

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, March 2, 1976

Senate called to order by the President.
Prayer by the Honorable Walter W. Hichens of York:

As we convene for this morning's session, may we take the words of the Psalmist David when he said, "Let the words of my mouth and the meditations of my heart be acceptable in Thy sight, O God, my strength and my redeemer." Amen.

Reading of the Journal of yesterday.

**Papers from the House
Joint Order
State of Maine**

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Freeport High School Girls Basketball Team State of Maine Class C Champions 1976 "The Flying Falcons"

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2133)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**House Papers
Judiciary**

Bill, "An Act Relating to Conflicts of Interest in Offices Subject to Legislative Confirmation." (H. P. 2127) (L. D. 2279)

Comes from the House referred to the Committee on Judiciary and Ordered Printed.

Which was referred to the Committee on Judiciary and Ordered Printed in concurrence.

Study Report — Judiciary

The Committee on Judiciary to which was referred the study relative to Mechanics Liens, pursuant to H. P. 1752 of the 107th Legislature, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Protect Owners and Bona Fide Purchasers of Real Property from Unrecorded Mechanics' Liens and to Protect Them from Double Payment to Contractors and Subcontractors" (H. P. 2126) (L. D. 2274) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Comes from the House, the report Read and Accepted and the Bill referred to the Committee on Judiciary.

Which report was Read and Accepted and the Bill referred to the Committee on Judiciary, in concurrence.

Study Report — Legislative Council

The Legislative Council to which was referred the study relative to the University of Maine budget, pursuant to H. P. 1492 of the 107th Legislature, have had the same under consideration and ask leave to submit its findings and to report

that the accompanying Bill, "An Act Making Additional Appropriations for the University of Maine for the Fiscal Year Ending June 30, 1977" (H. P. 2129) (L. D. 2276) be referred to the Committee on Appropriations and Financial Affairs for public hearing and printed pursuant to Joint Rule 3.

Comes from the House, the report Read and Accepted and the Bill referred to the Committee on Appropriations and Financial Affairs.

Which report was Read and Accepted and the Bill referred to the Committee on Appropriations and Financial Affairs, in concurrence.

Study Report — Marine Resources

The Committee on Marine Resources to which was referred the study relative to "An Act Concerning Shellfish Licensing" pursuant to H. P. 1759 of the 107th Legislature, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, "An Act Concerning Shellfish Licensing" (H. P. 2131) (L. D. 2277) be referred to the Committee for public hearing and printed pursuant to Joint Rule 3.

Comes from the House, the report Read and Accepted and the Bill referred to the Committee on Marine Resources.

Which report was Read and Accepted and the Bill referred to the Committee on Marine Resources, in concurrence.

**Study Report — Joint Select
Committee on County Government**

The Joint Select Committee on County Government to which was referred the study relative to Proper Role and Authority of County Government in this State, pursuant to H.P. 1670 of the 107th Legislature, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Give Counties Power to Assess and Collect Their Own Taxes" (H. P. 2128) (L. D. 2275) be referred to the Committee on Local and County Government for public hearing and printed pursuant to Joint Rule 3.

Comes from the House, the report Read and Accepted and the Bill referred to the Committee on Local and County Government.

Which report was Read and Accepted and the Bill referred to the Committee on Local and County Government, in concurrence.

Communications

State of Maine

One Hundred and Seventh Legislature

Local and County Government

February 25, 1976

Legislative Council
107th Legislature
State House
Augusta, Maine 04333

Gentlemen:

In accordance with H.P. 1739, directing the Committee on Local and County Government to study "An Act to Incorporate Frye Island Village Corporation", L.D. 1652, we enclose herein the final report and implementing legislation of the Committee.

Respectfully submitted,
(Signed) PHILIP C. JACKSON
Senator

(Signed) C. EVERETT DAM
Representative
(H. P. 2130)

Comes from the House, Read and with

accompanying papers Ordered Placed on File.

