in Municipalities of Less than 5,000 Persons" (H. P. 1331) (Presented by Mr. Carter of Winslow)

(Ordered Printed)  
Sent up for concurrence.

#### House Reports of Committees

##### Leave to Withdraw

Mr. Finemore from the Committee on Taxation on Bill "An Act to Increase the Property Tax Exemption for Veterans" (H. P. 304) (L. D. 367) reporting Leave to Withdraw

Report was read and accepted and sent up for concurrence.

##### Divided Report Tabled and Assigned

Majority Report of the Committee on Education on Bill "An Act to Prohibit Corporal Punishment of Pupils" (H. P. 275) (L. D. 417) reporting "Ought Not to Pass"

Report was signed by the following members:

Mr. THOMAS of Kennebec  
— of the Senate.

Messrs. BAGLEY of Winthrop  
LYNCH of Livermore Falls  
CARROLL of Limerick  
FENLASON of Danforth  
POWELL of Wallagrass Pl.  
TYNDALE of Kennebunkport

Mrs. LEWIS of Auburn  
— of the House.

Minority Report of same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-115) on same Bill.

Report was signed by the following members:

Messrs. BERRY of Androscoggin  
KATZ of Kennebec  
— of the Senate.

Messrs. INGEGNERI of Bangor  
CONNOLLY of Portland

Mrs. MITCHELL of Vassalboro  
— of the House.

Reports were read.

(On motion of Mr. Connolly of Portland, tabled pending acceptance of either Report and specially assigned for Friday, April 4).

#### Consent Calendar

##### First Day

In accordance with House Rule 49-A, the following items appear on the Consent Calendar for the First Day:

Bill "An Act Providing Compensation for Members of Inland Fisheries and Game Council" — Committee on Fisheries and Wildlife reporting "Ought to Pass" (H. P. 542) (L. D. 658)

Bill "An Act Relating to State Subsidy for Units with Federally Impacted Students" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-116) (H. P. 107) (L. D. 104)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 3, under listing of the Second Day.

#### Consent Calendar

##### Second Day

In accordance with House Rule 49-A, the following items appear on the Consent Calendar for the Second Day:

Bill "An Act to Amend the Charter of the Van Buren Light and Power District" (Emergency) (H. P. 740) (L. D. 921)

Bill "An Act Relating to Subsidized

Adoptions" (C. "A" H-109) (H. P. 203) (L. D. 248)

Bill "An Act Creating Uniform Standards for Disqualification of applicants with Prior Criminal Convictions for a License or Permit to Practice a Trade or Occupation Regulated by the State" (C. "A" H-110) (H. P. 330) (L. D. 402)

No objections having been noted at the end of the Second Legislative Day, the House Papers were passed to be engrossed and sent to the Senate for concurrence.

#### Passed to Be Engrossed

Bill "An Act to Reorganize the State Personnel Board" (Emergency) (H. P. 1238) (L. D. 1264)

Bill "An Act Relating to Expenditures of the Town Road Improvement Fund" (H. P. 1247) (L. D. 1266)

Bill "An Act Relating to Definition of Out-of-State Service Under State Retirement System" (H. P. 73) (L. D. 85)

Resolve, Providing a Minimum Service Retirement Allowance under the State Retirement Law for Bertha Cargill Rogers (Emergency) (H. P. 379) (L. D. 472)

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

#### Orders of the Day

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

Bill "An Act Relating to the Liability of Physicians and Surgeons Rendering Emergency Care" (H. P. 336) (L. D. 419) In House, recommitted to the Committee on Judiciary — In Senate, the Majority "Ought Not to Pass" report accepted in non-concurrence.

Tabled — March 27, by Mr. Rolde of York.

Pending — Further Consideration.

On motion of Mr. Gauthier of Sanford, the House voted to insist and ask for as Committee of Conference.

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

~~Bill "An Act to Protect the Rights of Persons Seeking Benefits under Maine's Workmen's Compensation Law" (H. P. 1222) (L. D. 1210)~~

~~Tabled — March 27, by Mr. Carey of Waterville.~~

~~Pending — Passage to be Engrossed.~~

~~Thereupon, the Bill was passed to be engrossed and sent to the Senate.~~

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

House Divided Report — Majority (12) "Ought Not to Pass" — Minority "Ought to Pass" — Committee on Natural Resources on Bill "An Act to Reclassify Prestile Stream" (H. P. 530) (L. D. 648)

Tabled — March 27, by Mr. Rolde of York.

Pending — Motion of Mr. Peterson of Windham to accept the Majority "Ought Not to Pass" Report.

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

Mr. AULT: Mr. Speaker, Ladies and Gentlemen of the House: I am opposed to Mr. Peterson's motion to accept the Majority "Ought not to pass" Report, and I hope you will reject it and accept the Minority Report to upgrade the classification of the Prestile Stream.

When I first signed this report, I considered putting an appropriation on the

bill, but being a realist in this session, I decided I would not do so. I will tell you later why I considered it.

There are a number of reasons to upgrade the Prestile Stream. The first thing I want you to know is that I do want the sugar beet plant that is on that stream to go into operation, provide jobs for the people in Aroostook County, and also hopefully to return some dollars back to the taxpayers of the State of Maine that they have lost as a result of this being shut down.

One of the reasons that this stream should be upgraded is because the Board of Environmental Protection has been directed by the statutes to upgrade any of the waters of the State of Maine as is possible. It is one of their responsibilities. Another reason is that the Canadian Government has filed a complaint with the United States Government that we are in violation of a 1909 international agreement that no country will degrade the waters of another, and the Prestile runs into the St. John in Canada.

In 1965, it appeared that the sugar beet crop could be grown in Aroostook County, and considerable debate resulted in the legislature that year to provide for the inception of the sugar beet industry. There were a few remarks made in this debate to downgrade the classification of the Prestile Stream at that time, and I am sure there are a number of you in this body today that were there then.

At that time, the Prestile called the "Pristine Prestile" because it was one of the best trout streams in the State of Maine, if not in the country. During the debate to declassify it — and by the way, the report of the committee that did consider the bill, which was An Act to Promote Production of Sugar Beets in the State and Reclassify certain Waters in Aroostook County, the report of the committee was seven in favor and three opposed. And during the debate on the floor of the Senate, one of those who supported the bill said, "Mr. President, I defend my signature on the majority 'Ought to pass' report. I, like the Senator from Franklin, am a little red faced, perhaps a little more so than he. However, I do understand from reliable sources that in order for this thing to get started they must have action now." In other words, lower the classification. "When the plan does get going and during the process of operation there will be a disposal unit installed in that area to take care of the situation." In other words, the effluent. "Under those circumstances, I have signed the majority 'ought to pass' report. In other words, Mr. Cahill of Somerset believed that the stream was going to be upgraded.

Other remarks in the House: Mr. Sahagian brought up the interesting question, "What would happen to the sugar refinery in the event it was built and it was operated for a month or two months or six months or a year and then something went wrong and they decided to shut the mill down? Who would assume the burden of this ten or twelve million or fifteen or twenty million dollars that is going to be invested between the federal government and the State of Maine? Who will assume this loss?" Mr. Bishop from Presque Isle stated, "I assume the responsibility would be borne, just as any industrial development, by the people who furnish the money." We are aware that that happened.

