

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

Ninety-Ninth Legislature

OF THE

STATE OF MAINE

1959

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Wednesday, May 6, 1959

Senate called to order by the President.

Prayer by Rev. Malcolm Brown of Windsor.

On motion by Mr. MacDonald of Oxford,

Journal of yesterday read and approved.

Papers from the House

Bill, "An Act Creating Game Management Area of Towns of Deer Isle and Stonington, Hancock County," (H. P. 603) (L. D. 868)

In Senate on April 29, passed to be engrossed in concurrence.

Comes from the House, engrossing reconsidered and bill passed to be engrossed as amended by House Amendment A (Filing No. 307) in non-concurrence.

In the Senate, on motion by Mr. Wyman of Washington, the bill was laid upon the table pending consideration.

Bill, "An Act Exempting Hospital Thrift Shops from Sales Tax." (H. P. 700) (L. D. 1000)

In Senate on April 28, indefinitely postponed in non-concurrence.

Comes from the House, that body having insisted upon its former action whereby the bill was substituted for the ONTP report and passed to be engrossed, now asks for a Committee of Conference. The Speaker appointed as conferees on the part of the House:

Messrs: LACHARITE of Brunswick
DENNETT of Kittery
MAYO of Bath

In the Senate, on motion by Mr. Willey of Hancock, the Senate voted to insist on its former action and to join with the House in a Committee of Conference; the President appointed as Senate members of such Committee, Senators; Willey of Hancock, Wyman of Washington and Fournier of York.

The PRESIDENT: At this time it is the Chair's privilege to invite to the rostrum to act as President pro tem for a portion of today's session, the distinguished Senator from Sagadahoc, Senator Ross, and

the Chair would ask the Sergeant-at-Arms to escort Senator Ross of Sagadahoc to the rostrum.

This was done amidst the applause of the Senate, the members rising and Mr. Ross of Sagadahoc assumed the Chair, the President, retiring.

**House Committee Reports
Referred to Next Legislature**

The Committee on Appropriations and Financial Affairs on Bill, "An Act Providing Funds for Veterans for Farm and Home Purchases and Remodeling." (H. P. 783) (L. D. 1115) reported that same be referred to the 100th Legislature.

Which report was read and accepted in concurrence.

Ought Not to Pass

The same Committee on Bill, "An Act Directing Review of Provisions Relating to Towns." (H. P. 270) (L. D. 402) reported that the same Ought not to pass.

The Committee on Judiciary on Bill, "An Act Relating to Impoundment of Certain Motor Vehicles Involved in Accidents." (H. P. 352) (L. D. 511) reported that the same Ought Not to pass.

The Committee on Legal Affairs on Bill, "An Act Relating to Business and Recreation on Sunday." (H. P. 758) (L. D. 1076) reported that the same Ought not to pass.

On motion by Mr. Charles of Cumberland, tabled pending acceptance of the report.

Which reports were severally read and accepted in concurrence.

Ought to Pass

The Committee on State Government on Bill, "An Act Increasing Salaries of Justices of Supreme Judicial Court and Superior Court." (H. P. 447) (L. D. 653) reported that the same Ought to pass.

Which report was read and accepted in concurrence, the bill read once and tomorrow assigned for second reading.

Ought to Pass - N.D.

The Committee on Inland Fisheries and Game on Bill, "An Act Creating the Merrymeeting Bay Game Sanctuary." (H. P. 716) (L. D. 1021) reported same in New Draft (H. P. 954) (L. D. 1354)

under the same Title, and that it Ought to pass.

The Committee on Labor on Bill, "An Act Relating to Chiropractic Treatment Under Workmen's Compensation Law." (H. P. 6476) (L. D. 938) reported same in New Draft (H. P. 940) (L. D. 1327) under the Same Title, and that it Ought to pass.

On motion by Mr. Bates of Penobscot, tabled pending acceptance of the report and especially assigned for tomorrow morning.

The same Committee on Bill, "An Act Relating to Petition for Review of Incapacity Under Workmen's Compensation Act." (H. P. 92) (L. D. 139) reported same in New Draft (H. P. 955) (L. D. 1355) under the Same Title, and that it Ought to pass, in concurrence. Which reports were severally read and accepted, the bills in New Draft read once and tomorrow assigned for second reading.

Majority — ONTP
Minority — OTP

The Majority of the Committee on Legal Affairs on Bill, "An Act Relating to Election of Council Members of City of Portland." (H. P. 211) (L. D. 302) reported that the same Ought not to pass.

(Signed)

Senators:

MARTIN of Kennebec
CHARLES of Cumberland

Representatives:

TRUMBULL of Fryeburg
LINNELL of South Portland
BROWN of Cape Elizabeth
HUTCHINSON of Carthage
GOOD of Sebago

The Minority of the same Committee on the same subject matter reported that the bill Ought to pass.

(Signed)

Senator MacDONALD of Oxford

Representatives:

COTE of Lewiston
KELLAM of Portland

In House, Minority Report accepted and the bill passed to be engrossed.

In the Senate, on motion by Mr. Coffin of Cumberland, tabled pending acceptance of either report.

Majority — ONTP
Minority — OTP

The Majority of the Committee on Natural Resources on Bill, "An Act Classifying Certain Waters in Meduxnekeag River Basin." (H. P. 403) (L. D. 587) reported that the same Ought not to pass.

(Signed)

Senators:

BRIGGS of Aroostook
COLE of Waldo
FARLEY of York

Representatives:

SAUNDERS of Bethel
WHITMAN of Woodstock
BACON of Sidney
PERRY of Easton

The Minority of the same Committee on the same subject matter, reported that the bill Ought to pass.

(Signed)

Representatives:

HEALD of Union
JALBERT of Lewiston
WILLIAMS of Hodgdon

In House, Majority Report accepted.

In the Senate, on motion by Mr. Briggs of Aroostook, the Majority ought not to pass report was accepted in concurrence.

