

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Second Legislature

OF THE

STATE OF MAINE

1945

DAILY KENNEBEC JOURNAL

AUGUSTA, MAINE

SENATE

Monday, April 16, 1945.

The Senate was called to order by the President.

Prayer by the Reverend Cymbrid Hughes of Augusta.

Journal of Friday, April 13th, read and approved.

House Papers:

The Committee on Salaries and Fees on Bill "An Act Adjusting the Salaries of the Employees in the Classified Service of the State," H. P. 1365) L. D. 1018) reported that leave be granted to withdraw the same.

Comes from the House, the bill substituted for the report, and passed to be engrossed as amended by House Amendment "A".

In the Senate, on motion by Mr. Hall of Franklin, the report was read and adopted and leave was granted to withdraw the bill in non-concurrence.

The Committee on Education to which was re-committed Bill "An Act to Permit Establishment of Area Schools," (H. P. 938) (L. D. 541) reported that the same ought to pass.

Comes from the House indefinitely postponed.

In the Senate, on motion by Mr. Owen, of Kennebec, the report of the Committee was adopted in non-concurrence, the bill was given its first reading and tomorrow assigned for second reading.

The Committee on Education on "Resolve in Favor of Coburn Classical Institute," (H. P. 807) reported that the same ought not to pass as covered by other legislation.

The same Committee on "Resolve in Favor of Patten Academy," (H. P. 806) reported that the same ought not to pass as covered by other legislation.

The same Committee on "Resolve in Favor of Litchfield Academy," (H. P. 632) reported that the same ought not to pass as covered by other legislation.

The same Committee on "Resolve in Favor of Parsonsfield Seminary," (H. P. 505) reported that the same

ought not to pass as covered by other legislation.

The same Committee on "Resolve in Favor of Limington Academy," (H. P. 504) reported that the same ought not to pass as it is covered by other legislation.

The same Committee on "Resolve in Favor of Greely Institute," (H. P. 726) reported that the same ought not to pass as it is covered by other legislation.

The same Committee on "Resolve in Favor of Corinna Union Academy," (H. P. 418) reported that the same ought not to pass as it is covered by other legislation.

The same Committee on "Resolve in Favor of Lincoln Academy," (H. P. 1178) reported that the same ought not to pass as it is covered by other legislation.

The same Committee on "Resolve in Favor of Leavitt Institute," (H. P. 1064) reported that the same ought not to pass as it is covered by other legislation.

The same Committee on "Resolve in Favor of Monmouth Academy," (H. P. 633) reported that the same ought not to pass as it is covered by other legislation.

The same Committee on "Resolve, in Favor of East Corinth Academy," (H. P. 1124) reported that the same ought not to pass as it is covered by other legislation.

On motion by Mr. Owen of Kennebec, the Resolves were severally recommitted to the Committee on Education in concurrence.

The Committee on Aeronautics on Bill "An Act Relating to the Aeronautical Fund," (H. P. 615) (L. D. 279) reported that the same ought not to pass.

The Committee on Salaries and Fees on Bill "An Act Relating to Expenses of Members of the Liquor Commission," (H. P. 547) (L. D. 261) reported that the same ought not to pass, as it is covered by other legislation.

Which reports were severally read and adopted in concurrence.

The Committee on State Lands and Forest Preservation on "Resolve Authorizing the Forest Commissioner to Grant Permits for Setting and Maintaining Poles and Wires on a Public Lot in Webster Plantation," (H. P. 1455) (L. D. 1177) reported that the same ought to pass.

The Committee on Judiciary on "Resolve in Relation to Status of Certain Persons in re Teachers' Retirement Association," (H. P. 961) (L. D. 580) reported the same in a new draft (H. P. 1472) (L. D. 1175) under the same title, and that it ought to pass.

The same Committee on Bill "An Act Relating to Pollution in Cobbosseecontee and Annabessacook Lakes and Tributaries," (H. P. 1289) (L. D. 935) reported the same in a new draft, (H. P. 1471) (L. D. 1175) under a new title, Bill "An Act Relating to Pollution in Cobbosseecontee and Annabessacook Lakes," and that it ought to pass.

The same Committee on "Resolve Relating to Appointment of Special Recess Committee to Study Proposals to Establish Technical and Vocational Institutes," (H. P. 825) (L. D. 433) reported the same in a new draft, (H. P. 1473) (L. D. 1176) under a new title, "Resolve Relating to Appointment of Special Committee to Study Proposals to Establish Technical and Vocational Institutes," and that it ought to pass.

The Committee on State Lands and Forest Preservation on "Resolve Authorizing the Forest Commissioner to Convey Certain Interest of the State in Land in Aroostook County to Maxime Albert, of Frenchville," (H. P. 347) (L. D. 154) reported the same in a new draft (H. P. 1474) (L. D. 1178) under a new title, "Resolve, Authorizing the Forest Commissioner to Convey Certain Interest of the State in Land in Piscataquis County to Harry Greenleaf, of Norway," and that it ought to pass.

(On motion by Mr. Boucher of Androscoggin, tabled pending adoption of the report in concurrence.)

Which reports were severally read and adopted in concurrence, and the bill and resolves read once, and under suspension of the rules, were given a second reading and passed to be engrossed.

Sent down for concurrence.