Which was Read and with accompanying Papers Ordered Placed on File in concurrence.

**Committee Reports
House**

Ought to Pass—As Amended

The Committee on Performance Audit on, Bill, "An Act to Classify the Positions of Director of Program Review and Evaluation in the Department of Audit, Director of Fraud Investigation in the Department of Audit, and of Employees of the Fraud Investigation Division in the Department of Audit." (H. P. 1992) (L. D. 2174)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-936).

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

Which report was Read.

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

The Committee on Public Utilities on, Bill, "An Act to Remove the Vassalboro Sanitary District from the Kennebec Sanitary District Before the Kennebec District Issues Bonds this Spring." (H. P. 2035) (L. D. 2208)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-937).

Comes from the House, the Bill Passed to be engrossed as Amended by Committee Amendment "A".

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

The Committee on State Government on, Bill, "An Act to Change the Statutory Qualifications and Salary Limit for Director of Personnel." (H. P. 1937) (L. D. 2125)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-931).

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-938).

Which report was Read.

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

Senate

Ought to Pass—As Amended

Mr. O'Leary for the Committee on Natural Resources on, Bill, "An Act to Extend the Interim Zoning in Areas of Franklin and Somerset Counties." (S. P. 683) (L. D. 2189)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-418).

Which report was Read.

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

Mr. TROTZKY: Mr. President and Members of the Senate: Just a quick, brief explanation on this because the title is somewhat misleading. The title on the bill is, "An Act to Extend the Interim Zoning in Areas of Franklin and Somerset Counties". Because a comprehensive plan was not approved by the Governor this past year, the Land Use Regulation

Commission would like to extend the time from three years to four years in terms of permanent zoning. Right now they have put interim zoning on a large group of blocks of land in the unorganized territories and they have to, after three years by law, go from interim to permanent land use standards. They need a comprehensive plan before they can go to the permanent standards, so, therefore, by committee amendment we have extended the standard time for permanent standards by one year for all blocks in the unorganized territories.

The PRESIDENT: Is it now the pleasure of the Senate to accept the ought to pass as amended report of the committee?

Thereupon, the Ought to Pass as Amended Report of the Committee was Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Mr. Jackson for the Committee on Local and County Government on, Bill, "An Act to Authorize Washington County to Raise Funds for Construction of a Detention Center." (S. P. 693) (L. D. 2213)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-419)

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

Second Readers

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

House - As Amended

Bill, "An Act to Provide Adequate Funds for the Operation of a Bureau of Veterans Services Office in Aroostook County." (H. P. 1847) (L. D. 2016)

Bill, "An Act to Permit a Manufacturer of Alcoholic Beverages to be a Stockholder in a Corporation which is a Licensee." (H. P. 1892) (L. D. 2072)

Bill, "An Act Increasing Borrowing Capacity of Community School Districts Consisting of the Towns of Crystal, Dyer Brook, Island Falls, Merrill, Oakfield and Smyrna." (H. P. 1928) (L. D. 2115)

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

Senate - As Amended

Bill, "An Act to Correct and Clarify the Maine Banking Code." (S. P. 650) (L. D. 2057)

RESOLUTION, Proposing an Amendment to the Constitution to Assure Revenues for Bond Service and Prohibit State Bonding of Current Expenditures. (S. P. 689) (L. D. 2206)

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

Enactors

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

An Act Authorizing Central Maine General Hospital, a Corporation with a School of Nursing, to Confer Associate in Applied Science Degrees in Nursing. (H. P. 1964) (L. D. 2153)

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

Emergency

An Act to Include Mail Order Merchants

and Creditors Under the Maine Consumer Credit Code. (H. P. 1973) (L. D. 2162)

This being an emergency measure and having received the affirmative votes of 26 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

The President laid before the Senate the first tabled and Specially Assigned matter:

HOUSE REPORT — from the Committee on Appropriations and Financial Affairs — Bill, "An Act Concerning Certain Financial Guarantees to be Made to Pine Tree Sugar Beet Growers, Inc., by the Maine Guarantee Authority." (Emergency) (H. P. 1861) (L. D. 2032) Ought to Pass as Amended by Committee Amendment "A" (H-933).