Communication

State of Maine

SUPREME JUDICIAL COURT
Augusta

May 5, 1959

Honorable Chester T. Winslow
Secretary of the Senate
State House
Augusta, Maine

Dear Mr. Winslow:

There is enclosed the Answer of the Justices to the Question of April 16, 1959, relative to "An Act Creating a Motor Vehicle Accident Indemnity Fund."

(L. D. 388)

Respectfully yours,

(Signed) ROBERT B.
WILLIAMSON
Chief Justice

Answer of the Justices

To the Honorable Senate of the State of Maine:

In compliance with the provisions of Section 3 of Article VI of the

Constitution of Maine, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following answers to the questions propounded on April 16, 1959.

QUESTION (I): Do any of the provisions of Senate Paper 167, Legislative Document 388, result in a diversion of revenues derived from fees, excises and license taxes relating to registration, operation and use of vehicles on public highways, in violation of Section 19 of Article IX of the Constitution of Maine?

ANSWER: We answer in the affirmative.

Section 19 of Article IX of the Constitution of Maine provides:

"All revenues derived from fees, excises and license taxes relating to registration, operation and use of vehicles on public highways, and to fuels used for the propulsion of such vehicles shall be expended solely for cost of administration, statutory refunds and adjustments, payment of debts and liabilities incurred in construction and reconstruction of highways and bridges, the cost of construction, reconstruction, maintenance and repair of public highways and bridges under the direction of supervision of a state department having jurisdiction over such highways and expense for state enforcement of traffic laws and shall not be diverted for any purpose, provided that these limitations shall not apply to revenue from an excise tax on motor vehicles imposed in lieu of personal property tax."

The manifest purpose of the quoted section is to prevent diversion of such revenues to other than highway purposes. Although the proposed act in terms refers to the charge to be imposed on uninsured motorists as a "premium" and specifically provides that "this premium shall not be construed as full or partial payment of, or in lieu of, any fee, excise or license tax otherwise imposed by law," the fact remains that the proposed act imposes a charge which is prerequisite to the registration of a motor vehicle. Such a charge, however designated, clearly falls within

the spirit if not the exact letter of the constitutional limitation and may not therefore be diverted to purposes other than those enumerated in the quoted section of the Constitution. Opinion of the Justices, 152 Me. 499.

QUESTION (II): Do any of the provisions of Senate Paper 167, Legislative Document 388, provide for the raising of money by taxation for a private purpose in violation of Article 1, Section 6 and 21, and Article IV, Part Third, Section 1, of the Constitution of Maine?

ANSWER: We answer in the negative.

The proposed act attempts to remedy a social problem which is properly a matter of public concern and interest. The increase of traffic congestion upon our highways with its natural accompanying hazards has produced a mounting risk of damage and injury common to all citizens. The whole economy of the state is directly and adversely affected by the presence upon the highways of many financially irresponsible and uninsured motorists. The situation may well be likened to that which existed in the area of industrial unemployment and which resulted in remedial legislation providing for compensation to the unemployed person even though he might be neither indigent nor in straightened financial circumstances. It was clearly recognized that a public rather than a private purpose was thereby served. So here, more is involved than mere redress of a private civil wrong and we are satisfied that the basic and underlying purpose of the proposed legislation is to benefit the people as a whole. The public interest is further served by the incorporation of the funds collected into a trust fund to be held and controlled by the State. See *Crommett, et als v. Portland* 150 Me. 217; *State v. Vahlsing*, 147 Me. 417.

QUESTION (III):

Would Senate Paper 167, Legislative Document 388, "An Act Creating a Motor Vehicle Accident Indemnity Fund," if enacted by the Legislature, be constitutional?

ANSWER:

In view of the foregoing answers, it is unnecessary to answer this question. We respectfully suggest that the question is so general in form as to lack that precision necessary to inform the Justices of the exact nature of the inquiry.

Dated at Augusta, Maine, this fifth day of May, 1959.

Respectfully submitted

(Signed) ROBERT B.
WILLIAMSON
DONALD W. WEBBER
WALTER M.
TAPLEY, Jr.
FRANCIS W.
SULLIVAN
CECIL J. SIDDALL

Which communication was read and ordered placed on file.

Report A - OTP as amended

Report B - ONTP

Five members of the Committee on Claims on "Resolve in Favor of Jim Adams, Inc. of Bangor. (S. P. 155) (L. D. 376) reported (REPORT A) that the same Ought to pass as amended by Committee Amendment A.

(Signed)

Senators:

WEEKS of Cumberland
FOURNIER of York

Representatives:

KENNEDY of Milbridge
CURTIS of Bowdoinham
GALLANT of Eagle Lake

Five members of the same Committee on the same subject matter, reported (REPORT B) that the resolve Ought not to pass.

(Signed)

PARKER of Piscataquis
DUFOUR of Old Town
MATHEWS of Berwick
HUGHES of St. Albans
JOHNSON of Stockholm

MR. PARKER of Piscataquis: Mr. President, I move that Report B, Ought not to pass, be accepted.

Thereupon, on motion by Mr. Cole of Waldo, the bill and reports were laid upon the table pending motion by Mr. Parker of Piscataquis to accept Report B.

Second Readers

The Committee on Bills in the second Reading reported the following bills and resolves:

HOUSE

Bill, "An Act Regulating Certain Insurance Sold in Connection with Credit Transactions." (H. P. 947) (L. D. 1343)

On motion by Mr. Charles of Cumberland, the bill was laid upon the table pending passage to be engrossed, and was especially assigned for Monday next.

"Resolve to Provide Funds for Matching Federal Funds for Training in Fisheries Trade." (H. P. 82) (L. D. 129)

"Resolve Creating a Committee on the Uniform Commercial Code." (H. P. 681) (L. D. 981)

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

House in non-concurrence

"Resolve Opening Wilson Lake, Franklin County, to Ice Fishing." (H. P. 66) (L. D. 104) (The House accepted the ONTP Majority Report of the Committee on Inland Fisheries and Game.)

Which was read a second time and passed to be engrossed in non-concurrence.

Sent down for concurrence.