The Committee on Salaries and Fees on Bill "An Act Relating to Salary of Justices of the Supreme Judicial and the Superior Courts," (H. P. 216) (L. D. 81) reported the same in a new draft (H. P. 1466) (L. D. 1167) under the same title, and that it ought to pass.

Comes from the House, report read and adopted, House Amend-

ment "A" was read and subsequently withdrawn, and the bill passed to be engrossed.

In the Senate, report read and adopted in concurrence and under suspension of the rules the bill was given its two several readings and passed to be engrossed in concurrence.

The Committee on State Lands and Forest Preservation on "Resolve Authorizing the Forest Commissioner to Advertise and Sell Certain Stumpage in the Town of Ashland," (H. P. 346) (L. D. 153) reported the same in a new draft (H. P. 1423) (L. D. 1096) under the same title, and that it ought to pass.

Comes from the House, passed to be engrossed as amended by House Amendment "A" in non-concurrence.

In the Senate, on motion by Mr. Good of Aroostook, the Senate voted to reconsider its former action whereby the Resolve was passed to be engrossed and on further motion by the same Senator, the resolve was laid upon the table pending adoption of House Amendment A.

The Committee on Agriculture to which was recommitted Bill "An Act to Provide a Tonnage Tax on Commercial Fertilizer" (H. P. 1116) (L. D. 668) reported the same in the same new draft (H. P. 138) (L. D. 989) under the same title, and that it ought to pass.

Comes from the House, passed to be engrossed as amended by House Amendment "A."

In the Senate, on motion by Mr. Howe of Penobscot, the bill and accompanying papers were laid upon the table pending adoption of the report.

The Majority of the Committee on Judiciary on Bill "An Act Amending the Law Relating to State Employees' Retirement System to Include Public School Teachers," (H. P. 819) (L. D. 507) reported that the same ought not to pass.

(signed)

Senators:

DOW of Oxford
DUNBAR of Washington
CLOUGH of Penobscot

Representatives:

WILLIAMS of Auburn
WARD of Millinocket
HASKELL of Portland
CONNELLAN of Portland

The Minority of the same Committee on the same subject matter reported the same in a new draft

(H. P. 1462) (L. D. 1163) under the same title, and that it ought to pass.

(Signed)
Representatives:

PERKINS of Boothbay
Harbor
PEIRCE of Augusta
PASCUCCI of Sanford

Comes from the House, the Majority Report read and adopted.

Mr. DOW of Oxford: Mr. President, I move the acceptance of the "Ought Not to Pass" report. In support of that motion I want to make a few remarks to show the position that the committee of which I was Chairman and which handled the bill took, and to tell you they really put some time on the measure. As you probably know, this so-called Legislative Document 507 seeks to merge the Maine Teachers Retirement System with the State Employees Retirement System. We have some ten or eleven pension systems in the State and when we come to the question of merging one into the other there are a number of questions that automatically come to your mind. One is, what will happen to state employees when their system is merged with the teachers and, second, what will happen to the teachers when that merger takes place? What will it cost? We have got to be more or less cold blooded and see how much money it will take and where it is coming from. The hearing on this bill was well attended and was held in the hall of the House, and I believe the Committee on Judiciary, in spite of the report, are friendly to the teachers of the State of Maine but they didn't have the answer to these specific questions.

Somewhere around 1937—my date may not be correct, but somewhere around that time—an actuary from New York by the name of Buck set up an employees' retirement system for the employees of the State of Maine, and he is called by most people an expert in this kind of work. He is supposed to have all the answers and probably does have for the plan as submitted by him.

I signed this "Ought Not to Pass" report because I didn't know the answers to the questions I just gave you.

On some day following March 26th of this year I found on my desk a letter from the Commissioner of Education, as follows:

"On February 16th I wrote Mr. George B. Buck for information regarding legislative proposals affecting the Maine Teachers' Retirement System. Copies of my letter of inquiry and Mr. Buck's reply are forwarded for your information." It is signed by Harry V. Gilson.

These letters have been identified as authentic in the presence of the Committee and I am not afraid to quote from them. Under date of February 16th the Commissioner of Education wrote to Mr. George B. Buck. I won't read the whole of the letter, but to show others were groping for answers to these questions I will read part of it:

"1. What specific figure represents your estimate of the net increase in cost to the state annually if measures 504 and 507 are both passed?" 504 and 507 being the bills which would increase the non-contributory benefits on the graduated scale.

"What would be the net increase in cost to the state annually to merge the M. T. R. A. with the State Employees Retirement System in accordance with the terms of Bill 507?"

"In your judgment would the retirement status of a teacher whose average salary is \$1500 or less be improved by the merger proposed in the attached legislation?"

"On a basis of your knowledge of the pension and retirement systems for teachers and state employees of Maine, would it be to the best interests of the state (a) to accomplish a merger of the M. T. R. A. with the State Employees' Retirement System in accordance with the attached proposal of the Maine Teachers' Association (L. D. 507) or (b) to defer such action in accordance with the recommendations made in Legislative Document No. 263 also attached."

I insert here by way of parenthesis L. D. 263 was the so-called Roberts bill.