Tabled — February 27, 1976 by Senator Merrill of Cumberland.

Pending — Acceptance of Report.

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A").

The PRESIDENT: A roll call has been requested by the Senator from Penobscot, Senator Curtis. The pending question is acceptance of the committee report, and a roll call has been ordered.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I would like to pose a question through the chair to anyone who may care to answer. It is my understanding — and my question is whether or not my understanding is correct — that the present status of this situation, following the contract that was negotiated by the Maine Guarantee Authority with the buyers, would be that if the suers, Mr. Vahlsing and Company, were to succeed, they would have to tender the 1.8 million dollars. Out of that 1.8 million dollars, 2 million would be handed on to the buyers, being the amount that they paid already, 1.6 million would stay with the state, and the plant would go to the suer. This is all assuming that he was successful. If, let's say, a million dollars was put into the plant for renovations under this current plan, and the suit was successful, with nothing else changing, a million of that 1.8 million would also be handed on to the buyer. The difference, by passing this bill, of how we would change the contract that was negotiated between the buyer and the Maine Guarantee Authority, is that a million would go on to the buyer that wouldn't at the present time.

It seems to me the logical conclusion of this could be that what could happen is that if, for example, a buyer were to invest up to 1.8 million in the plant, that the party who is presently suing the state could end up with a plant with a renovated value of three or four million dollars, could end up, if he wins this suit, buying it for 1.8 million. So the suer now, in the person of Mr. Vahlsing, ends up with a three or four million dollar plant for 1.8 million, the buyer ends up being completely reimbursed for his money up to 1.8 million, and the state ends up losing its plant and gaining absolutely no money. Is that a possible consequence if we pass this bill?

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

Mr. HUBER: Mr. President and Members of the Senate: I think in the simplest terms what this bill would commit the state to do is risk the unrenovated value of this plant up to an

amount of 1.8 million dollars in hopes of generating a new renewable natural resource based industry in the northern part of the state.

I think there is no way around the fact that the unrenovated value of this plant up to the amount of 1.8 million dollars is at risk. However, I think the group of Aroostook farmers engaged in this venture appear to me to be a sound practical group. They are not promoters. I think I can only rely on their judgment that this operation can be successful, even given today's sugar market. So essentially we are risking the unrenovated value of the plant, limited by the 1.8 million dollar amount, for what could be a new renewable natural resource based industry in this state. And I think, in the face of certainly increasing difficulties in all — and I repeat all — non-renewable natural resource based industries, I really do feel that this is worth the risk of the state's already invested money in this plant.

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

Mr. CYR: Mr. President and Members of the Senate: I would like to have you look at it from the other standpoint, that if the state, or I should say if the Vahlsing interests should win their case and take over the sugar beet plant, then we are sure that we are not going to have a sugar beet industry in Aroostook County. This would kill completely the sugar beet industry in Aroostook County.

Actually, what this bill calls for, it is asking the State of Maine to guarantee the ownership. Right now there is a legal cloud on the title, and this is all this bill is asking, to guarantee the title to the Co-op, which has bought the sugar beet plant. Right now it is very important that a decision is made. If we are to have a sugar beet industry whatsoever. The people that would renovate the industry, the plant, don't want to gamble on putting an investment in machinery which afterwards they might find out they may not be the owners of. So this is what this bill would do: it would guarantee the people that would be renovating this plant to a certain amount of the renovation that they would put into it.

Now, in the event that Mr. Vahlsing should win this case, Mr. Vahlsing would have to pay the amount which had been agreed upon, 1.8 million dollars. We are told also in the discussion of this that in that event, the judge, chances are, would require Mr. Vahlsing to pay a certain amount of the renovation cost, because they would not be acquiring then a 1.8 million dollar plant, but they would be acquiring a 1.8 million dollar plant plus the amount of renovation which has been put into it.