House — as amended

Bill, "An Act Relating to Income from Sale of Geological Survey Publications." (H. P. 260) (L. D. 392)

Bill, "An Act Relating to Sewage Pollution Surveys." (H. P. 432) (L. D. 638)

Bill, "An Act Revising the Laws Relating to Water Improvement Commission." (H. P. 561) (L. D. 794)

"Resolve to Purchase Fifty Copies of 'History of Otisfield.'" (H. P. 21) (L. D. 44)

(On motion by Mr. Dow of Lincoln, tabled pending passage to be engrossed.)

"Resolve for the Purchase of Fifty Copies of 'A History of the Town of Porter, Maine.'" (H. P. 268) (L. D. 400)

(On motion by Mr. Dow of Lincoln, tabled pending passage to be engrossed.)

"Resolve to Purchase Fifty Copies of 'A History of Aurora, Maine.'" (H. P. 530) (L. D. 765)

"Resolve Appropriating Moneys for Restoration of Certain Forts in Aroostook County." (H. P. 712) (L. D. 1017)

"Resolve Opening Long Lake, Aroostook County, to Smelt Fishing." (H. P. 720) (L. D. 1025)

(On motion by Mr. Carpenter of Somerset, tabled pending passage to be engrossed.)

Which were severally read a second time and passed to be engrossed as amended, in concurrence.

Senate

Bill, "An Act to Regulate the Practice of Nursing." (S. P. 475) (L. D. 1330)

Which was read a second time and passed to be engrossed.

Sent down for concurrence.

Enactor

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

Bill, "An Act Relating to Automobile Travel by State Employees." (S. P. 408) (L. D. 1176)

(On motion by Mr. Rogerson of Aroostook, the bill was laid upon the Special Appropriations Table pending enactment.)

Orders of the Day

On motion by Mr. Parker of Piscataquis, the Senate voted to take from the table the 59th tabled item being Senate Report from the Committee on Highways: Ought to pass as Amended by Committee Amendment A on Bill, "An Act Relating to Outdoor Advertising Devices on the Interstate System." (S. P. 401) (L. D. 1169) tabled by that Senator on April 21 pending acceptance of the report.

Mr. PARKER of Piscataquis: Mr. President and members of the Senate, this is probably one of the most publicized bills that we will have before us at this session. It has been the position of a great many organizations in the State of Maine for the past two years if not longer. Ever since the interstate system was thought of, there has been a great deal of feeling that the interstate system, especially through the State of Maine should

not be covered with large signboards.

Not only have there been organizations opposed to signboards on our interstate system, but many, many papers and periodicals have had editorials supporting the theory that at least we should have one road in the State of Maine where signboards have not taken over. There has been some difference of opinion on so-called on premises signs. I shall present an amendment to the bill as written, that I believe has taken care of most of the objections of this type of sign. For that reason I will present Senate Amendment A to this bill and move its adoption.

The PRESIDENT pro tem: Does the Senator wish to move that the Senate accept the Committee report?

Mr. PARKER: I do, Mr. President.

Thereupon, on motion by the same Senator, the Ought to pass report of the committee was accepted and the bill read once.

The Secretary read Senate Amendment A.

Mr. WEEKS of Cumberland: Mr. President and members of the Senate, in view of the fact that we have not had an opportunity to know just what the amendment does and, in view of the fact that it has not been entirely read, I move that the bill lie on the table pending motion to adopt Senate Amendment A.

The motion prevailed and the bill was laid upon the table pending motion by Senator Parker of Piscataquis to adopt Senate Amendment A.

The PRESIDENT pro tem: May the Chair caution the Senate that you should be speaking to a motion and so please present your motion first, before you start your debate.

On motion by Mr. Wyman of Washington, the Senate voted to take from the table the 37th tabled item being House Report from the Committee on Sea and Shore Fisheries: Ought to pass as amended by Committee Amendment A, on Bill, "An Act Repealing the Two Inch Clam Law." (H. P. 177) (L. D.

248) tabled by that Senator on April 9 pending acceptance of the report; and the same Senator then moved that the bill and reports be indefinitely postponed.

Mr. DOW of Lincoln: Mr. President and members of the Senate, this business of a two inch clam law has come before us for many sessions. Many towns in the state want to remove the two inch clam law for various reasons. It has been recommended by biologists in the department that certain flats be open to the taking of clams under two inches. There are other towns in the state who want to keep the two inch clam law. Therefore, this bill this year would leave to home rule whether or not two inch clams may not be taken. For that reason, that each town would have the choice as to just how it wants to administer its clam laws, I feel that this bill should pass, and I hope that the motion of the Senator from Washington does not prevail.

Mr. WYMAN of Washington: Mr. President and members of the Senate, as the good Senator from Lincoln, Senator Dow, has said, this has been before the legislature for a good many sessions, and the legislature has always refused to change this law. This originally came in as a repealer and it was reported out of the Committee on Sea and Shore Fisheries in a new draft. One of the arguments for the bill is because it is said that the small clams will be picked up by the gulls or will die, so why not dig them? And it is true that some of them will die or be picked up by the gulls.

However, many of them will work back into the mud and sand to live and become large clams. The argument that the small ones will die could and is occasionally used with respect to trout and salmon which are under the measure, yet we don't allow them to be taken.

As this bill is written it would leave enforcement to the towns. Most of the towns could not afford a warden just to enforce a short clam law and if a town did have a short clam law and an enforcement officer with an adjoining town without protection, then it could be a lot of trouble. One side of the channel would be open to

short clams and the other would not.

It would be as reasonable to let each town enforce the law on short trout or short lobsters. To show you how small a two inch clam would be, it is just the length of a teaspoon bowl and those clams we can take. Clams which are smaller than that are illegal. Clams smaller than this have very little value and most of these if dug would be put into the waste when cleaning and shucking as they are too small to handle economically.

This is the only clam conservation measure we have on the statutes and preceding legislatures for a good many sessions have turned down the repeal of it.

I therefore hope that my motion to indefinitely postpone will prevail.

Mr. COFFIN of Cumberland: Mr. President and members of the Senate: I think that everyone has knowledge of the fact that I was the lone dissenter on the committee for doing away with this bill. However, this bill went up into the House and the bill was sent back for reconsideration.