"On a basis of your knowledge of the pension and retirement systems for teachers and state employees of Maine, would it be to the best interests of a majority of the teachers of Maine to accomplish a merger of the M. T. R. A. with the State Employees' Retirement System in accordance with the attached legislative proposal of the Maine Teachers' Association or to defer such action in accordance with the recom-

mendations made in the attached resolve (Legislative Document 263)?"

So you see Mr. Gilson, the Commissioner of Education, as late as February 16, 1945 was asking these questions: "How would it affect the teachers? Would it be for the best interest of the state? What would the cost be?"

Under date of March 22, 1945, Mr. Gilson received a letter from Mr. Buck answering some of these questions:

"Dear Mr. Gilson:

An answer to your letter of February 16 has been delayed so long that probably a reply at this late date will be of very little value to you. When the letter was first received, it was referred to one of the actuaries in the office for reply. He got so involved that he put it on my calendar. Then I was taken ill and have returned to the office just this week.

"I understand that a number of amendments have been made since I prepared figures for the Maine Employees' Retirement System. Furthermore, I have had some correspondence recently with one of the legislators who was instrumental in the passage of the State Employees' law, concerning proposals by the employees to liberalize the State Employees' System and concerning the contributions payable by the employers with respect to certain local communities that have joined the system. The result is that I am now somewhat at sea in attempting to arrive at answers to your specific questions. As you know, we have made our calculations on the basis of the proposals for revision submitted by the Legislative Committee of the Maine Teachers' Association, as submitted in the memorandum attached to your letter of October 25, 1944. This apparently was based on the State Employees' law as it was originally adopted, with a minimum service retirement age of 65 for all employees and a uniform retirement benefit. Now we understand that certain changes have been made and certain others are contemplated, with the result that I have the impression that the Maine Employees' Retirement System is in somewhat of a state of flux.

"I do not know the present actuary of the State Employees' Retirement system but it may be that if you could get in touch with him you

could get the answers to the questions under the proposed revision of the law, which is probably the law that you will want to consider at this time. I should think that before the Maine legislature changes the existing State Employees' Retirement System it would want to have a pretty definite knowledge as to what would be involved by way of cost and that it ought to have an actuarial report supporting the proposal, similar to that which we prepared when the legislation was first adopted.

"With the information I now have, I am inclined to favor the passage of Legislative Document No. 263 because it seems to me that pension legislation covers fiscal operations extending over such a long period in the future that the time to be sure you are on the right course is before you start. My office could not at this late date assume responsibility that the proposed amendments are proper. Unless you have someone who is familiar with the technical operation of retirement systems to assume the responsibility, you may end up with legislation that is less desirable either from the standpoint of the teachers or the public or both.

"When I was last in a conference with you in Augusta, I think I indicated that it seemed to me that the teachers were not sufficiently in accord to expect that legislation could be agreed upon in time for adoption at this session. Later, Dr. Kennan seemed to indicate that the teachers were agreed, but it still seemed to me that, if so, they had agreed among themselves at a rather late date. So far as I know, we have never prepared figures for any plan that has been accepted, nor has the proper legislation looking toward a merger ever been reviewed by our office. It would seem to me that a further study of the whole situation would appear desirable.

Very truly yours,

George B. Buck"

Those words are in connection with the report of the majority of the committee that the bill ought not to pass.

The PRESIDENT: The pending question is on the motion of the Senator from Oxford, Senator Dow, that the Senate adopt the "Ought

Not to Pass" report of the committee in concurrence. Is this the pleasure of the Senate?

Thereupon, the motion prevailed and the Senate adopted the "Ought Not to Pass" report of the committee in concurrence.

Mr. Hopkins of Kennebec presented the following Order:

ORDERED. The House concurring, the Public Utilities Commission and Highway Commission make a study of the comparative costs to carriers of supplying freight transportation in Maine, omitting from the study all way costs and all State and Federal taxation including tax on fuel and registration fees, the comparisons to be made between selected classes of carrier types, loadings, and distances,—and be it further ordered that the results of this study be available for use to the 93rd Legislature on the date of its convening.

Mr. HOPKINS of Kennebec: Mr. President, I'd like to speak briefly on this order. Last week I sat through debate on the so-called Reciprocity legislation and listened to the views expressed by the Senators. I attended the hearing, practically the entire hearing and listened to the proponents and opponents of the so-called Reciprocity bill. It seemed to me at that time that the State of Maine was tremendously inefficient on basic information on which to decide the proper manner in which to legislate on transportation matters. I have made use of all the various State departments in gathering certain information on freight transportation in Maine as well as the railroads. I'd like to present just briefly a small amount of basic information on freight transportation in Maine and to discuss it and then table the order for a day or so to give us a chance to consider it.

In connection with inter-state service in Maine there are 300 trucks, 299 tractors, 593 trailers, or a total of 1192 vehicles with a registered capacity, exclusive of trailers, of 3785 tons and paying registration fees of \$95,200.

Maine has in common service (intra-state) 184 trucks, 103 tractors, 66 trailers or a total of 353 vehicles with a registered capacity,

exclusive of trailers, of 1370 tons and paying registration fees of \$26,820.

Those figures I have presented were secured from the Public Utilities Commission and from the Highway Commission.