Mr. Levesque from Madawaska said, he feels certain that within a period of a few

years they will add onto their purification system to bring back the river, the Prestile River, back to its normal classification.

Mr. Rackliff from Easton said, "I represent the Easton Development Company and the Boston Company, and I don't want people to think in this room that we are not doing something up there to aid the pollution of the Prestile. We have got a very expensive disposal system." He is talking about the Town of Easton. "We are taking out all the liquids. In fact, when we started this project, the sugar beet process, we were asked to get a classification declassifying it altogether, take out all the classification. That is not our idea. We feel in time that we can correct this so that we can possibly have a 'B', but at this time we have got to have a 'D' to work on. We have spent a half a million dollars on disposal. There will be another half a million dollars go into the new disposal plant on beets; and last night I was talking with Mr. Vahlsing and he will hire a man from the state to see that we comply with this disposal to suit the state if they so desire. It is not our idea to pollute these waters. We think we can make a good stream out of this if we are given time."

Governor John Reed addressed a joint convention in support of declassifying the stream, and he said: "It is only what I consider an extreme emergency situation that I lend my full support to the measure that you are now considering to declassify the waters of the Prestile Stream."

There were numerous other statements made during the debate where it became apparent that the House and Senate, when they did declassify this stream, did believe that it was going to be upgraded at a later date, and it was as a result of this debate downgraded and the sugar beet plant went into operation for a year and has since shut down. I am sure you are also aware that the Canadians at one time did dam the Prestile Stream where it flowed into Canada and they didn't dam it necessarily just because of the sugar beet plant that was on the Prestile Stream, but also because there was a potato processing plant in Easton. They dammed it because further down stream where the Prestile goes into Canada, they have a trout and salmon fishery and a number of people in Canada use the Prestile as a drinking supply.

After the shut down of the sugar beet plant, and a subsequent installation of storage lagoons for the potato processing plant, the waters of the stream have actually reached a B-1 classification, which it is today, even though it isn't classified as such, it is still a class B, but the waters are B-1.

In January of 1975, a public hearing was held in Mars Hill relative to classifying the Prestile Stream back up to B-1. Mr. Vahlsing, who owns the potato processing plant and was the prior owner of the sugar beet plant did not bother to attend that hearing nor did he have a representative there. At the hearing on this bill before Natural Resources Committee, Mr. Vahlsing did not attend and did not have a representative there. In fact, the only two people who opposed the bill were the gentleman from Easton, Mr. Mahany, and the Senator from Aroostook, Senator Johnston. There was one remark that Senator Johnston made that interested me. He said that Mr. Vahlsing, when we ask why Mr. Vahlsing had not bothered to appear at the hearing, he said it was because Mr. Vahlsing had provided

sufficient information to him, by saying that if this stream were upgraded to class B-1, Mr. Vahlsing would pack up his potato plant and leave the State of Maine. That is why I considered the appropriation, to pay for the trucks to transport him out of the State of Maine.

I believe the stream should be reclassified. To insure its present B-1 status, to insure that it does keep clean, and also as a result of the responsibility of the DEP to insure that these waters are kept clean, we should also abide by our international treaty which we have with Canada and which we are now in violation of, but mostly, if Mr. Vahlsing lives up to his word and does leave the borders of the State of Maine as a result of this classification, I believe that alone is justification for voting to raise the classification of this river.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: This morning I urge you to support the majority report of this committee. I don't think it is time today to put anybody out of a job. We have enough unemployment. I live near there, and I know that in this area this is supported quite highly by the people, and I think the people of the area should be the ones to decide, not someone from way down the other end of the state. I know they feel very strongly in favor of this majority report.

I just wanted to try to convey this message to you, and I was here when it was lowered back when John Reed was Governor, and it made a lot of jobs when they were needed there, people needed jobs worse than they needed clean water. I think the same prevails today.

I would like to ask that when the vote is taken it be taken by roll call.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Men and Women of the House: I will try to defend the majority "ought not to pass" report of the Committee on Natural Resources on environmental grounds. The bill as it is would reclassify the Prestile Stream up. In direct testimony, direct questioning of the Commissioner of Environmental Protection, Bill Adams, I asked him specifically what the difference was between the B classification and the C classification. He said, very little, and he almost said no difference. My second question was, if there is no difference, why do you attempt to reclassify it up? He said that he thought that we should raise the classification, that that was the intent of past legislatures, that eventually the classification would move up. But before I sign a report reclassifying a stream up or supporting an environmental measure, there is going to have to be some good reasons why we should reclassify up. And when the Commissioner of Environmental Protection tells me specifically and the whole committee that there is no difference between the present classification, that it probably is right now a B classification, there really is no difference between a B and a C, why reclassify up, especially when we have, I understand, some negotiations going on between members of the sugar and potato industry with out-of-state interests, I really can't see the need to endanger these negotiations when there is no significant environmental reason according to the commissioner, at least the testimony that I



heard, to reclassify the stream from a C to a B.

If in the future there becomes significant environmental reasons to upgrade the Prestile Stream, I would certainly support them. But at the present time, I think the majority members of the Natural Resources Committee have acted responsibly. I think they have considered the environmental impact. I think they have considered the economic impact. They have weighed the two. They considered other relevant questions, and they came up with a decision, I think a decision which we in this legislature can be proud to live with whether we are environmentalists or whether we are industrialists. I think we can live with this decision. I think we can all be proud of it on the committee. I don't think we are going to be degrading the environment, otherwise I know the members of the committee would not have supported it. I urge you to support the majority of the committee.

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

Mr. MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I oppose the bill; I support the motion made by Mr. Peterson. As most of you know, I live in the Town of Easton where the potato plant is, the sugar plant is, and what has caused so much commotion over the Prestile Stream.

I am not debating this bill particularly, but there are a few comments that I would like to make. First, in answer to Mr. Ault, the stream was declassified to D, then it was reclassified upward to a C in 1967, I think. A few years ago, the town was granted a federal fund of thirty seven or thirty eight thousand dollars for a study of the feasibility of what would be the best system for the plants in the Town of Easton to use or to go in what direction for a treatment plant. After the study was made, the decision was that it was better for the Easton area, the plants, the village, for their waste to be pumped across country to the so-called Aroostook-Prestile Treatment Plant. Plans for that plant started way back in the early '70's. Construction was supposed to begin in 1973. Nothing has happened. Construction at the present time has not been started, so the waste from the plants has nowhere to go except in these lagoons, series of lagoons that the Vahlsing people have developed over the years. These lagoons are a series of sediment. The solids are pumped off, distributed, what they can't sell, to the plant in Presque Isle that makes feed for stock, animals and so forth.

These lagoons are man made and at times they can spring a leakage or after a flood condition, they can overflow. That same thing happened this winter, early in the winter, and brought about a suit on the Vahlsing plant from the DEP Department. The Vahlsing people turned around and brought suit against the state claiming that the condition was caused because of the overflow of the water from the lagoon from the sugar beet plant which the state owned. So much for that.

I would like to go a little bit further and say how badly this plant, the operation of the potato plant, is needed and also if the sugar plant is successfully sold, the need of its operation.

I think it would be a great mistake, a great injustice, to the people who work at the plant, to the farmers who need the plant to handle their potatoes, the merchants of the area who need cash

customers to help them stay in business. In fact, the operation of the plant is a great benefit to the economy of the general area, not just Easton. This winter the plant has not operated at full capacity. You must realize it used 268 people working in the plant.