Personally, I am not in favor of doing away with the two-inch clam law. However, I feel that a person such as myself cannot be so stubborn as not to look at the whole situation, and I feel that the various towns up and down the coast of Maine are going to have the right to vote whether or not they want to protect the two-inch clam or whether or not they want to dig it up.

As I understand it, down in Washington County there are very large areas down there that have clams that do not seem to grow over and above the two-inch measure. The reason for this is, probably, that the clams are so thick they just cannot get food enough in that particular area to grow on, and when they get so far they are stunted.

I would like to correct the good Senator from Washington County, Senator Wyman. He mentioned the length of the clam, but it is not the length of the clam that counts when you put them through the ring: it is the width of the clam. You can have a clam four inches long and if it goes through the

ring you can't have it under the rules of the department.

From experience in my town I have always been in favor of the two-inch clam law. However, I have felt for many years that the seed that comes from the two-inch clam is inadequate. I feel that with the large clams that produce ten times the seed that a clam under two inches does we would be a whole lot better off. However, with the nature of our flats and the propagation of the clam, the department apparently does not see fit to do anything about the larger clams for seeding purposes.

I have been at odds with the Sea and Shore Fisheries Department all this session. They are not really mad at me. Actually, I feel that there has got to be a compromise on this thing. Now I am probably not known as a compromiser, but I feel that on this two-inch clam that the towns are fully capable of taking care of their flats if they see fit to do so. Now if there are not enough citizens in these various towns to look after the clams, why they shouldn't have any clams. I feel that the whole of Cumberland County and possibly the most of Lincoln County will probably pass laws and enforce them.

As I understand it now from the department, they will furnish wardens — or whatever name they are going to be called — to back up the town clam conservation man, and I do think that perhaps under this new law we will get a better break in clams than we have been having for the last eighteen years.

I do not think I will say anything further on this subject.

Mr. WYMAN of Washington: Mr. President, I am glad to hear my good friend, the Senator from Cumberland, Senator Coffin, say that he believes in the two-inch clam law. That is what I believe in, and if we indefinitely postpone this bill we will continue to keep the two-inch clam law. And one more thing: I do wish he would come down to Washington County and show me where these beds are that are so thick that the clams can't even grow. And when the vote is taken, Mr. President, I would request that it be taken by a division.

Mr. DOW of Lincoln: Mr. President, it has not been mentioned that many of the flats around the State hold clams that never will grow to over two inches; for biological reasons they are just stunted, and therefore these clams are not available and never will be under the present law. Now the department will have authority to close any flats any time that it feels it should for the sake of conservation. To settle this thing once and for all, let us put this under the jurisdiction of each town and then everybody will be satisfied.

The PRESIDENT pro tem: The question before the Senate is on the motion of the Senator from Washington, Senator Wyman to indefinitely postpone the bill, and a division has been requested.

A division of the Senate was had.

Twenty-four having voted in the affirmative and five opposed, the motion prevailed and the bill was indefinitely postponed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Wyman of Washington, the Senate voted to take from the table the 18th tabled item being "Resolve, Establishing Daily Limit of Trout on Lodge Pond, Charlotte Township, Washington County." (H. P. 498) (L. D. 711) tabled by that Senator on March 24 pending final passage; and on further motion by the same Senator, the rules were suspended, the Senate voted to reconsider its former action whereby the resolve was passed to be engrossed, and the same Senator presented Senate Amendment A and moved its adoption.

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

Sent down for concurrence.

At this point the President resumed the Chair, Mr. Ross retiring amidst the applause of the Senate.

The PRESIDENT: The Chair certainly wants to thank the Senator from Sagadahoc, Senator Ross, for his very excellent services presiding as President pro tem for a portion of today's calendar.

On motion by Mr. Wyman of Washington, the Senate voted to take from the table the 92nd tabled item being Bill, "An Act Relating to Protection of Weirs." (H. P. 336) (L. D. 525) tabled by that Senator on April 30 pending passage to be enacted; and on further motion by the same Senator, the bill was passed to be enacted.

On motion by Mr. Wyman of Washington, the Senate voted to take from the table the 103rd tabled item being Bill, "An Act Relating to Definition of Fish Weirs." (H. P. 367) (L. D. 526) tabled by that Senator on May 1 pending passage to be enacted; and on further motion by the same Senator, the bill was passed to be enacted.

On motion by Mr. Hillman of Penobscot, the Senate voted to take from the table the 8th tabled item being "Resolve, Opening Cross Lake, Aroostook County, to Ice Fishing for Cusk." (H. P. 113) (L. D. 168) tabled by that Senator on March 13 pending consideration.

Mr. HILLMAN of Penobscot: Mr. President, would the Secretary read the endorsements on the bill?

The Secretary read the reports and the endorsements on the bill.

Thereupon, on motion by Mr. Hillman of Penobscot, the Majority Ought not to pass report was accepted in non-concurrence.

Sent down for concurrence.

On motion by Mr. Dow of Lincoln, the Senate voted to take from the table "Resolve to Purchase Fifty Copies of 'History of Otisfield.'" (H. P. 21) (L. D. 44) tabled by that Senator earlier in today's session pending passage to be engrossed; and on further motion by the same Senator, the resolve was passed to be engrossed in concurrence.

On motion by Mr. Dow of Lincoln, the Senate voted to take from the table "Resolve for the Purchase of Fifty Copies of 'A History of the Town of Porter, Maine.'" (H. P. 268) (L. D. 400) tabled by that Senator earlier in today's session pending passage to be engrossed; and on further motion by the same

Senator, the resolve was passed to be engrossed in concurrence.

On motion by Mr. Carpenter of Somerset, the Senate voted to take from the table the 10th tabled item being House Report from the Committee on Inland Fisheries and Game: Ought not to pass, on "Resolve, Opening Big Pleasant Lake and Spider Lake in Piscataquis County to Ice Fishing." (H. P. 157) (L. D. 234) tabled by that Senator on March 17 pending consideration; and on further motion by the same Senator, the Ought not to pass report of the committee was accepted in non-concurrence.