Now, for the railroads. The total railroad mileage in Maine—I will not give the names of the railroads—is 2,722 miles and the ton miles of freight service furnished in 1944 was 2,790,000,000 ton miles. Railroads own property assessed at \$6,719,319 in the State which at average rate of 52½ mills returns tax of \$353,000. They pay 5% excise to the State on gross receipts of \$1,559,000. The total tax paid to the State in 1944 was slightly under two million dollars. Rail freight revenue on Maine railroads in 1944, after crediting tax charges, varied from 1¼ to 2¼ cents per ton mile and averaged a little over one and a half cents per ton mile. The railroads of Maine spent between eight and ten millions of dollars on ways during 1944. If relieved of this cost, the roads would have furnished the 2,790,000,000 ton miles of service for slightly over a cent per ton mile,—surely less than 1¼ cents per ton mile.

Last week a member of the Third House told me railroads were obsolete and highway carriers were more efficient and it was only a matter of time when there would be no rail carriers. Whether or not it is true is subject to analysis. Of course, I do not believe it. Maybe some of you Senators do. In any case, we ought to know the facts. At the present time we do not know the facts.

One of the Senators mentioned last week, or intimated that they might attempt to haul potatoes from Aroostook to the Boston markets by truck. I do not think any man in the legislature knows whether it would be economical transportation or not.

One of the unfortunate things about the whole matter is that it is not subject to analysis in close limits, but that is no reason for not making an analysis. We should try to make available the best information that can be had. I do not think it has been done in this State. We are going ahead with complete reciprocity in Maine, of course, some time. Perhaps we will in this session of the legislature.

In any case we should have the best facts available and it is the intent of the order that the facts be secured as far as the two commissions can secure them.

I move this order lie on the table pending passage and be especially assigned for tomorrow morning.

The motion prevailed and the order was laid upon the table pending passage, and tomorrow assigned.

Senate Committee Reports

Mr. Brown from the Committee on Library submitted its Final Report.

Mr. Dow from the Committee on Banks and Banking submitted its Final Report.

Mr. Noyes from the Committee on Taxation submitted its Final Report.

Mr. Dow from the Committee on Mercantile Affairs and Insurance submitted its Final Report.

Mr. Spear from the Committee on Aeronautics submitted its Final Report.

Mr. Dow from the Committee on Post War Planning submitted its Final Report.

Which reports were severally read and adopted.

Sent down for concurrence.

The Majority of the Committee on Public Health on Bill "An Act to Require the Enrichment of Flour and Bread to Meet Certain Standards of Vitamin and Mineral Content." (S. P. 354) (L. D. 909) reported that the same ought to pass as amended by Committee Amendment "A".

(Signed)

Senators:

TOWNSEND of Penobscot
CLOUGH of Penobscot

Representatives:

DOWNS of Rome
LORD of So. Portland
WEEKS of Waterville
THORNDIKE of Bar Harbor

The Minority of the same Committee on the same subject matter reported that the same ought not to pass.

(Signed)

Senator:

BROWN of Aroostook

Representatives:

SPRINGER of Danforth
BIRD of Washington
LONGSTAFF of Crystal

Mr. BROWN of Aroostook: Mr. President, I move that the Senate adopt the Minority Report "Ought Not to Pass."

Thereupon, on motion by Miss Clough of Penobscot, the reports and accompanying papers were laid upon the table pending motion by the Senator from Aroostook, Senator Brown, to adopt the Minority Report.

Passed to Be Engrossed

Bill "An Act Amending the Unemployment Compensation Act as to Employer's Experience Classifications." (H. P. 1077) (L. D. 926)

"Resolve Authorizing Purchase of Jefferson Camps." (H. P. 1424) (L. D. 1097)

Bill "An Act to Remove Floating Island in Corundell Lake in Corinna." (H. P. 1255) (L. D. 880)

(On motion by Mr. Brown of Aroostook, tabled pending passage to be engrossed in concurrence.)

Which bills and resolve were severally read a second time and passed to be engrossed in concurrence.

"Resolve Providing Pensions for Soldiers and Sailors and Dependents and Other Needy Persons." (S. P. 440) (L. D. 1165)

"Resolve to Create a Special Joint Committee to Study the Public Reserved Lots in the State." (S. P. 441) (L. D. 1164)

(On motion by Mr. Smith of Knox, tabled pending passage to be engrossed.)

Which resolves were severally read a second time and passed to be engrossed.

Sent down for concurrence.

Passed to be Enacted

Bill "An Act to Increase Salaries of Somerset County Officers." (S. P. 267) (L. D. 620)

Bill "An Act Relating to Free Hunting and Fishing Permits for Veterans." (S. P. 363) (L. D. 962)

Bill "An Act Relating to Employment of Minors and Females." (H. P. 332) (L. D. 111)

Bill "An Act Relating to Exception to the Licensing of Steam Engineers and Firemen." (H. P. 330) (L. D. 435)

Bill "An Act Relating to Employment of Children." (H. P. 963) (L. D. 529)

Finally Passed

“Resolve in Favor of the Town of Smyrna.” (H. P. 1229) (L. D. 853)

Emergency Measure

“Resolve, Relating to Open Season for Fishing in Aroostook and Piscataquis Counties.” (H. P. 1450) (L. D. 1146)

Which resolve being an emergency measure, and having received the approval of 26 members of the Senate, and none opposed was finally passed.