I would like to show you how and where these people come from. There are 84 people from Easton working in the plant when it operates. There are 36 people from Fort Fairfield, there are 37 from Presque Isle, there are 72 from the Mars Hill, Bridgewater and Westfield area, there are 8 from Houlton, there are 8 from Limestone. I think that should point out to you the benefits as far as jobs are concerned to the people in our area.

The reason I think it would be a big mistake to try to upgrade the stream at this time is simply because it is so easy for a leakage to cause the change in the grade of the water, temporarily at least. If such a thing took place and we had it classified to a B, the department could very easily close the plant down, definitely or for any length of time, whether it be reasonable or unreasonable.

I think that the DEP has plenty of authority now to take care of pollution getting into the waters of the Prestile, as brought out by Mr. Peterson. The department says there is not a great deal of difference between the class C and the class B, so you can see how easily the plant's operation could yet get into trouble if this stream was upgraded at the present time.

I am not opposed to clean water. I think we all agree we would like to have all of the waters in the county and the state clean, but I do think the needs of the people, particularly at this time, the needs for the employment that it produces is needed, and I would hope that people here would support the motion of Mr. Peterson.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: once in a while you can see through a bill and you can see through comments that are left unsaid. I am not interested in personalities. I am not interested either in helping along an already bad unemployment situation in a certain area. Insofar as I am concerned, I have just heard from the man who lives where Prestile Stream is, and I would like to ask anybody here if they don't hold that man in the highest of respect and I am casting my vote in the direction of the gentleman from Easton, Mr. Mahany.

The SPEAKER: The Chair recognizes the gentleman from Franklin, Mr. Connors.

Mr. CONNORS: Mr. Speaker, Ladies and Gentlemen of the House: In the testimony given here about the Commissioner of DEP stating that there was very little difference between class B and class C, I would like to remind this House of an episode about four years ago in the eastern part of Hancock County, down in the Town of Hancock, we had a tannery there. Skillings River was put into class C because of the effluent from the tannery. The Department of Environmental Protection said that this had to come up to class B. In the process, the tannery found that they couldn't get this water qualification up to class B; therefore, they closed up and moved out of the state. So I wonder just how much variation there is between class B and class C? I thought I would bring this out here this morning.

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

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: For the record, and in answer to one of the questions, the C classification would allow a discharge by an industry of only 100 pounds of BOD per day at low flow to meet the water quality standards. An A-1 classification would reduce this to 87 pounds of BOD per day. In either case, it is impossible for Vahlsing Incorporated, which produces 25,000 pounds of BOD a day and Maine Sugar industries, which could produce 16,000 pounds of BOD a day, to meet this requirement. This would mean that these industries would have to achieve a 99.76 percent BOD reduction.

Further, Mr. Speaker, I believe it was Mr. Tom Peterson that made the motion on this last week.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It is with trepidation that I rise. The reason that I rise on my feet is because I would like to pose a question to anyone on the committee because I fail at this point to see the logic of the report that came out of the committee simply because, among other things, one of the signers of the majority report initiated action on the Kennebec River to remove the logs from flowing down the river, and I submit to you he was successful. I would also submit to you that logs don't smell, but I understand that the stuff that they dump in the Prestile Stream causes the paint to peel off the buildings.

In line with my question, I would like to read some background information from the hearing. I have here a transcript of a testimony and it deals with whether the industry can in fact meet class C let along class B. Now, it is my understanding that they have no license to operate from the DEP nor from the federal government, and whether we take any action on this bill or not, I fail to see how the plant could operate without a license. I would like to quote and it is being given by Mr. John McGrail from DEP and he goes on to say, Mr. Chairman: There has been some talk about whether the industry can in fact meet a class C let along class B. It is a reasonable question to ask. As I said, we did a low flow analysis based on a 7 to 10 flow of approximately one half hundredths for discharge from Vahlsing Incorporated and it has been indicated before that in 1972 in the Northern Maine Regional Planning Report and in a report for the Town of Easton that the Prestile Stream water quality assimilative water capacity is negligible. We conducted seven separate analyses at varying flows, beginning with a low flow, the 7 to 10 low flow of about one half hundredths. We have determined an actual number for compliance with a class C for an effluent limitation for Vahlsing Incorporated and that number comes to less than 100 pounds of BOD five per day. The best estimates I have ever seen on Vahlsing Incorporated Potato Processing Plant was that it generated approximately 25,000 pounds a day BOD five. Now, anybody with a slide rule can figure out what percentage removal would be necessary for the achievement of class C. It is so high that it is either technologically or financially unachievable at the 7 to 10 flow. The so-called seven day, ten year low flow that has to be emphasized. I like in the analogy



to explaining how negligible the assimilative capacity of a stream is to explain the size of the pyramids if they haven't seen them before, it doesn't exist. There isn't a seven to ten assimilative capacity in the Prestile Stream that is allocatable to anything, even to a medium-sized municipality without extremely high levels of treatment and extremely high investment in terms of capital and in terms of annual operating expenditure. I fail to see the logic of the committee report. I again would ask for an explanation from somebody from the committee.

The SPEAKER: The gentleman from Winslow, Mr. Carter, poses a question through the Chair to any member who cares to answer.

The Chair recognizes the gentleman from Rangeley, Mr. Doak.

Mr. DOAK: Mr. Speaker and Members of the House: I can answer for the members of the Natural Resources Committee of the House. The member of that Natural Resource Committee that was referred to by Mr. Carter is of the other body; therefore, I don't feel that I should answer for him, I think he should answer for himself, his own actions.

The logic that I came by at that committee and by the vote of the committee was that first there are several other streams in the vicinity of Prestile that are classified class C now and none of these are being proposed by DEP to be upgraded at this time. So it didn't make a great deal of sense to me to pick on one particular stream in that particular area.

The other thing that I am assuming that is correct that I did hear, that is that the Prestile Stream does empty into the St. John River and the classification of St. John is class C and, therefore, that logically said to me I could see no reason for upgrading the Prestile Stream at this time.

I think that the thing that Mr. Carter did say and did bring about also was the fact that right at this present moment BEP does have the power and the authorization to control the discharge from these plants into this stream, and it has been said that the discharge that is going to be put into Prestile Stream could not even reach class C. I guess my logic that I went by at the time we were working on this bill in committee was that this would be an unnecessary piece of legislation. I do not believe it is necessary at this time for the simple reason that they do have that control and that authorization right now. Therefore, this is why I signed the majority "ought not to pass" report of that bill. I would hope that you would support that majority report.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Binnette.

Mr. BINNETTE: Mr. Speaker, Ladies and Gentlemen of the House: After hearing some of the debate in regard to the reclassification of that stream. I am wondering how many people realize, from what I have heard, how many people are going to be thrown out of work? Due to the economic conditions, as they are at the present time, I would not and I don't think many of you here would want to see people unemployed any more than they are. We want to keep the employment rate where it should be.

As far as reclassifying this stream, I heard my good friend from Winslow state that the odor of it causes paint to peel. I live an awful long way from Prestile

Stream, and by gosh my paint is peeling from my house and that is not getting any odor from there. I don't think that is a very good argument to upgrade it.