Sent down for concurrence.

On motion by Mr. Weeks of Cumberland, the Senate voted to take from the table the 49th tabled item, being Senate Report from the Committee on Transportation: Ought not to pass, on Bill, "An Act Relating to Transit Registration Plates for Construction Contractors." (S. P. 240) (L. D. 623) tabled by that Senator on April 15 pending acceptance of the report; and on further motion by the same Senator, the Ought not to pass report was accepted.

Sent down for concurrence.

On motion by Mr. MacDonald of Oxford, the Senate voted to take from the table the 100th tabled item being, Senate Report from the Committee on Appropriations and Financial Affairs: Ought to pass as Amended by Committee Amendment A, on "Resolve, Providing for Purchase of History of the Town of Unity." (S. P. 108) (L. D. 258) tabled by that Senator on May 1 pending acceptance of the report.

Mr. MacDONALD of Oxford: Mr. President and members of the Senate, my purpose in tabling this is because I was afraid of what would happen, a lot of towns coming here and asking the state to print the history of their town. If we open the door to that, we are going to have every town, village and crossroad in the state coming in and asking to have it done. But, in view of what has happened, I am not going to make any motion but I am going to yield to the Senator from Aroostook, Senator Rogerson.

Mr. ROGERSON of Aroostook: Mr. President and members of the Senate, I might say at the outset that the door was opened quite deliberately by the Appropriations Committee because this year we acted on the premise that town histories are valuable things which should be encouraged. The only way a town history can be written is by someone who is going to absorb the cost of it. I don't think any town history has ever been written at a profit. Proceeding on the premise that town histories are valuable and should be encouraged and preserved, the Appropriations Committee decided that they would offer a token encouragement to each of the folks who have written these town histories and to others who might consider writing them.

We therefore took all of the books, — and this has been done in the recent past with the exception of last session, — and decided we would buy fifty copies of each one, simply as a token gesture of encouragement towards the writing of town histories.

The entire cost of this project for all books which we accepted, is, I think, in the vicinity of two thousand dollars, at least under three thousand. We feel that this expenditure is justified.

Thereupon, the Ought to pass report of the committee was accepted and the resolve read once; Committee Amendment A was read and adopted and the bill as amended was tomorrow assigned for second reading.

On motion by Mr. MacDonald of Oxford, the Senate voted to take from the table the 99th tabled item being Senate Report from the Committee on Appropriations and Financial Affairs: (Ought to Pass) as amended by Committee Amendment A, on "Resolve, Providing for Purchase of History of the Town of Unity." (S. P. 152) (L. D. 373) tabled by that Senator on May 1 pending acceptance of the report; and on further motion by the same Senator, the report was accepted, the bill read once, Committee Amendment A read and adopted, and the bill as amended was tomorrow assigned for second reading.

On motion by Mr. Briggs of Aroostook, the Senate voted to reconsider its action taken earlier in today's session whereby it accepted in non-concurrence, the Majority Ought not to pass report on "Resolve Opening Cross Lake, Aroostook County, to Ice Fishing for Cusk" (H. P. 113) (L. D. 168) and the same Senator then moved that the resolve be indefinitely postponed.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Briggs, that the resolve be indefinitely postponed.

Mr. HILLMAN of Penobscot: Mr. President, I concur with the Senator from Aroostook, Senator Briggs. That is the motion which I should have made.

Thereupon, the motion prevailed and the resolve was indefinitely postponed in non-concurrence.

On motion by Mr. Dow of Lincoln, the Senate voted to take from the table the 50th tabled item being House Report from the Committee on Education: Ought not to pass, on Bill, "An Act relating to Budgets of School Administrative Districts." (H. P. 808) (L. D. 1147) tabled by that Senator on April 15 pending acceptance of the report.

Mr. DOW of Lincoln: Mr. President I believe that this is the last item that I have on the table. I would like to remind the Senate that this morning we had 109 items on the table and that the pay checks we received a few moments ago are the last ones we will get until the night of adjournment and there are only seventeen more legislative days left between now and Memorial Day. I move the pending question.

The motion prevailed, and the Ought not to pass report was accepted in concurrence.

The PRESIDENT: At this time the Chair would like to welcome to the Senate Chamber, the Viola Band School 7th and 8th grades from Bradley, Maine, accompanied by their principal. On behalf of the Maine State Senate, it is a real privilege to be able to welcome you folks here this morning. We trust your visit will be profitable,

educational, and enjoyable. I know that the entire membership of the Maine Senate joins me in extending a most cordial welcome to you.

(Applause)

On motion by Mr. Boucher of Androscoggin, the Senate voted to take from the table the 25th tabled item being House Reports from the Committee on Liquor Control: Majority Report, Ought to pass; Minority Report, Ought not to pass; on Bill, "An Act Permitting Sale of Liquor on Election Days after Polls Close." (H. P. 765) (L. D. 1083) tabled by that Senator on March 27 pending acceptance of either report.

Mr. BOUCHER of Androscoggin: Mr. President and members of the Senate, I would request that the Secretary read the reports.

The Secretary read the reports.

Mr. BOUCHER of Androscoggin: Mr. President, I move acceptance of the majority report in concurrence with the House.

Mr. CARPENTER of Somerset: Mr. President, as a signer of the minority report, I feel I must oppose this motion. Under our present system, of course, we do not permit the serving of liquor during election day and I think the rules and regulations that have been set up for a number of years have worked out very well and certainly anyone who wishes a drink of liquor can have a sufficient supply in the House if they wish to celebrate after election I therefore oppose the motion of the Senator from Androscoggin, and request that when the vote is taken, it be by a division.

Mr. BOUCHER of Androscoggin: Mr. President and members of the Senate, it is true as Senator Carpenter of Somerset has said that this is a change in the law from past years. This bill came before the Liquor Control Committee and had a hearing and quite a lot of discussion, and the majority of your committee came to the conclusion that they could see no harm in opening the liquor outlets after the polls were closed.