Orders of the Day

The PRESIDENT: Under Orders of the Day, the Chair appoints as members on the part of the Senate, of the Conference Committee on the disagreeing action of the two branches of the legislature on L. D. 490, bill, An Act to Simplify Finances of the Department of Education: Senators Owen of Kennebec, Savage of Somerset and Cleaves of Cumberland.

The Chair appoints as members on the part of the Senate, of the Conference Committee on the disagreeing action of the two branches of the legislature on L. D. 487, bill, An Act to Accomplish Conformity to State School Building Standards: Senators Bishop of Sagadahoc, Owen of Kennebec, Leavitt of Cumberland.

The PRESIDENT: The Senate is proceeding under Orders of the Day.

Mr. BISHOP of Sagadahoc: Mr. President, may I inquire the status of Item 21, listed on today's calendar on page 3, being Legislative Document 81, new draft Legislative Document 1167, bill, An Act Relating to Salary of Justices of the Supreme Judicial and the Superior Courts.

The PRESIDENT: The Chair will state that the bill was passed to be engrossed in the Senate this afternoon.

Mr. BISHOP: Mr. President, I move that the Senate reconsider its action taken earlier in the day whereby it passed this bill to be engrossed.

Thereupon, a viva voce vote being doubted

A division of the Senate was had. Eight having voted in the affirm-

ative and seventeen opposed, the motion did not prevail.

Mr. BISHOP: Mr. President, would you be so kind as to advise me what should be done in order that I may present an amendment?

The PRESIDENT: The Chair will state that an amendment is not in order.

On motion by Mr. Boucher of Androscoggin, the Senate voted to take from the table, Bill, An Act Clarifying the Law in Relation to Parkways and Freeways (H. P. 874) (L. D. 522) tabled by that Senator on April 6th pending passage to be enacted.

Mr. BOUCHER: Mr. President and Members of the Senate, I shall, after a few remarks, move indefinite postponement of this bill. In order to sustain that motion I would like to read the first part of the bill and tell you what I found out about it.

The reason I tabled Legislative Document 522 was because I wanted to know what a freeway was. I wonder how many of you Senators know what freeways are. I thought I knew what a highway was and a parkway, but a freeway was a new one to me. That is the reason I tabled it in the first place. I wanted to know what a freeway was. I went in and found the Revised Statutes of 1944 under Section 77 of Chapter 20 and found that a freeway “shall be any trunk line highway which shall be designed to separate through-high-speed non-commercial motor vehicle traffic from commercial, and slow speed and local non-commercial vehicular traffic by the use of independent traffic lanes, and which shall be designed to restrict the cross traffic of vehicles.”

Now this bill is supposed, according to wording of it, to clarify this. As far as I can see, it doesn't clarify it at all. I did find, in looking it over, that there was a reason for the bill and the reason is this. Section 75 of the bill says that the “Governor and Council, with the special authorization of the legislature, may direct the State Highway Commission to lay out and construct any state highway as a parkway or freeway road.” This bill says the same thing except it takes out the words “special authorization of the legislature.” So in other words this bill is a very sim-

ple bill although it isn't what it is purported to be in this form. It means the legislature is doing away with its own rights of locating in the future forever and a day these special parkways and freeways. The legislature shall have no more to say about it if we pass this law. It will be entirely in the hands of the Governor and Council to have them set where they please. I, for one, believe in parkways. Now that I know what freeways are, I guess I believe in freeways. I think, however, the legislature should have the say of where they are to be located.

I do not think there is any especially great hurry to build any of these so-called parkways or freeways. I think you will agree with me on this point, that this legislature will probably be called in once or twice before we go out of office, and if at any time we need parkways or freeways the legislature can authorize such parkways or freeways. That is the reason I move the indefinite postponement of the bill. I do not see any reason for it except that it would deprive this legislature and future legislatures of their present rights.

Mr. BROWN of Aroostook: Mr. President, being one of the members of the Ways and Bridges Committee which reported this bill unanimously "Ought to Pass" I feel I should say something in support of it. It is true parkways and freeways are already provided for in the statutes but only under the Governor and Council and by passage of the legislature, as Senator Boucher has said. This bill is for the purpose of giving authority to the Highway Department in the development of roads which we have today, in view of the fact that the State of Maine will probably very soon in the future cooperate with the Federal government in the improvement of our highways, and establishment of our trunk lines, a great many of which will be probably constructed as parkways and freeways.

A freeway is a certain designated strip of road or lane which is designated for through traffic, the same as we find on roads in Massachusetts and other states where certain designated roads are established for through movement.

It would seem to us we give practically full control of roads to the Highway Department and they cooperate with the Federal govern-

ment in matching funds and they should naturally decide where the parkways should be. On the other hand, we are not, as I see it, taking any rights from the legislature because the legislature at any session could designate any highway or parkway in addition to any designated by the Highway Department, and no doubt the Highway Department would follow, as they always do, the recommendation of the legislature. This simplifies it and gives the Highway Department the right, when our roads and our federal highways and state highways become fit, to increase the width and build them up so they can become parkways and freeways, and I really cannot see that you are infringing on the right of any legislature by giving the State Highway Commission this right, and I therefore hope the motion of the Senator from Androscoggin, Senator Boucher, does not prevail.