We had considerable debate in regard to originally setting up a grade for that stream, if I recall. I think Governor Reed was in office at the time and it was mainly so that they could establish a plant up there and also give employment. Employment is the theme in my book and I am going to go with the majority report.

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

Mr. MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I now move indefinite postponement of this bill and all of its accompanying papers.

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

Mr. AULT: Mr. Speaker and Members of the House: I would like to reply to a couple of things if I might. First off, to Mr. Peterson and Mr. Carter, when they asked what is the difference between a B and a C classification, I think that Mr. Peterson from Aroostook got into it a little bit but the main difference between a B and a C classification is that a B classification can be used as a water supply and can maintain trout and other fish in its waters. This is tied into Mr. Doak's remarks also where he did not favor upgrading the stream because he said the St. John is class C-1 and the Prestile flows into the St. John. True, it does in Canada, but the St. John is class C-1 from Madawaska south to the Canadian border and then it flows further into Canada. The Prestile flows from Easton into Canada, but it is still the Prestile for a considerable distance in Canada before it reaches the St. John. As I said earlier, there was a trout and salmon fishery on the Prestile in Canada and some Canadians use that water as their drinking supply before it gets to the St. John.

I would also reply to Mr. Mahany where he said in 1967 the waters of the Prestile were upgraded to class C — yes, they were. Nearly all of the waters in the State of Maine were reclassified to C in 1967 because the federal government refused to put any federal money into any project, any water pollution control project in the State of Maine where the final effluent went into a D stream. There was not even any debate on the floor of the House when that happened to the Prestile in 1967. There are, I believe, two waters in the State of Maine that still are class D. One is in South Paris because of a tannery and I also believe there is one below East Millinocket, a part of the Penobscot as a result of sludge that was left there.

There is another point, the Department of Environmental Protection has said that in the present condition, if Mr. Vahlsing or the potato plant or the sugar beet plant discharges into the Prestile that they probably would violate even a class C classification. That is true, but they do believe, the Department of Environmental Protection, that if the effluent from these plants were held in the lagoons, which Mr. Vahlsing has at his potato processing plant, and with controlled discharge from those lagoons into the Prestile Stream at high water times, they still could maintain the B-1 classification that the water is right now.

There is one final question that I would like to ask everybody in this House, especially the members of the Natural Resources Committee — and, Mr. Speaker, I would like to have a roll call on

this vote because I want to compare it to the roll call that I hope we take when we consider the bill that requires that the Department of Environmental Protection must consider economic considerations whenever it replies to any application for industry in the State of Maine.

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

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to take the gentleman from Wayne, Mr. Ault, up the St. John River so I could find out where from Madawaska, after you leave below St. Leonard's, where it ever touches the American border again because it does not. I would also like to inform him that probably one of the most familiar out of Aroostook County with the time Prestile Stream leaves Mars Hill, especially until it empties into the St. John River — I have traveled it over and over — there is only two towns on that river after it leaves that as far as the town is concerned. One of them is Centerville and the other is Tracy Mills. The towns are probably five or six hundred population and there is definitely no drinking water supply that ever came out that river unless someone wanted to go out and take a dipper full and drink it, which he can do at this time.

I would also like to state that Easton, a population of 1,305, as I understand it and Mr. Mahany can correct me if I am wrong, has no abatement plant. You come to Mars Hill, down to Bridgewater, we have no abatement plant. You have three tributaries coming into that river, Rocky Brook, Three Brooks and Whitney. The Whitney Stream is within a rocks throw of my house; in fact, it runs across my land. These streams are not B-1 and they couldn't be brought up to B-1, so, therefore, I can't see what tributaries running in what good it would do to have this start.

As far as trout is concerned, last Spring and last Summer for the first two or three months, probably this is one of the most fine fishing streams and tributaries in the State of Maine, they were trout caught to no end out of them. They were eight to ten inches long; it is not a big fish stream, but they are eight to ten inches long, the trout are, and there are lots of them, especially in the edges. The streams are clean.

I would also like to add here. In the 104th Legislature, I would like to have had Mr. Ault here to work with me. I brought this bill in and this bill was two hours and twenty minutes on the floor in one day. I lost the bill by two or three votes trying to upgrade this stream. Since that time, we have brought the sugar plant in. It does a lot of good to Aroostook County and I probably am going to cut my own head off this morning by saying that I am against this bill because Mars Hill probably wants it. I think the town of Mars Hill does but I think it is the only town on that that has any tributaries reaching into Prestile that is in favor of this bill but the rest of the towns aren't. I guarantee you that there is no way possible that you can bring this up.

I did like one thing that Mr. Ault has said. Two years ago, I told Mr. Vahlsing himself personally — three years ago, anyway, when he had the sugar plant, I won't get right down to the year, but if he pushed his waste in on high water, he would have no trouble. Lo and behold, he put bulldozers on and pushed it in and in a matter of two or three weeks, the river was clean and the trout were coming up. The fiddleheads were thick; it is one of the best fiddlehead rivers in Aroostook County.

You take fiddleheads, trout and deer meat in July, it is the very best. We like to have them up there.

I tell you, ladies and gentlemen, it is a small use that is being put there right now, I think it would be a hardship on Aroostook County and the towns, as the gentleman from Easton, Mr. Mahany, has said. My town has a lot of people working there and the river isn't being polluted too much.

You mention paint peeling off buildings. I would like to bring Mr. Ault up and show him the building that I have painted every three years for the last 20 years. It isn't peeling, it is coming off in bunches like bananas. I can't even hold it on but the river has nothing to do with it — that is just your building.

I hope this morning you will vote in favor of the motion now to indefinitely postpone and get it over with I have to see this take two hours and twenty minutes on the floor like it did in the 104th Legislature.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Men and Women of the House: I will be very brief and I beg your indulgence for speaking so much this morning.

I want to set the record stright. I will set the setting of the day that we heard this bill. There were 13 members of the Natural Resources Committee present in the room, there was Commissioner Adams and one of his assistants, there was a Senator Johnston and Representative Mahany. There was one proponent of the bill, the department, the Commissioner of Environmental Protection. I don't remember any other proponents.

This is not a high rated priority item. There was conflicting testimony. The department said that the potato processing plant only operated at intermittent intervals and we had conflicting testimony that said it operated quite frequently. In fact, it was a continuous operation. So until the department gets its facts straight, until it can show significant environmental reasons to the majority members of the Natural Resources Committee — I will say one thing aside, that Fred Vahlsing was not part of my consideration — the issue at hand was the reclassification of Prestile Stream and what was best for that area. We considered, as I said before, the environmental and economic situation and other important issues — but Fred Vahlsing is not part of this discussion. I don't care what happens to Fred Vahlsing, whether he leaves the State of Maine or whether he stays in it in a business sense, that is his business and those activities, but I am concerned when you have a piece of legislation such as this with only one proponent. There was no mad crowd from Aroostook County to reclassify this stream up, there was one proponent, the Commissioner of DEP, and then he said, it doesn't make any difference and I can live with it in its present situation. Now, is that a compelling reason to change the reclassification? I say that it is not and eleven members agreed.

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

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: I have to support Mr. Ault and I will make my remarks short.

The St. John River is under a NATO agreement and the United States Canadian Committee on Water Quality for the St. John River recommended in a report to the

International Joint Commission that class B-1 water quality for the Prestile Stream is a desirable goal and it should be achieved as soon as possible, no later than October 1, 1976.