We realize fully well that when the polls are open the liquor outlets should be closed, but once the polls close and the election is over,

the majority saw no harm in opening the liquor outlets. They can have it anywhere else but in so-called restaurants. They can have it at home. They can have it in clubs but the restaurants cannot serve it all day so that the majority of the committee saw fit to favor this bill and open these places after the polls are closed on election days.

Mr. PARKER of Piscataquis: Mr. President, I rise in support of my good friend from Somerset, Senator Carpenter on this measure and the only point I wish to bring out is this. That over a period of years I believe that in most cases the control of the liquor industry has been handled wisely. I do oppose any liberalization, any letting down of the doors, any letting down of control. I think this is letting down of controls. I agree with the Senator from Somerset, Senator Carpenter, that anyone that is in need or wishes any of these beverages certainly should have the forethought to procure some for celebrating after the election. I therefore hope that the motion of the Senator from Somerset prevails.

The PRESIDENT: The question is on the motion of the Senator from Androscoggin, Senator Boucher to accept the majority Ought to pass report of the committee, and a division has been requested.

A division of the Senate was had.

Fifteen having voted in the affirmative and sixteen opposed, the motion did not prevail.

Thereupon, the Senate voted to accept the Minority Ought not to pass report in non-concurrence.

On motion by Mr. Carpenter of Somerset, the Senate voted to reconsider its action just taken whereby it accepted the Ought not to pass report and the same Senator moved that the bill and reports be indefinitely postponed.

Mr. BOUCHER of Androscoggin: Mr. President, I ask for a division.

The PRESIDENT: The question is on the motion of the Senator from Somerset, Senator Carpenter to indefinitely postpone.

A division of the Senate was had.

Sixteen having voted in the affirmative and fifteen opposed, the motion prevailed and the bill was

indefinitely postponed in non-concurrence.

Sent down for concurrence.

Mr. ROGERSON of Aroostook: Mr. President, is L. D. 311 in the possession of the Senate?

The PRESIDENT: The Chair will state that it is, having been held at the request of the Senator from Aroostook, Senator Rogerson.

Thereupon, on motion by the same Senator, the Senate voted to reconsider its action of yesterday whereby it accepted the Ought not to pass report of the Committee on State Government on Bill, "An Act Relating to Custody of Maine State Retirement System Securities (H. P. 220) (L. D. 311); and on further motion by the same Senator the bill was laid upon the table pending acceptance of the committee report.

On motion by Mr. Charles of Cumberland, the Senate voted to take from the table the 94th tabled item being Bill, "An Act Exempting Certain Fraternal Societies from Property Taxes." (S. P. 473) (L. D. 1338) tabled by that Senator on May 1 pending consideration; and on further motion by the same Senator, the Senate voted to insist on its former action whereby the bill was passed to be engrossed, and to ask for a Committee of Conference; the President appointed as Senate members of such Committee.

Senators:

CHARLES of Cumberland
WYMAN of Washington
WILLEY of Hancock

On motion by Mr. Charles of Cumberland, the Senate voted to take from the table the 108th tabled item being House Reports from the Committee on Highways: Majority report, Ought not to pass, Minority report, Ought to pass, on Bill, "An Act Relating to Services of State Police on Maine Turnpike." (H. P. 605) (L. D. 865) tabled by that Senator on May 5 pending motion by Senator Stilphen of Knox for acceptance of Majority report; and the same Senator moved the pending question.

The motion prevailed and the majority Ought not to pass report was accepted in non-concurrence. Sent down for concurrence.

On motion by Mr. Pierce of Hancock, the Senate voted to take from the table the 95th tabled item being House Report from the Committee on Transportation: Ought to pass as amended by Committee Amendment A on Bill, "An Act Authorizing Red Blinker Light for Volunteer Fire Department Vehicles. (H. P. 841) (L. D. 1191) tabled by that Senator on May 1 pending acceptance of the report; and on further motion by the same Senator, the Ought to pass report was accepted in concurrence and the bill read once; Committee Amendment A was read and adopted in concurrence; House Amendment D was read and adopted in concurrence, and the bill as amended was tomorrow assigned for second reading.

On motion by Mr. Fournier of York, the Senate voted to take from the table the 29th tabled item being House Reports from the Committee on Claims: Majority report, Ought not to pass; Minority report, Ought to pass on "Resolve, in Favor of Cleveland Sleeper, Jr. of Rockland." (H. P. 805) (L. D. 1144) tabled by that Senator on April 2 pending motion by Senator Parker of Piscataquis to indefinitely postpone; and the same Senator moved the pending question.

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

Mr. FOURNIER of York: Mr. President, may I inquire if L. D. 364 is in the possession of the Senate?

The PRESIDENT: It is, having been held at the request of Senator Fournier of York.

Thereupon, on motion by Mr. Fournier of York, the Senate voted to reconsider its action of yesterday whereby it passed to be enacted Bill, "An Act Changing the name of Inland Fisheries and Game Wardens to Conservation Officers." (L. D. 304).

Mr. ROSS of Sagadahoc: Mr. President and members of the Senate: I spoke at some length yes-

terday about my feeling on this bill changing the name of game wardens to conservation officers. I have only one other comment to make today and that concerns clams, because I gather that the Senate is interested in clams this morning.

Now when I first saw this bill and heard it before the committee I thought it might have some merit, but if it had merit to the Inland Fish and Game Department I thought it might also have merit to the Sea and Shore Fisheries Department, so I went to them and asked them if they would like to have the names of their wardens changed. In all honesty I did that. And they said absolutely not. They said that when they had enforcement to do they wanted their wardens to do it and wanted them to be so called. So once again I move that the bill be indefinitely postponed.

Mr. CARPENTER of Somerset: Mr. President, I must oppose this motion.

This bill is definitely no particular killing affair as to whether it passes or not. My feeling in the matter is this: If the head of my department who has been there for many years sees an opportunity to elevate the positions of those particular people who are employed by him, I think he certainly should be granted that privilege.

Now for the benefit of the Senator from Sagadahoc, Senator Ross, who I know is a very good fisherman, I would like to define the word "conservation." It is, "The official care and preservation of such natural resources as oil, coal and fisheries." I will give the definition of the word "warden." It is "one who keeps and guards." I am sure that Senator Ross would not want a warden to keep and guard all the fish and he not be able to take them. Therefore I oppose the motion and when the vote is taken I ask for a division.