Mr. BOUCHER: Mr. President, may I again point out to the members of the Senate that I was told and Senator Brown has said that there is only one point in question in this whole bill. It takes out those four or five words "special authorization of the legislature." It is all the bill accomplishes and doesn't change anything except what is on the law books of the State of Maine. There is not another word of change. I didn't like the bill because it didn't state what it is trying to do. It is not clarifying any law as I can see it. It is only taking away from this legislature its rights under the present law.

Naturally, I shall be glad to abide by the majority of the Senate. If you are willing to give away your rights I will go along with you, but I thought I would call it to your attention.

The PRESIDENT: The question is on the motion of the Senator from Androscoggin, Senator Boucher, that the bill be indefinitely postponed.

A viva voce vote being doubted.

A division of the Senate was had.

Twenty having voted in the affirmative and eight opposed, the motion to indefinitely postpone prevailed.

Sent down for concurrence.

The PRESIDENT: The Senate is proceeding under Orders of the Day.

Mr. CROSS of Kennebec: Mr. President, I move that the Senate reconsider its action whereby it adopted the "Leave to Withdraw" report of the Committee on Salaries and Fees on bill "An Act Adjusting the Salaries of the Employees in the Classified Service of the State" (H. P. 1365) (L. D. 1018).

Mr. President and members of the Senate, I am somewhat disturbed about the situation in regard to salaries in the state, and I must apologize for being late this afternoon and for not being on hand to do what I had intended to do which was to table this measure until we had seen what action the legislature saw fit to take on other salary increases. I hold no brief for this bill and its accompanying amendment. I do not think it answers the problem but I do feel that until we know what other action we shall take, we should keep this bill alive.

There are a number of bills on department heads coming to us this week. We have already passed through one, of similar nature and it seems to me that if we do pass out these bills "Ought to Pass" in giving raises to department heads that we will be in rather an embarrassing position in regard to the other employees. I do not think this particular bill covers the subject at all, but I do feel it could be amended to possibly remedy some of the situations we find here. I have gone into this at quite length with the State Controller and some other state officials and I find there is a great deal of confusion. I think even in the Appropriations Committee as to whether the department heads have asked for enough in their original estimates or whether they have not, and if this thing is going to be taken care of through the budget and through the classified service, all well and good, but I think we should keep a hand on this for a day or two until we are sure that the situation is in hand. That is the reason for my motion, and if you do see fit to reconsider and lay it on the table, I assure you it will not be for long. I don't think that it will hold up unduly the work of the legislature. I hope the motion to reconsider prevails.

Mr. LEAVITT of Cumberland: Mr. President, I rise to a point of information. Is it possible to table this bill as it is without reconsidering?

The PRESIDENT: The Chair will state that a motion to reconsider and table is in order, provided a special time is assigned for its consideration. The question before the Senate is on the motion of the Senator from Kennebec, Senator Cross, that the Senate reconsider its action taken earlier in the day, whereby it adopted the "Leave to Withdraw" report of the Committee on Legislative Document 1018, bill, An Act Adjusting the Salaries of the Employees in the Classified Service of the State. Is the Senate ready for the question?

A viva voce vote being had

The motion to reconsider prevailed.

Thereupon, on motion by Mr. Cross of Kennebec, the bill was laid upon the table pending consideration, and especially assigned for Thursday morning.

Mr. BISHOP of Sagadahoc: Mr. President, I do not like to be persistent, but what is good for the goose, is good for the gander. I asked a moment ago the Senate reconsider its previous action on Item 21, Page 3. It is the bill relating to salaries of Judges.

Once before in this session I asked the privilege of having a measure reconsidered and I was refused that privilege, which has just been granted to another Senator and I request again if I may, that the Senate reconsider its previous action whereby it passed to be engrossed, Legislative Document 1167. And I believe before it goes through and gets out of hand, if an amendment could be offered—

The PRESIDENT: The Chair will have to state that the gentleman cannot argue his motion to reconsider as by well established parliamentary procedure, having been made and lost by vote of the Senate, it cannot be renewed, and the motion to reconsider is not in order.

Mr. BISHOP: Mr. President, is there any motion in order? Is that for all time? I am asking for information.

The PRESIDENT: The Chair will state that at the proper time of course, a motion to indefinitely postpone the bill would be in order and there are many other motions that might be in order, but a motion to reconsider is not in order.

On motion by Mr. Denny of Lincoln, the Senate voted to take from the table House Report "Ought to Pass" from the Committee on Salaries and Fees on bill, An Act Relating to Clerk Hire in the Lincoln Municipal Court (H. P. 677) (L. D. 325) tabled by that Senator on April 11 pending adoption of the report in concurrence.

Mr. DENNY of Lincoln: Mr. President and members of the Senate, I am going to ask for the indefinite postponement of this report. In support of that motion I want to say that this is not a County squabble. There are two other matters which I have tabled which have to do with salaries in Lincoln County. The delegation of Lincoln County are one hundred per cent in favor of indefinite postponement of this and one other bill, and having an amendment to a third bill. The County Commissioners are one hundred percent in favor of that action and the Salaries and Fees Committee advised me that it is satisfactory to them to handle it in this way.

You may think it rather odd that these bills were ever put into the legislature and I think it is only right that I explain why they were put in.