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 in favor of a roll call will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question before the House is the motion of the gentleman from Easton, Mr. Mahany that this Bill and all its accompanying papers be indefinitely postponed. All those in favor of indefinite postponement will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bennett, Berry, G. W.; Berry, P. P.; Berube, Binnette, Blodgett, Boudreau, Bowie, Burns, Bustin, Call, Carey, Carpenter, Carroll, Chonko, Churchill, Clark, Connolly, Cote, Cox, Curran, P.; Curran, R.; Curtis, Dam, DeVane, Doak, Dow, Drigotas, Dudley, Durgin, Dyer, Farley, Fenlason, Finemore, Flanagan, Fraser, Gauthier, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Hennessey, Hewes, Higgins, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Jacques, Jalbert, Jensen, Joyce, Kany, Kauffman, Kennedy, Laffin, Laverty, LeBlanc, Leonard, Lewin, Lizotte, Lovell, Lunt, Lynch, MacEachern, Mahany, Martin, A.; McBreaarty, McKernan, Mills, Miskavage, Mitchell, Morin, Morton, Mulkern, Nadeau, Najarian, Norris, Palmer, Pelosi, Peterson, T.; Pierce, Post, Powell, Quinn, Raymond, Rideout, Rolde, Rollins, Saunders, Smith, Snow, Snowe, Sprowl, Strout, Susi, Talbot, Teague, Theriault, Torrey, Tozier, Twitchell, Tyndale, Usher, Walker, Webber, Wilfong, Winship, The Speaker.

NAY — Ault, Bachrach, Bagley, Birt, Byers, Connors, Davies, Farnham, Garsoe, Gould, Henderson, Hinds, Jackson, Kelleher, Kelley, Lewis, MacLeod, Maxwell, McMahon, Perkins, T.; Peterson, P.; Shute, Stubbs, Tarr, Tierney, Truman, Wagner.

ABSENT — Cooney, Faucher, Hobbins, LaPointe, Littlefield, Mackel, Martin, R.; Peakes, Perkins, S.; Silverman, Spencer.

Yes, 112; No, 28; Absent, 11.

The SPEAKER: One hundred and twelve having voted in the affirmative and twenty-eight in the negative, with eleven being absent, the motion does prevail.

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

Mr. FINEMORE: Mr. Speaker, having voted on the prevailing side, I now move that we reconsider whereby this L.D. 648 was indefinitely postponed and I hope that you will vote against me.

The SPEAKER: The gentleman from Bridgewater, Mr. Finemore, moves the House reconsider its action whereby this Bill and all accompanying papers were indefinitely postponed. All in favor of that motion will say yes; those opposed will say no.

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

Sent up for concurrence.

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

An Act Relating to Education and

Training under the Laws of Barbering (H. P. 437) (L. D. 545) (C "A" H-84)

Tabled — March 27, by Mr. Finemore of Bridgewater.

Pending — Motion of Mr. Farnham of Hampden to Indefinitely Postpone Bill and Accompanying Papers.

On motion of Mr. LeBlanc of Van Buren, under suspension of the rules, the House reconsidered its action whereby this Bill was passed to be engrossed.

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

House Amendment "A" (H-117) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Van Buren, Mr. LeBlanc.

Mr. LEBLANC: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment (H-117) does two things. First, it grandfathers all the students and trainees who will be in school or training at the time L.D. 545 becomes law. Secondly, it leaves the high school requirements at the two-year level that is presently in effect. All this bill does now is to extend the school to one year and the training to two years.

Not too long ago, the requirements were that a student for barbering was required to have six months in school and six months in training for a total of one year before he or she could get a license. That is all we are asking for in this bill. If the barber board just wanted to make it harder for potential barbers, they wouldn't have to come to the legislature, they could have raised the examination standards, but they chose this route because they feel that the extra time is needed so that their profession may better serve the public, who are increasingly demanding more and ever expanding services from their barbers.

In the last week of debate, barbers were compared to carpenters and plumbers and to me this is not a logical comparison because one works with a product and the other performs a service on a human being and the expertise is quite different. Yet, if you attend a vocational school to learn carpentry, plumbing, electricity or welding, you need a high school education and two years to complete the courses plus on-the-job training.

This bill had a good hearing which lasted about an hour and a half. The committee dealt with all the pros and cons of this bill and came out with unanimous "ought to pass" report.

I hope that you will not support the indefinite postponement of this bill.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Van Buren, Mr. LeBlanc, has amply explained his amendment and about the only change it makes in the original bill, as we got it, is it takes out the high school requirement that you be a high school graduate and does grandfather in those who might be in school or in training at the time this bill which, if it passed, became effective.

My reasons for opposing the bill and moving for indefinite postponement have not changed, and I would run down through this again for just one minute.

The bill, as written, regardless of the amendments, does increase the hours in barber school from 1,500 to 2,000 hours and extends the time that the boy or girl must stay in the school from nine months to one year. Section two increases from 2,500

hours to 3,000 hours and the time from 18 months to two years for those who are in training or apprentices not attending the school.

It just seems to me, and I have this same feeling about the many bills we get on electricians, plumbers and all the other trades, that all we are trying to do is make it as difficult as we can for a young man or a young woman to learn a trade and earn a living. I submit to you, it does not need all this time or it does not take all this time to make a competent barber. As I stated the other day, as is true in any trade, men can be at it for 30 or 40 years and still not be a good barber or a good carpenter or a good plumber or good electrician.

I hope that you will go along with me and move to indefinitely postpone this bill.

Thereupon, House Amendment "A" (H-117) was adopted.

The SPEAKER: The Chair understands that the gentleman from Hampden, Mr. Farnham, move that this bill and all its accompanying papers be indefinitely postponed.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that we do not indefinitely postpone this bill at this time. I arose on this last week and Mr. LeBlanc has very ably taken care of the problems that developed, at least in the area that I represent, both in the educational qualifications and in grandfathering those people who are currently in school. I think the amendment does solve the problem that did come with this bill as far as my area of the state was concerned.

Thereupon, Mr. Truman of Biddeford requested a roll call.

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

Mrs. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: Again, I am standing here before you as Chairwoman of the Committee on Business Legislation reminding you that at the time of the hearing there were seven proponents, no opponents, and none who cared to speak on any of the two sides, or anywhere for that matter.

This bill is in direct response to those people who feel, and justifiably so, that the demands of the barbering profession must be met by the demands in training necessitated by some adjustment in the required amount of time in their training field.

The committee did report this bill out unanimous "ought to pass" in light of the very impressive amount of testimony, both statistics and casual, which supported the bill as presented at that time.

I oppose, and would ask you to join me, the motion on the floor of indefinite postponement.

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 in favor of 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 before the House is the motion of the gentleman from Hampden, Mr. Farnham, that this Bill and all its accompanying papers be indefinitely postponed. If you

are in favor of indefinite postponement you will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bachrach, Berry, G. W.; Berry, P. P.; Berube, Birt, Call, Connors, Connolly, Cooney, Cote, Cox, Curran, R.; Curtis, Dam, Davies, Dow, Drigotas, Dudley, Durgin, Dyer, Farnham, Fenlason, Flanagan, Garsoe, Gauthier, Hall, Henderson, Hewes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Joyce, Kauffman, Kelleher, Kelley, Leonard, Lewis, Lovell, MacLeod, McKernan, Miskavage, Mitchell, Morin, Morton, Norris, Palmer, Pelosi, Post, Rollins, Shute, Snow, Snowe, Strout, Stubbs, Susi, Tarr, Tierney, Torrey, Tozier, Wagner, Wilfong, Winship.