If we do not pass this bill, then chances are that these people are not going to put in that investment. If they don't put in that investment, it means that the farmers are not going to put in a sugar beet crop this spring. If the farmers do not put in a sugar beet crop this spring, it means the end of the sugar beet industry in Aroostook County, because there will be no way whatsoever of reviving the industry if this doesn't succeed. So this is all that is involved actually, for the State of Maine to guarantee title to a property which they have sold and later on we have discovered that there is a legal cloud on it. So I hope that you will vote favorably on this bill.

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

Mr. MERRILL: Mr. President and

Members of the Senate: I admit that I am very reluctant to raise any questions about this. First of all, on the occasions that I have had to go to Aroostook County, they have been the most pleasant visiting experiences of my life. I like the people, and there is nothing that I would want to see more than to see a second crop going there. It makes my posture a very difficult one here. But I have to admit that I have some serious problems with this, problems that arise because I think that we all take our responsibility as representatives of all the people of the state seriously.

I have no problem if the description of the legal reality is as the Senator from Aroostook, Senator Cyr, says, that if the plaintiff in this case were successful that he would have to tender more than 1.8; in other words, that he would have to put forward an extra amount of money to represent the amount of renovations that were made. I have absolutely no problem with handing on that extra amount of money to the parties that have bought the plant. If a million dollars of renovations were put into the plant, and the court found that the plaintiff had to put forward an extra million; in other words, 2.8 million, I think that it would only be right that that extra million dollars would be handed on to the parties that have taken the risk and put the money into the plant. If that were a legal certainty, I don't think that this bill would be before us in its present posture. We would instead have a bill that would guarantee that fact.

The problem is that it isn't a legal certainty, and although I admit to the fact that I haven't researched this in great detail, my curbstome opinion, for what it is worth, is that that would not be the case. If the plaintiff in this case wins, he will win because he had a contract. And if he wins on the theory of contract, I think that the court decision will be one for specific performance. The specific performance will be that the State Guarantee Authority will have to sell for what it agreed to sell for, and that the buyer will just have to tender the amount of money he originally agreed to. If that is the case, then what we are talking about is who bears the risk, the state or the buyer. Who bears the risk for the renovations.

If I had been the party who had originally negotiated the contract, I would have given serious consideration, as I am sure the Guarantee Authority did, to at least sharing the risk between the seller, in this case the state, and the buyer, and I think that that may have been equitable.

My major objection to this bill is that what we are doing is changing a contract that was negotiated with no new facts really coming to light. If I am not incorrect — and I am ready to be corrected — this final sale between the present buyers and the state was negotiated and finalized after the suit had been initiated. And in point of fact, the contract recognizes that, because the contract recognizes that any amount of money that the buyer has given the state for purchase of the plant will be handed back to the buyer. In other words, if the buyer has tendered .2 or .4 or .6 million dollars before the suit were successful, that amount of money would be handed on out of 1.8 million. That is recognized in the contract. That is obviously one of the things that was negotiated by the buyer.

My problem is changing the terms of the negotiations to increase the state's risk after a contract has been negotiated between businessmen. It would be greatly

to the advantage of the buyers, and that may be greatly to the advantage of the sugar industry, but it is something that I do very reluctantly. The only people who stand for all the people of the state are us. That is not an easy responsibility at times, and I just have a problem. What we are really talking about here is, assuming it is a successful suit, assuming that the plaintiff is successful in his suit and only has to pay 1.8 million, who is going to get to keep the money? Who bears the risk of putting money into this plant? And my major reluctance is to change the terms of the contract that was negotiated by businessmen in a situation where there has been no real change in the facts. There is no surprise here. The buyers knew when they bought the plant. And we gave some concessions in light of that. I have serious problems with changing the terms of the suit to the detriment of all the people of Maine, the only detriment that we can be certain of at this time, and it is that reluctance that I think brings me to a situation where I am going to have to vote no.