Mr. ROSS of Sagadahoc: Mr. President, I have just one comment to make to my good friend, the Senator from Somerset, Senator Carpenter. I fully agree with him, and if the head of this department had told me that this was absolutely necessary in the best interests of his department I would have con-

curred; but I went to him and he said that he had no strong feelings one way or the other. That is why I am making my motion and I hope that it prevails.

Mr. CARPENTER of Somerset: Mr. President, in answer to the Senator from Sagadahoc, Senator Ross, I might say that is quite usually the situation when one goes to the department head to ask them whether or not they are concerned with a particular bill; but it so happens that bill came out of that particular department headed by the man I think we are both referring to.

Mr. MacDONALD of Oxford: Mr. President, I think the bill is nonsensical to the extreme. It does not make any difference what we call them, it is how they do their work. It is like calling a truck-driver a transportation engineer. So I cannot see any necessity for changing the name, and I support the motion of the Senator from Sagadahoc, Senator Ross.

The PRESIDENT: The question is on the motion of the Senator from Sagadahoc, Senator Ross, that the bill be indefinitely postponed, and a division has been requested.

A division of the Senate was had.

Nineteen having voted in the affirmative and eight opposed, the motion prevailed.

Sent down for concurrence.

The PRESIDENT: At this time the Chair is happy to welcome to the Senate Chamber this morning, members of the 7th and 8th grades of the Notre Dame School in Waterville, accompanied by the Ursuline Sisters. On behalf of the Senate, it is indeed a privilege to welcome you folks here this morning. We trust your visit will be enjoyable, educational and profitable. I know that every member of the Senate joins me in wishing you a hearty welcome. (Applause)

Mr. Dow of Lincoln was granted unanimous consent to address the Senate.

Mr. DOW of Lincoln: Mr. President and members of the Senate, it is with a feeling of duty and urgency that I speak to you at this time of matters that have developed

within the Committee of Education, these being the results of long sessions of study and consideration of bills which have come before us seeking to correct inequalities and injustices which have been brought about because of certain conditions that were incorporated into the Sinclair Act at the time it was originally passed. Our committee recognizes one particular glaring inconsistency which it feels is working against the principle and purposes of bringing about an equalization of educational opportunities by consolidation and formation of Administrative School Districts throughout the State. This problem is centered around that section of the Act whereby any municipality having 700 or more high school students is allowed to form a School Administrative School District by itself, without consolidating with neighboring towns, and as a single unit receive financial benefits of the Sinclair Act, while at the same time these smaller neighboring towns, which are in no position to join with others, are left where they are not eligible to receive the extra funds to bring up their educational programs and buildings to better standards. In other words, the effect of this law as it now stands is two fold:

First. Towns which have under 700 pupils and are not in a feasible or practical location to join with other towns in a consolidated effort are being penalized by not being eligible for Sinclair Act Funds.

Second. Because the most costly buildings will be built in those single units where enrollments are 700 or more, it means that a large portion of Sinclair Act benefits will go to the larger cities which already have higher educational standards and facilities than the average municipality in our State.

Neither of these situations was ever meant to be. They were neither suggested or intended in the original Jacobs report. The purpose of this Act was to encourage consolidation of towns to the end that educational advantages would be nearer equalized and standardized for all the children throughout the State. This present provision in the law seems to be working in the exact opposite. I believe the time

will come when increased State aid will be available to all the school systems of the State, but until it does, I firmly believe we should help the smaller and poorer communities first.

There is a strong feeling both within and without this committee that this great inconsistency should be corrected before it is allowed to progress further. There are two alternatives: One is in the form of a bill now before our committee which would drop the 700 enrollment down to a figure that would take in most of those towns now being penalized.

Some members of the Education Committee who represent towns now being penalized have stated they will support such a measure if a better solution cannot be devised.

I for one issue a grave warning against any such move as this:

First, because it would almost wholly nullify the purposes and objectives of the Sinclair Act. It would destroy the incentive for towns to join together for better schools.

Second, this adjustment would divert funds from consolidation efforts to outright grants if so many towns became eligible to qualify as single unit Administrative Districts. This could be devastating, not only to the objectives of the Sinclair Act, but perhaps financially disastrous to the State of Maine.

Third, there would still be some towns which would not qualify and thus only shifting an unfair situation from one group of towns to another.

The other alternative, which in the minds of a majority of our committee would bring the Sinclair Act into closer conformity with its purposes would be to remove the single unit provision of 700 or more so that all municipalities must consolidate with one or more others in order to qualify, except, as now provided, in very rare cases where a joint effort is impossible, such as an island town, and then only when recommended by the State School District Commission, and by approval of the Legislature.

Therefore, we the Committee on Education feel that in order to preserve and demonstrate our integrity, it is our duty to place before

you our honest evaluation of these circumstances with the hope that you will all give serious consideration in facing up to the inequalities and financial implications that now exist.

It is by means of this report that we hope to share with you the responsibilities with which we are confronted.

The PRESIDENT: The Chair thanks the Senator from Lincoln, Senator Dow, and the members of the Education Committee for the information on this very important subject.

Mr. Farley of York was granted unanimous consent to address the Senate.

Mr. FARLEY: Mr. President and members of the Senate: I had the honor and privilege two years ago of being part of the committee that studied the Jacobs Report which later became the Sinclair Bill for the appropriation of money from the State of Maine. That was instituted by a former Senator, Senator Dunham of Hancock County. That committee was composed of the Hon. Edmund Muskie, the Hon. Robert Haskell, Senator Lowe, Senator Sinclair, myself and a few more.

The Sinclair bill was taking a lot into consideration. As for myself, I believe I was practically just an anchor man, because there were men more highly educated than I was. I saw these gentlemen go for four Monday nights for over three hours, going from page to page relative to the Sinclair Act. I saw Senator Haskell at that time and Senator Sinclair do the same.