Three county officials came to Augusta and talked to the delegation asking for raises for all of the County officials. We found that only those three really wanted raises, some actually refusing them. But in courtesy to those three we told them that we would oppose any raise for them but we would give them the courtesy of presenting the case before the Committee. That is why they came before the committee. I now move the indefinite postponement of this bill.

The motion prevailed and the bill was indefinitely postponed in concurrence.

On motion by Mr. Denny of Lincoln, the Senate voted to take from the table House Report "Ought to Pass in New Draft (H. P. 1430) (L. D. 1123) from the Committee on Salaries and Fees, on bill, An Act Relating to the Salary of the Judge of Probate in Lincoln County (H. P. 217) (L. D. 80); tabled by that Senator on April 12 pending adoption of the report; and on further

motion by the same Senator, the bill was indefinitely postponed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Denny of Lincoln, the Senate voted to take from the table bill, An Act Relating to Salary for Clerks in County Offices in Lincoln County (H. P. 1096) (L. D. 783) tabled by that Senator on April 12 pending passage to be engrossed.

Mr. DENNY of Lincoln: Mr. President and members of the Senate, I have Senate Amendment A which I would like to offer, and move its adoption:

"Senate Amendment A to H. P. 1096, L. D. 783, bill, An Act Relating to Salary for Clerks in County Offices in Lincoln County. "Amend said bill by striking out in the title thereof, the words 'County Offices' and inserting in place thereof, the words, 'Office of Register of Deeds' "Further amend said bill by striking out all after the enacting clause and inserting in place thereof the following: 'R. S., Chapter 79, Section 269 amended. That part of the ninth paragraph of Section 269 of Chapter 79 of the revised statutes relating to the salaries for clerks in the office of register of deeds in Lincoln County is hereby amended to read as follows: 'For clerks in the office of Register of Deeds, \$1000 and such additional sum not exceeding \$300 when necessary, subject to the approval of the County Commissioners.' "

Which amendment was adopted and the bill as so amended was passed to be engrossed in non-concurrence.

On motion by Mr. Brown of Aroostook, the Senate voted to take from the table, Bill, An Act to Remove Floating Islands in Corundell Lake in Corinna (H. P. 1255) (L. D. 830) tabled by that Senator earlier in today's session pending passage to be engrossed in concurrence.

Mr. BROWN of Aroostook: Mr. President, this is one of those things which I think should have a little more discussion than it had the other day. It would have had more discussion if I had not been called to the telephone—the only time I have been called out while discussion was going on—and I didn't hear the entire argument of the Senator from Washington, Senator

Dunbar. Just as I came back you were voting upon it and I think we should have a little more light on this bill before we pass it.

The Senator from Washington, Senator Dunbar, stated in the first of his argument that lawyers disagree and I think that is true. Sometimes they disagree because they read the law differently and find different cases, and sometimes I think they disagree for the sake of argument.

We have a plain disagreement here because the Attorney General has stated that this is not a liability of the State and, after all, we elect an attorney general for the purpose, among other things, of giving the legislature and the Governor the interpretation which he puts upon the law.

Senator Dunbar, in his argument, tried to make us believe it was a great pond and therefore was the liability of the state. I beg leave to differ with him, and would have the other day if I had been here. Great ponds mean natural ponds and always have been so interpreted. This was created by a corporation which built a dam up there and when they built the dam they got certain right of flowage and it was a long time ago and the State never had title and it was simply a stream running through the bog, and it was not a lake and not a natural body of water and not the property of the State. This floating island is not an island but a mass of floating debris and the reason it is there is because in flooding the pond they covered a lot of bog growth and as this went on they raised and lowered the water. It was not the State but the corporation building a dam there, that raised and lowered the water. If it had been a great pond they could not have done it. This pond was created by private means and by a private corporation. The people who own the land on the site own the land today unless the corporation bought it, in which case they own it. If it is drained the abutting land owner owns the land under the pond. It is the same as a highway passing over your land. It is the property of the State but when it ceases owning it the abutting land owners take the same title to the land they had before. So this is not the property of the State and never has been and cannot be under this condition.

This floating mass of debris was caused by the action of raising and lowering the water. Ice froze on the vegetation and then when the water rose it raised these masses of floating debris.

If you adopt this and say it is the liability of the State you are adopting a principle never recognized in Maine—and this ten acres of water becomes the property of the State and the State becomes liable for any damage it does. It is a far-fetched reason. I prefer to take the law which the attorney general gives, that the state is not responsible. If you set up responsibility now by act of legislature and this should go over the dam it would cause a lot of damage and the State would be liable. I think, in view of the fact the attorney general has ruled it is not a liability of the State, I for one can not see how the Governor could sign such a bill, and I believe it is the duty of the legislature not to make a precedent which is far reaching.

It could apply to all dams—all corporation dams where they dam up water over ten acres—and the state would be liable for floating debris and things caused by this flowage. I move we indefinitely postpone this bill.

Mr. DUNBAR of Washington: Mr. President, if it is true lawyers disagree, and they often do, it is therefore not surprising if laymen disagree with lawyers. I had before me last week the law that I relied upon to substantiate my position. I do not have it here now, but it is the Wisconsin case and the case in 107 Maine backed up by the revised statutes that I had before me.