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

Mr. BERRY: Mr. President and Members of the Senate: I have been sitting here asking myself how I could possibly be supporting this legislation, which I am, with my good friend, Senator Merrill, on the other side. And I turn back the pages of legislative history to those days when one of the least bright honorable acts of the Maine Legislature was the downgrading of the Prestile Stream, which was the early-prenatal history of this farce up there, and I recall very vividly the prime mover behind stuffing this into the legislative corporal body, and I would say to Senator Merrill that he is very lucky, along with the rest of us here, if we can satisfy any of the needs of Aroostook County for 1.8 million. So I would suggest we support the bill.

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

Mr. CURTIS: Mr. President, during the debate a statement was made by the Senator from Aroostook, Senator Cyr, regarding the purpose of this bill being to — I believe I quote him correctly — guarantee title. It seems to me that is not the result of this piece of legislation. The title in the law suit is going to be determined, specifically if the suit is for specific performance, by the court, and I am not sure that this Senate should be involved in a situation in which we are trying to misinterpret the purpose of the legislation or influence unduly a court. I don't think we should try to put ourselves in the middle position. If there are judicial decisions to be made, then they should be made.

If the Maine Guarantee Authority has negotiated a contract, then they have represented the duties which they are obligated to represent for this state, and I think that we ought to not interfere with that arrangement at this time. Perhaps they have been successful in doing a little yankee trading, and perhaps they have not, but I would agree with the gentleman from Cumberland, Senator Merrill, that we are the people here who are involved with representing the interests of all of the people of the State of Maine. There has been a business decision made by an agency of the state and by some private folks — perhaps they are not developers,

and perhaps they are — but that business decision ought to be left alone.

I think that the investment by the State of Maine has already totaled more than 10 million dollars. If anybody knows any information to the contrary, I would be pleased to know about it. I believe that the total investment by taxpayers, including federal monies and state monies, is substantially more than that, and it seems to me that at some point we have got to be concerned with fiscal responsibility and be careful with the way we spend the state money.

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

Mr. CONLEY: Mr. President and Members of the Senate: I am reminded of the old saying, "Fool me once, shame on you; fool me twice, shame on me." My days in this body go back to the days that the good Senator from Cumberland, Senator Berry, commented on relative to a second major crop for Aroostook County. And I have served on subcommittees dealing with the Maine sugar beet industry over the years and have visited the sugar beet plant on more than one occasion, and it just seems so hard to accept the fact that here we have a 28 million dollar plant sitting idle in the heart of what is the largest county of the state. I know that back in the 102nd everyone became involved with putting pressure on people to support the sugar beet allotment up there and the declassifying of the Prestile Stream.

It just seems to me that having invested so much money, not only on the state level but on the federal level, that personally I have strong reservations, but on the other hand, I see the need for this particular legislation. I am not going to say I am going to hold my nose and vote for it; I am just going to say another Hail Mary and hope that the Aroostook farmers can get some sugar beets planted.

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

Mr. TROTZKY: Mr. President, I would like to pose a question through the Chair to any Senator who would care to answer. Based on the clouded title conveyed by the state, will Aroostook County banks loan money to the present buyers for renovations, using the buyers' interest in the plant as collateral?

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: The two organizations that will be doing the renovating have their own finances and, therefore, they are not dependent on the local banks. Now, the local banks have loaned some money to the farmers co-op. As you know, the original contract called for 1.8 million, with \$200,000 to be paid as down payment. Now, since then the local farmers have put in \$330,000. They have borrowed from the bank that amount. Now, according to the terms of the contract, if the organization didn't work or it didn't get on its feet, then they were to be reimbursed the \$200,000 that they put in, so they would stand to lose \$130,000, even if we pass this bill and the Vahlsing interests should still gain access to the plant.