NAY — Bagley, Bennett, Boudreau, Bowie, Burns, Byers, Carey, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Curran, P.; DeVane, Doak, Farley, Finemore, Fraser, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hennessey, Higgins, Hinds, Hughes, Jacques, Jalbert, Jensen, Kany, Kennedy, Laffin, Laverty, LeBlanc, Lewin, Lizotte, Lunt, Lynch, MacEachern, Mahany, Martin, A.; Maxwell, McBreairty, McMahon, Mulkern, Nadeau, Najarian, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Powell, Quinn, Raymond, Rideout, Rolde, Saunders, Smith, Sprowl, Talbot, Teague, Theriault, Truman, Twitchell, Usher, Walker, Webber, The Speaker.

ABSENT — Binnette, Blodgett, Bustin, Faucher, Hobbins, LaPointe, Littlefield, Mackel, Martin, R.; Mills, Peakes, Silverman, Spencer, Tyndale.

Yes, 66; No, 71; Absent, 14.  
The SPEAKER: Sixty-six having voted in the affirmative and seventy-one in the negative, with fourteen being absent, the motion does not prevail.

Thereupon, the Bill was passed to be engrossed as amended and sent up for concurrence.

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

An Act Relating to Limit of Insurance Risk Exposure under the Maine Insurance Code. (H. P. 292) (L. D. 344)

Tabled — March 27, by Mr. Hewes of Cape Elizabeth.

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 sixth tabled and today assigned matter:

An Act to Establish County Commissioner Districts in Penobscot County (H. P. 56) (L. D. 68)

Tabled — April 1, by Mr. Birt of Millinocket.

Pending — Passage to be Enacted.  
On motion of Mr. Kelleher of Bangor, under suspension of the rules, the House reconsidered its action whereby this bill was passed to be engrossed.

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

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

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: This is just a very minor amendment. Some may not think it is, but I think it is a very minor amendment to a well drafted document that was prepared by the gentleman from East Millinocket, Mr. Birt. This simply

changes the procedure in voting in respect that under Mr. Birt's bill presently that you could be nominated from a district and voted only by the members in that district for our county commissioners. I think this is rather a little shortsighted. I think that the county, as a whole, should have an opportunity to vote on these men and women who would be running from these districts because they, in direct effect, would have a bearing on my property taxes in Bangor as they do elsewhere across the county. I have opposed before in this House county commissioner districts and much to my wisdom and the eloquence of the gentleman from Gorham, Mr. Quinn, he somewhat changed my position on districts. I see no real problem with this amendment, it simply lets myself, in say district one, have an opportunity to vote for a person that is running in district two. I think it is a very fair amendment and I ask your support.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you not to support the amendment that has just been offered because this would go back to making the county have an election-at-large.

Just recently, we have said in this House by our actions and our votes that in the cities we are going to have single-member representative districts.

The same thing should be in County Government. Most of the counties that now have commissioner districts, the commissioner runs from a district and is elected by the qualified voters of that district. We have had bills this session before my committee that would allow at-large elections in some of the counties. One of these bills was defeated.

Now, it is not reasonable to say that you have representation when people can run at large in a county. The only good democratic process is to have a member running from a district elected by the people of that district. So I would hope that you would defeat this amendment, House Amendment "B" so that I can offer House Amendment "A" to clarify the bill.

As the gentleman from Bangor, Mr. Kelleher, said that Mr. Birt's bill would allow commissioners to run from a district. Well, in the back part of the last paragraph of the bill under transition it does say this but it does need additional language in the body of the bill to make the commissioners elected by the qualified voters of a district. This is a good democratic process and is something that is being followed by a vast majority of the counties. I would hope that you would defeat the amendment that is presently before you so that I can offer House Amendment "A".

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I am from Penobscot County and I oppose this measure. In other words, if we accept this amendment, we may as well not accept the bill, it amounts to the same thing.

The way this works, Bangor elections have votes enough within the county to elect all three Penobscot County commissioners and Mr. Birt didn't think that was right and I don't think it is right and the majority of the people in the county don't think it is right, it isn't fair.

When we vote for one man, one vote in the cities, that particular party that runs for a seat is going to run from a part of the

city not from the whole city. Well, this amendment puts it right back where it was in the first place, they have got to run in the whole city. I think that they should run from that legislative district as the original bill called for. Therefore, I am opposed and I hope you understand the bill and the amendment and that you also will support the motion to indefinitely postpone Representative Kelleher's Amendment.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I agree completely with the two previous speakers. This is a bill that I put together. It follows consistently pretty much the program that is being developed in most of the counties, and I do believe that the population concentration in the large metropolitan area of Penobscot County would affect the election a great deal. I believe that the concept of allowing the individual districts to elect their own commissioner at the time that the term comes up is the proper procedure.

I would move the indefinite postponement of House Amendment "B" and then we can act on House Amendment "A," which would put the bill in good shape.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: The amendment that I offered and the gracious gentleman from East Millinocket just moved to indefinitely postpone doesn't affect the district bill one bit. It simply gives the people in Lincoln an opportunity to vote for the two or three candidates that may be running for the commissioner district in Bangor. There is nothing wrong with it. Why shouldn't the people of Lincoln or the people of Millinocket have an opportunity to vote for the candidates that are going to be running for the county commissioners office from district two which is Bangor. Why in the same light shouldn't the people in Newport have an opportunity to vote for the candidates that will be running from the City of Bangor and City of Brewer. It doesn't change the bill at all, except it broadens the opportunity for the members of my county, the people of Penobscot County in choosing the three commissioners. What is any more democratic than that?

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

Mr. CAREY: Mr. Speaker and Members of the House: I would point out to the gentleman that the very reason that people in Lincoln don't want the guy from Bangor voting for him is the same reason that the gentleman didn't want the people at the north end of Waterville voting for a guy running from the south end of Waterville.

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

Mr. FARNHAM: Mr. Speaker and Members of the House: If there is anyone in this House I hate to tangle with, it is the gentleman from Bangor, Mr. Kelleher.

I would remind the members of this body that Penobscot County has a population of approximately 100,000. One third of them live in Bangor, two thirds of the people have one third of the representation on the county board.

You know, when it comes to county officers, most of us have a hard time to name who most of them are. I have to rattle my brains to even think of who the

commissioners are. People go into the polling booth and if they live in Bangor they say, "Huh, he lives in Bangor I am going to vote for him, regardless of party." This happens all the time and the bill that is presented by Mr. Birt with Representative Dam's amendment is a fair and honest bill and it will give a fair representation to all of Penobscot County in the county courthouse.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Binnette.

Mr. BINNETTE: Mr. Speaker, Ladies and Gentlemen of the House: I am sitting right between Lincoln and Bangor, but in this instance it has been on a very, very rare occasion that I have agreed with the gentleman from East Millinocket, Mr. Birt. I am going to say this much, this morning I think Mr. Birt has a good proper bill and I think we should support it. I really think this amendment that my friend here, Mr. Kelleher, has got over there is going to nullify the bill and until I am sure otherwise, I am going to go for indefinite postponement of that amendment.