I do not know where the Senator from Aroostook, Senator Brown gets the idea that this lake, Corundell Lake, was at one time not a lake but a stream. As I have been informed, and somebody must have informed him, as I have been informed, Corundell Lake was always a lake. It was always a lake that contained more than five acres and if that is true it makes no difference as to whether or not a dam was placed at the foot of that lake at some time, which I understand was in 1850. I have been informed on that and perhaps my information in that respect is just as reliable as his may be that at one time the lake was just a stream.

Now, if it was a lake, and these bogs or so-called islands have gone adrift they are the property of the state and the state should remove them. If the Governor of this state feels that this is not a proper matter for the state to pay for, he has the veto power but let us not anticipate the Governor.

A similar measure as I cited to you for a precedent, passed in 1933 where similar bogs went ashore over in the town of Wilton. The state paid the owners for the removal of them. Now I don't know what the Senator has from the Attorney General's office. He states that it is the opinion of the Attorney General that we are not responsible. That may be by word of mouth. I don't know. I would certainly like to have some written opinion with some authority cited, because I have cited to you authority that I believe is authentic and good authority.

You know lawyers disagree and laymen disagree and we can disagree with the lower Body of this state of ours. Just because it happens to be the Attorney General's department doesn't mean that they are infallible, that they might not make mistakes as well as I might make mistakes and in that regard and with all due respect to the office, and at least to the present Attorney General who is now there, I would like to state to you as you lawyers in this Senate know, that the very last two cases that have come down from the Supreme Court, the very last two, they have disagreed with the Attorney General's Department in re Stubbs relating to the inheritance tax case and the case of the Belvedere Hotel, a liquor case.

The Attorney General's Department in those two instances felt that they were right and took the case to the law court and those were the last two cases that have been to the law court from that department. They decided the Attorney General's Department was wrong. They may be wrong in this. Certainly we don't have any opinion before us. I gave you the statutes, I gave you the case in 107 Maine, I gave you the Wisconsin case and I have given you a precedent and it seems to me that with the authority that I have given to you it ought to be as good as what we have had here, which is nothing more or less than the Attorney

General's office says is so, with no authority given. I therefore hope that the motion of the Senator from Aroostook, Senator Brown, to indefinitely postpone will not prevail.

Mr. HOWES of Penobscot: Mr. President, replying to Mr. Brown's argument, I am pretty near a hundred years old. There has been a dam there since I have been old enough to remember anything. It looks to me as if we should settle with the town of Corinna to take a contract and take this island out of there for \$5,000. I would not contract to move it for \$10,000. They have a boom around it. When I was a young man I came up the hard way and worked on drives and worked around sawmills and I saw booms break. Suppose we don't do anything about it and it goes to the bridge. The State will be held and you will have a wonderful expense on your hands. If the legislature adjourns without doing anything and if this gets away there would be damage and it would be big damage if the boom broke and it went under the bridge, and they could come back on the State.

As I say you cross the river and you don't know it. There is no sign of a bridge. It is a road and if your attention wasn't called to it you would not know you were going over it. Certainly a small piece might go over there and block it up. I am going to say if you get rid of it and settle this up for \$5,000 you are mighty fortunate. If you don't agree to do anything about it and it goes down there and the State is held, you will have a big bill to pay.

Mr. BROWN: Mr. President, in regard to this lake—as I understand it, Senator Dunbar says it is a lake—a lake of at least five acres. I always understood a pond had to be at least ten acres before the State owned it. The Cumberland County case was an entirely different matter. It was a natural pond. This is not a natural pond and the fact that the water was lowered—first held and then lowered—so that the growth along the shore was frozen shows if there had not been any dam there, there would not have been any debris.

As to the State being liable, as the Senator from Penobscot, Senator Howes says, the State is sovereign—it cannot be sued—it is not a damage for the State to pay. It is for the town of Corinna or the

dam owners to remove and should not be a liability of the State.

As to Wisconsin, I do not know that they have a comparable law to what we have. The Senator from Washington, Senator Dunbar, did not enlighten us but said a case had happened in Wisconsin and said it was a similar case. We do not know in what way it was similar.

I say this is a man made lake and the people who have the dam there should be responsible. If this debris gets away and does damage either the people who own the dam or the town of Corinna should pay the damages. I hope my motion prevails.

Mr. DUNBAR: Mr. President and members of the Senate, if I stated that a great pond consisted of five acres, then I want to correct the record because I meant to say ten acres of course.

Mr. HOPKINS of Kennebec: Mr. President, it seems to me that the proper decision on this matter rests on conflicting information that has been furnished us, if this is a great pond, and it has not been proven that it was a great pond and the floating islands came from the bot-

tom of the pond, the state may have responsibility. If it is not a great pond, and if it came from the shores created by flowage, the state perhaps has no responsibility there. Floating islands are not unique. But this here is very uncommon. We had floating islands in our lake that have come from areas that have been flooded and we never asked the state to remove them but have taken them out ourselves. If it is an essential flow or if the mill owners own the land and are drawing it and filling it and the frost is loosening the soil so that it is coming up, I cannot see the state's responsibility.

I would like to see this delayed until we can find out if it is a great pond or not and I move that it be laid upon the table.

Thereupon, the bill was laid upon the table pending the motion by Mr. Brown of Aroostook to indefinitely postpone the bill.

On motion by Mr. Dunbar of Washington

Adjourned until tomorrow morning at ten o'clock.