However, I would like to take you back to the reason why the State of Maine sold a 1.8

million investment last year to the local farmers of Aroostook where they could have had 5 million dollars in salvage. We were told that the machinery in that plant for salvage purposes could bring between 4 and 5 million dollars. Instead of that, the State of Maine decided last year to sell it for 1.8 million to the Aroostook farmers for one purpose, and one purpose only, to try to revive and keep the sugar beet industry viable in Aroostook County.

Now, when we talk about the sugar beets in Aroostook County, it is not only Aroostook County that is going to benefit by it. Beets are to be grown in Oxford County, in Franklin County, in Washington County, and many of the other counties in the State of Maine. This would be a second crop that would supplement the income of Aroostook farmers and would try to even out the peaks and the slumps that we have in the potato industry.

Now, what we are faced with right now, the main interest — or maybe I should back up a little bit and talk a little bit about the title. At the time that the farmers bought the sugar beet plant from the MGA there was no Vahlsing suit. That Vahlsing suit which brought this legal cloud on the title was brought only afterwards. So I still think that it is the responsibility of the State of Maine to back up the title of this plant that they sold.

Now, I think that the main purpose of Mr. Vahlsing bringing this suit is to try to kill the industry in Aroostook County so that he could have the plant for 1.8 million, and then turn around and sell it for salvage and get 4 or 5 million dollars, which route the State of Maine didn't want to go because they thought that a second crop, a beet industry in Aroostook County, would create more jobs, would create more income, would create more investment, would also help the railroads, transportation, and there are many side industries that would be benefitted by this industry, and that is the reason why Mr. Vahlsing is trying to have a decision through the courts.

We are told that it is probably one in a thousand that he might win his case. But in doing that, in trying to drag this through the courts, the delaying action is going to kill the initiative of the Aroostook farmers to grow beets, and as such, then it is just going to become salvage machinery. This is what he wants. He wants to have a crack at getting it for 1.8 million so that he can turn around and sell it for 4 or 5 or maybe 6 or 7 million dollars; maybe it has gone up since then. And I think it is very essential that we do pass this legislation.

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

Mr. COLLINS: Mr. President, the mistakes of the past are like an albatross around the neck of this bill, and I know it bothers many of us to reach a decision about it. I would urge that we look to the future in making that decision.

I call to the Senate's attention the letter on our desks signed by Deputy Attorney General Martin Wilk, in which the key sentence is this: "The net effect of the requirement is that the state will not be exposed to cash payments in excess of what the state will actually receive from the Nordic Sugar Corporation." Really we are being asked to supply a sort of title insurance to this transaction after the fact of the contract.

The Senator from Cumberland, Senator Merrill, points out that this was entered into by experienced businessmen and he wants them to stand solely on their contract. But we are today asked to look

not just at what those businessmen worked out but at the long range future of an industry. And, according to the letter on our desks, this particular form of title insurance will not cost the State of Maine anything, and that is pretty inexpensive title insurance. For this reason, I would urge that we support the unanimous report of the Appropriations Committee in favor of this bill.

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

Mr. MERRILL: Mr. President, three quick points: It doesn't cost the state anything until and if—and hopefully what we are talking about won't come to pass—the suit by the plaintiff is successful, at which point it could cost us a full 1.6 million. What we could end up with is the plaintiff, Mr. Vahlsing and Company, buying a plant worth 4 or 5 or 6 million dollars, depending on the renovations being made, for 1.8 million; the present buyers being given up to 1.8 million; and the state having nothing, not the plant, not the money. Now, at that point in time, if that did come to pass, I wonder how the people of Maine would look upon this title insurance that cost us nothing. I don't think it would be quite as favorable and quite as painless as the good senator from Knox, Senator Collins, suggests.

Two other points: If the salvage value of this plant was worth 5 million dollars, it would seem to me that it would be fairly easy to raise money on it, even in light of some of these problems. Finally, if this suit were initiated after the purchase, why does the contract make specific reference to the suit by Nordic sugar.