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

Mr. HENDERSON: Mr. Speaker and Members of the House: A question through the Chair to anyone who might answer. Are there counties which currently use this system of having people run from districts but elected at large?

The SPEAKER: The gentleman from Bangor, Mr. Henderson, poses a question through the Chair to any member who cares to answer.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: We consider it in my county. Over my objection we passed a bill and they are elected by the people that are in the district. You know the gentleman from Old Town, Mr. Binnette, if that answers the gentleman from Bangor, Mr. Henderson's question, Mr. Binnette said that he was between Lincoln and Bangor and this morning I find myself between the gentleman from Bangor, Mr. Kelleher, and the gentleman who is selling buttons from Waterville, Mr. Carey. I have got to get this in if I don't get anything else today because I feel happy. It is a lovely day out and we expect distinguished company. I was wondering just how long I would have to wait to have single-member districts haunt the gentleman from Bangor, Mr. Kelleher.

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. Henderson's question. I just passed a bill in York County where they were at large but now we are voting in districts.

The SPEAKER: The pending question is on the motion of the gentleman from East Millinocket, Mr. Birt, that House Amendment "B" be indefinitely postponed. All in favor of indefinite postponement will vote yes; those opposed will vote no.

A vote of the House was taken.  
110 having voted in the affirmative and 15 having voted in the negative, the motion did prevail.

Mr. Dam of Skowhegan offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-112) was read by the Clerk.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: As I said previously, and I will make it clear this time, this amendment is necessary because the assistant to our committee picked this up that the language was left out of the body of the bill and it only allowed for the election in transitional part of the bill and all the county commissioner bill for districts has this language and this makes them all uniform.

Thereupon, House Amendment "A" was adopted.

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

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

Bill "An Act Establishing the Civil Rights of Hemophiliacs" (H. P. 840) (L. D. 986)

Tabled — April 1, by Mr. Rolde of York.  
Pending — Passage to be Engrossed.

Mrs. Kelley of Machias offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-188) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Machias, Mrs. Kelley.

Mrs. KELLEY: Mr. Speaker and Members of the House: I would like to read the Statement of Fact which I think pretty much covers this. This amendment substitutes two fairly broad provisions prohibiting certain discrimination in post-secondary education in place of the provisions of the present bill prohibiting discrimination in a certain narrow area against hemophiliacs. As a result of discussions of legislators, the Human Rights Commission, the Secretary of State and the Department of Education, it has been possible to accomplish most of the aims of the present bill prohibiting discrimination against hemophiliacs by administrative regulation without the necessity of writing a fairly narrow specific bill prohibiting discrimination against only one class of post-secondary education and this amendment proposes that needed legislation. At a later time I will be presenting an amendment to the bill on Errors and Inconsistencies that will make a very minor change in the education law regarding hemophiliacs.

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

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask that this amendment and bill be recommitted to the Committee on Human Resources so that we can study it further. This is a significant change in the bill that was originally presented by Mrs. Kelley and we would like to take a look at it. I don't know exactly what the feelings are going to be on it, but I believe that we really would like to take a look at it a little bit further to see whether in fact the amendment does do what it intends to do and whether it does not do some other things that might not be intended in the amendment.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: If it is going back to a committee, I would like to ask one question. This is rather a broad mandate covering not only public, private and proprietary schools, what are the legal



implications for students who become engaged in post-secondary education and because of their peculiar problem run into difficulty? Are there legal implications in this?

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

Mr. SMITH: Mr. Speaker and Members of the House: I would like to speak briefly to the question. Perhaps it will clear up some of the misgivings of the gentleman and perhaps it won't. We worked with some staff lawyers to try to answer all of those questions and at the time I was satisfied that there are no unseen legal questions that could be raised that would defeat this on strictly legal arguments. Perhaps the gentleman can think of some, but it is my own judgment that this thing is all right from the point of view of the Human Rights Act, which we have had in operation now for sometime and their staff lawyer certainly couldn't come up with anything. That is all I can say, and I believe them.

The SPEAKER: The Chair recognizes the gentlewoman from Machias, Mrs. Kelley.

Mrs. KELLEY: Mr. Speaker and Members of the House: I would like to protest the motion that this be sent back to the Human Rights Committee, because I feel that this was very well taken care of in a meeting and that this satisfies the hemophiliacs. I understand it satisfies the Human Rights people and so I hope that you won't and I ask for a division.

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

Mr. SMITH: Mr. Speaker and Members of the House: I move that this item be tabled for one legislative day.

Mr. Talbot of Portland request a division.

The SPEAKER: The pending question is on the motion of the gentleman from Dover-Foxcroft, Mr. Smith, that this matter be tabled pending the motion of the gentleman from Orono, Mr. Davies, that this be recommitted to the Committee on Human Resources. All in favor of tabling one legislative day will vote yes; those opposed will vote no.

A vote of the House was taken.

93 having voted in the affirmative and 19 having voted in the negative, the motion did prevail.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: Is the House in possession of L. D. 672?

The SPEAKER: The Chair would answer in the affirmative. The House is in possession of Bill "An Act Relating to Definition of Retail Sales Under Sales and Use Tax Law," House Paper 537, L. D. 672.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: I would like to move that we reconsider our action whereby this bill was passed to be enacted. Just briefly, I would like to explain that this bill went through here yesterday very, very quickly and there was no debate on it and it was called to my attention and I began to look into it. I would like to have the opportunity to do some further study. I am not sure at this point whether I would like to have the bill killed or allow it to go

on its way. I would hope that someone would table this bill for a day or two.

On motion of Mr. Rolde of York, tabled pending the motion of Mr. Connolly of Portland to reconsider and tomorrow assigned.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address your attention to the Unassigned Bills, item 1, that is An Act Appropriating Funds for the State Share of the Spruce Budworm Control Program, etc.

I tabled this unassigned on March 13, because some question were being posed to the State Supreme Court concerning the constitutionality of the proposed means of paying for the state's share.

As you will notice in your calendar today, those questions have been answered by the State Supreme Court. Therefore, I would move to have this taken off the unassigned table and put before us today.

On the request of Mr. Rolde of York the Chair took from the table the first tabled and unassigned matter:

Bill "An Act Appropriating Funds for the State Share of the Spruce Budworm Control Program and Imposing a Tax on Forest Lands for Spruce Budworm Control." (H. P. 560) (L. D. 689) (C. "A" H-62)

Tabled — March 13, by Mr. Rolde of York.

Pending — Passage to be Engrossed.

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: We are now squarely confronted with the issue of the spruce budworm and I guess we are going to finally perhaps resolve it today, not finally, but at least temporarily resolve it today. The bill, as you recall, had certain questionable provisions in it that related to the excise tax, and many of the astute law school students picked those questionable provisions up immediately in this House and asked whether or not they were constitutional.

The question to be ultimately resolved had to go to the law court for an opinion of the Justices. I would like to run over that opinion with you very briefly. The questions simply put were three. They raised two issues. Two of the three questions were answered by the court. The first question was simply, was the excise tax of 30 cents an acre suggested by the committee amendment as was reported to the floor, was that constitutional? The court answered, yes, it was constitutional, although the question was phrased in the opposite direction, differently. The excise tax is in fact constitutional. The court reasoned basically that the purpose and function of the excise tax as it has been historically interpreted by the court over the years was found to be present in this excise tax proposed in the bill. So, the excise tax is constitutional if the House wishes to use it.

Secondly, did any provision of the act circumvent the equal protection clause of the Maine Constitution? The court answered, no. Therefore, all of the questions that seem to impede the use of the excise tax have been cleared by the Supreme Judicial Court. We are now free to employ the excise tax method, if we desire, to fund a spruce budworm program.

Now that we are over that hurdle, I would like to explain to you the provisions of the committee amendment that presently lays before you. The committee amendment calls for \$3.8 million to be spent on the spruce budworm spray program this year. This is where the \$3.8 million is coming from. First, that excise tax, which we can use according to the court, will raise, at 30 cents an acre, \$2.8 million, a little bit more than \$2.8 actually, but in round figures, \$2.8 million.

Secondly, there is a provision for \$430,000 which represents the amounts raised yearly by the 1½ mills imposed by the 106th Legislature to fight spruce budworm infestation back here. That 1½ mills which represents a commitment of the 106th Legislature and appears in the record in the 106th Legislature, has been raised and is available. There is \$430,000. The remaining \$570,000 — in round figures, again — represents the spraying of publicly owned lands and parcels of land less than 500 acres within the spray area. That \$570,000 will accomplish those two things.

The next question is, where will the money come from? We are talking about a million dollars out of the general fund. You will recall, when the Governor proposed his budget to us, there was approximately \$3.5 million in surplus at the end of this fiscal year. And at the end of the next biennium, there would remain approximately \$8 million. Because there is \$3.5 million presently, the cash is on hand to act now on this problem. The Governor has proposed that we will bring back the \$8 million, or a portion of the \$8 million, transfer it back to the first year of this biennium and make up the difference if a cash flow problem should exist. That is a feasible answer to finding the cash to do this problem immediately.

The Appropriations Committee has thoroughly investigated this. It is a feasible way for funding the program. I think that if you want to expend this sum of money that this is the only way to do it.

There is another speaker who will speak to the economic loss which will occur if we do not spray. I can assure you that this represents, in the judgment of the committee, the smallest program that is practicable. It is designed to fend off immediate mortality in our forests. It is a program that is much reduced from the proposed program, and it is a program that must be implemented very soon if we are going to have any effect on the spruce budworm this year. It is a very great urgency.

I would point out one more thing, one more fact, perhaps, that might have some impact upon your thinking, and that is that in the weeks that this thing has been tabled unassigned we have seen figures from the Forestry Department which prove that this infestation is more widespread than we had previously thought. It is well entrenched along the coastal area. It has even come down into central Maine. I did not think it was in my own legislative district, but I have been told that it now is an infestation in my own legislative district in central Maine. It goes down as far as Clinton. It has been traced even in Kittery, Maine, so I think that we can be assured that this is a problem, although the entire state does not have to be sprayed, that it is present almost everywhere and this program represents dealing only with the most urgent need at this time. Therefore, I would urge you to

support the bill as it presently is before you amended by the committee amendment.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, I would pose a parliamentary inquiry. What would a member of this body have to do if he or she wished to amend this piece of legislation in its present posture?

The SPEAKER: If the gentleman is proposing a House amendment to L.D. 689, the amendment would only have to be offered. If the gentleman is proposing an amendment to Committee Amendment "A", the rules would have to be suspended in order to offer the amendment.

Mr. PETERSON: Mr. Speaker, a suspension of the rules would call for?

The SPEAKER: A motion to suspend the rules could be made and that would need a two-thirds vote.

Mr. PETERSON: Mr. Speaker, it is my understanding that if I wished to amend the L. D. itself, it would not be necessary for me to have a two-thirds vote?

The SPEAKER: The Chair would answer in the affirmative.

Mr. PETERSON: Mr. Speaker, then I would request — I did not understand that prior to this moment. I would request the bill be tabled until — the amendment is already prepared. So we don't have to spend a lot of time on debate whether or not to suspend the rules, I would ask that somebody table this so I could have this amendment reproduced and attached to the L. D. rather than to the committee amendment.

The SPEAKER: It is the Chair's understanding that the amendment that the gentleman wishes to offer amends the committee amendment. There is no way that you could change the amendment around to amend the bill. Therefore, that would not be in order.

The Chair would further indicate that there would not be much debate on the motion to suspend the rules, since the motion to suspend the rules is not debatable. The gentleman is allowed to proceed.

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

Mr. JALBERT: Mr. Speaker, I move this Bill be tabled until tomorrow morning.

Thereupon, Mr. Palmer of Nobleboro requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Lewiston, Mr. Jalbert, that this matter be tabled pending passage to be engrossed and tomorrow assigned. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. Smith of Dover-Foxcroft 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 on the motion of the gentleman from Lewiston, Mr. Jalbert, that this matter be tabled pending passage to be engrossed and tomorrow assigned. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Berry, G. W.; Berry, P. P.; Blodgett, Boudreau, Burns, Byers, Carey, Carpenter, Carroll, Carter, Clark, Conners, Connolly, Cooney, Cote, Cox, Curran, P.; Curran, R.; Davies, DeVane, Doak, Dow, Drigotas, Farley, Faucher, Fenlason, Finemore, Flanagan, Goodwin, H.; Goodwin, K.; Hall, Henderson, Hennessey, Hinds, Hughes, Hunter, Ingegneri, Jacques, Jalbert, Jensen, Joyce, Kany, Kelleher, LeBlanc, Leonard, Lizotte, MacEachern, Mahany, Maxwell, McMahon, Mitchell, Mulkern, Nadeau, Najarian, Pelosi, Peterson, P.; Peterson, T.; Post, Raymond, Rideout, Rolde, Snow, Susi, Talbot, Tarr, Tierney, Tozier, Truman, Twitchell, Tyndale, Usher, Wagner, Webber, Wilfong, Winship.

NAY — Albert, Ault, Bagley, Bennett, Berube, Binnette, Birt, Bowie, Call, Chonko, Churchill, Curtis, Dam, Dudley, Durgin, Dyer, Farnham, Fraser, Garsoe, Gauthier, Gould, Greenlaw, Hewes, Higgins, Hutchings, Immonen, Jackson, Kauffman, Kelley, Kennedy, Laffin, Laverty, Lewin, Lewis, Littlefield, Lovell, Lunt, Lynch, Mackel, MacLeod, Martin, A.; McBreairty, McKernan, Mills, Miskavage, Morton, Norris, Palmer, Perkins, S.; Perkins, T.; Pierce, Powell, Quinn, Rollins, Saunders, Shute, Smith, Snowe, Sprowl, Stubbs, Teague, Theriault, Torrey, Walker, The Speaker.

ABSENT — Bustin, Gray, Hobbins, LaPointe, Martin, R.; Morin, Peakes, Silverman, Spencer, Strout.

Yes, 76; No, 65; Absent, 10.

The SPEAKER: Seventh-six having voted in the affirmative and sixty-five in the negative, with ten being absent, the motion does prevail.

#### (Off Record Remarks)

On motion of Mr. Rolde of York,  
Adjourned until nine-thirty tomorrow morning.