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

Mr. HUBER: Mr. President and Members of the Senate: The good Senator from Cumberland, Senator Merrill, is absolutely correct in that the contract between the Maine Guarantee Authority and the farmers group does specifically mention the Nordic suit, does guarantee this title, and I repeat what I said before—and I am not going to argue the fate or possible fate of the Nordic Sugar's suit, nor am I going to argue the question of possible additional payments above the 1.8 due to possible unjust enrichment settlements by a court, or anything about the suit—I think it is perfectly clear here, and I tried to state it before, that the state is risking the unrenovated plant.

If this bill did not go through, there is the possibility that Nordic Sugar would pay the state 1.8 million dollars for this plant. If this bill goes through, the state is risking the plant itself in hopes of a new renewable resource industry in the northern part of the state. I think this is a risk. It does not involve new monies, but it does involve whatever the value of this unrenovated plant is.

I think it is up to this body today to try and determine whether the risk of the unrenovated sugar beet plant is worth the risk of a potential substantial new renewable resource industry in the northern part of the state. I have considerable faith in the group behind this in that they have made a business decision that this is a potential going venture, and I will vote in favor of this bill.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, I am going to support this bill, and I think perhaps for a little different reason than

has been stated, which I think is important.

Considering that the state is going to need monies to operate the state programs and social programs and so forth that all of us want and seem to desire, and considering the fact that probably the only way we are going to get this money is through economic factors in the state's business climate, I think we as the legislature over the years here, recent years especially, have been showing that we are willing to take certain risks and we are willing to give certain credits to businesses around the state to show that Maine does have a good business climate. I feel that this another step that the state can make and the legislature can make.

Let's make no mistake about it, our reputation in Maine is not going to be what we say we are going to do, but our reputation is going to be based on what we do. And when we take these risks as have been outlined today, and we give certain tax credits or breaks, or whatever you want to call them, to businesses to encourage them to stay here in Maine, I say we are making progressive steps, and the risks that we take, I think, would be a small price to pay to improve our economic climate in Maine. That is why I am voting for this legislation.

The PRESIDENT: Is the Senate ready for the question? Before the vote is taken, the Chair would request leave of the Senate to withdraw from voting on this issue because of the possibility of an apparent future conflict of interest. Is it the pleasure of the Senate to grant this leave?

It is a vote.

The pending question before the Senate is the acceptance of the committee report. A "Yes" vote will be in favor of accepting the ought to pass as amended report of the committee; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators R. Berry, Carbonneau, Cianchette, Collins, Conley, Cummings, Cyr, Danton, Gahagan, Graffam, Hichens, Huber, Jackson, Marcotte, O'Leary, Pray, Thomas, Trotzky, Wyman.

NAYS: Senators E. Berry, Corson, Curtis, Graham, Greeley, Merrill, Reeves.

ABSENT: Senators Clifford, Johnston, Katz, McNally, Roberts, Speers.

A roll call was had. 19 Senators having voted in the affirmative, and seven Senators having voted in the negative, with one Senator being excused from voting and six being absent, the Majority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Papers from the House

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

Enactor

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

Emergency

An Act to Repeal the Prohibition in the Criminal Statutes against Marathon Dances and Walkathons. (H. P. 2132) (L. D. 2280)

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

Mr. BERRY: Mr. President and Members of the Senate: I have had a

question in my mind since I saw this item yesterday, and it wasn't touched upon by the good Senator from Knox, Senator Collins, in his explanation.

Is the only reason we are performing this act to legalize a public fund raising event in Androscoggin County? If this is the case, recognizing the merit of the organization and the laudable purposes of the fund raising event, are we going to, by passing this, throw open in the future such things as marathon dances and walkathons for any purpose, be it perhaps not quite so worthy? I am quite cognizant of the fact that some of the overall changes that were proposed — as a layman, I will say in the legal philosophy of the State of Maine at the last session, notably the marijuana situation, has generated quite a lot of interested concern on the part of people. Of course, we, in approving this, made ourselves party to removing the penalties on marijuana. This was, as I recall it, under the stricture that we were modernizing our laws and bringing them in conformance with accepted progressive legal principles, to which I think we all subscribe. But, as somebody said to me yesterday about this particular little bill, we are very careful in regulating horse pulling contests and pig chasing contests, and what are we doing right here? So I think we perhaps might listen again, if there are some further words of explanation on this.

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

Mr. COLLINS: Mr. President and Members of the Senate: When we enacted the new Maine Criminal Code last year in the regular session, we repealed the prohibitions against marathon dancing and walkathons. I wasn't here, of course, when those prohibitions were written into our laws. I really don't see any moral blot on society by virtue of a marathon dance or a walkathon. In fact, a great deal of money has been raised in my area in years back by walkathons where high school kids would get people to pledge a certain amount for each mile that they walked. These walkathons were on back country roads, they were supervised by police, and they were accompanied by people who looked after anyone who might get undue blisters and all that sort of thing. So it was the judgment of the committee and the legislature that this sort of thing was not the sort of activity that ought to be labeled with a criminal label.

The reason for this particular bill is that this group supporting the cause of trying to help epileptics had relied on our code and its effective date of March 1, and had lined up this particular charitable event, spent money on it, advertised it, and hired the bands for the dance. And then very suddenly, as you will remember, in the course of one day we changed the rules. And it seemed to us only a matter of fair play to consider the investment they had made and to permit them to do what we had first said they could do and then suddenly said they couldn't do.

I can assure the good Senator from Cumberland, Senator Berry, that this measure has no connection with marijuana. I am not quite sure how he connected the two in his mind, but I can see absolutely no connection. And I would say that if the Senator from Cumberland, Senator Berry, would like to restore to the criminal label the marathon dance and the walkathon, that the proper place to do so would be to offer an amendment to the criminal code revision bill when it comes

to the floor of the Senate, as it will in about two weeks. Then we can debate the merits of that type of activity. But I would ask you to support this measure purely on the grounds of fair play concerning what we had told these people they could legally do.

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

Mr. BERRY: Mr. President and Members of the Senate: I guess the good Senator from Knox didn't understand me. I made no relationship, of course, between marijuana and this bill whatsoever. I will put it as plainly as I can. This legislature removed the criminal penalty for marijuana when we changed the criminal laws of the State of Maine, and we did not vote on that particular issue as such. That is my point. We passed a whole complete revision of the criminal code, and this was included in it. Now I am saying that we are specifically dealing here with a spectacle of which I am old enough to recall. I think it was a sad commentary on humanity when you used to see these people who the only way they could get a nickel was to go out on a dance floor and have people buying chances on them, buying admission to see them like animals struggling along, hungry, tired, and hoping they would get a cup of coffee when the thing was all over. I don't think it is particularly funny either.

I would support, instead of what Senator Collins suggests, an amendment to this bill to remove the dancathon. The walkathon is fine, there is no problem. As a matter of fact, we have some pretty good representation in Congress as a result of one of those operations. So, I feel very strongly that this spectacle of humanity being put on exhibition, regardless of what Senator Collins says the circumstances are, I think they were a little presumptuous maybe over there to build these castles, knowing that this was something had been passed by the legislature but time was running out on them. I personally feel that we should not vote for this with the dancathon in it, and I would hope that you would support my view. I would strongly recommend that the walkathon be kept in.

The PRESIDENT: The pending question before the Senate is the enactment of L.D. 2280, An Act to Repeal the Prohibition in the Criminal Statutes against Marathon Dances and Walkathons. Is the Senate ready for the question?

Thereupon, this being an emergency measure and having received the affirmative votes of 22 members of the Senate, with four voting in the negative, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Mrs. Cummings of Penobscot,

Adjourned until 10 o'clock tomorrow morning.