What I am talking about now is that they took the bill and went down through it, and when they had arrived at a decision as to just what they were going to do to the Sinclair Act we had a meeting one evening in the House of Representatives where it was thoroughly gone over by the members of the House and by the members of the Senate. If you will remember, towards the finish there was a committee appointed and a great many in the House and in the Senate thought that the Sinclair bill was on its way out of the window, believing that the committee would ditch it, but nothing like that happened.

I am only stating that fact because I am thoroughly convinced that the Sinclair bill in its present form of 700 and 300 is the only thing that the State of Maine can carry on with, and I believe if you reduce that 700 you are going to offend men who gave a lot of time to that for the education of the school children in the smaller communities.

I know that there is no motion here, but Senator Dow has asked for us to meet. If I meet with the delegation, or if I have an opportunity to vote upon the question, I am going to vote to leave the law as it is and let it take its course for a few more years.

The town of Sanford, which I represent in York County, in the late hours of the last session attempted to do the same thing; but as a unit from York County we thought more of the Sinclair Bill than we did of some of the individuals behind the bill, and we took that opportunity to vote against that and go along. I trust that each and every member of the Senate, this honorable body, regardless of what the Education Committee does, that we go along with the Sinclair bill. There may be bugs in it, but if you have read Dr. Conant, the greatest man in this country on education, in the United States News, you will see that he says that the foundation of the educational system today in this country should go back to something like the Sinclair bill in the administration of schools in the State of Maine. Some towns are going to get hurt, there is no question about that; but you are going to give the children of the State of Maine an education, something God knows they need today in the State of Maine. Thank you.

The PRESIDENT: The Chair thanks the Senator from York, Senator Farley, for adding further information to this educational problem.

At this time the Chair is pleased to welcome to the Senate Chamber this morning, students now in the gallery, members of the 7th and 8th grades of Harrison School, accompanied by Mr. Arthur L. Conary, Principal. We trust that you young people will enjoy your visit

to the state capitol this morning and that the visit will be profitable and enjoyable for you. On behalf of the entire Senate, a very cordial welcome to you all. (Applause)

On motion by Mr. Stilphen of Knox, the Senate voted to take from the table the 27th tabled item being Senate Reports from the Committee on State Government: Report A, Ought to pass; Report B, Ought not to pass, on Bill, "An Act to Reimburse Town of Thomaston for Loss of Tax Revenue." (S. P. 237) (L. D. 620) tabled by that Senator on April 1 pending motion by Senator Hillman of Penobscot, to accept Report B.

Mr. STILPHEN of Knox: Mr. President and members of the Senate: Inasmuch as there is an order that has been tabled by the Senator from Penobscot relative to a study of tax losses by towns by the Research Committee, I move the pending question.

The motion prevailed and Report B was accepted.

Sent down for concurrence.

On motion by Mr. Stilphen of Knox, the Senate voted to take from the table the 30th tabled item being House Reports from the Committee on State Government: Report A, Ought to pass; Report B, Ought not to pass, on Bill, "An Act to Reimburse Town of Warren for Loss of Tax Revenue." (H. P. 481) (L. D. 699) tabled by that Senator on April 2, pending consideration; and that Senator yielded to the Senator from Penobscot, Senator Hillman.

Mr. HILLMAN of Penobscot: Mr. President and members of the Senate: The Committee on State Government heard these two bills and also one from the City of Augusta. We realized that these two cities, particularly Thomaston have problems, and I think that was recognized from the fact that an order was brought before both branches of the Legislature. I believe that this should have thorough study as furniture is being manufactured and sold in competition with private enterprise in the City of Thomaston. I therefore move that we concur with the House in the indefinite postponement of this measure in

accordance with the remarks made by the Senator from Knox, Senator Stilphen.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Penobscot, Senator Hillman, that the Senate concur with the House in the indefinite postponement of the bill and the reports.

The motion prevailed.

On motion by Mr. Bates of Penobscot, the Senate voted to take from the table the 97th tabled item being House Reports from the Committee on Labor: Majority report, Ought not to pass; Minority Report, Ought to pass, on Bill, "An Act Relating to Costs of Witness and Attorney Fees Under Workmen's Compensation Act." (H. P. 356) (L. D. 515) tabled by that Senator on May 1 pending motion by Senator MacDonald of Oxford to accept the minority report.

Mr. BATES of Penobscot: Mr. President and members of the Senate: I rise to oppose the present motion for the acceptance of the minority report and to try to interpret for the Senate members the thinking, in part at least, of the committee members who signed the majority "Ought not to pass report."

Appearing before the Industrial Accident Commission does include the practicing of law. If this document should pass, it seems to the majority of the committee, as I see it, that the employer would be in a position of providing moneys, either directly or indirectly, for witnesses and attorneys appearing against the position of the employer even if no liability was determined. Even the constitutionality of such a procedure has been brought into the picture.

Another item with respect to the thinking of the members of the committee who signed the majority report dealt with the very broad, too broad discretionary powers provided for the Industrial Accident Commission if this document should pass.

I certainly hope that there will be clear thinking on the part of all of the members of this body with respect to voting against the present motion.

Mr. HUNT of Kennebec: Mr. President, I feel that I can speak on this bill from some actual experience, having represented workmen in many cases before the Industrial Accident Commission.

I think as a premise that it should be stated that almost without exception in these cases the insurance carrier does appear, not only with an attorney but also with a physician. Many of these insurance companies have a particular attorney who represents them all the time, and he has made more or less of a life study of this type of law practice. These attorneys are not only very familiar with the law on workmen's compensation but they are also very well acquainted with medical terminology. It is also almost without exception the rule that the insurance carrier appears at these hearings with a physician to testify on their behalf.

Think, if you will, of an employee, a workingman from the mill or factory, presenting himself before the Industrial Accident Commission and trying to plead his own case in the face of opposition such as this!

Of course there are some simple cases where there is not too much question, but I have had many cases before the Industrial Accident Commission that were extremely technical. For instance, one I had only a few months ago involved the question of whether heavy lifting by an employee did or did not cause the resulting hospitalization which he incurred. Even the doctors themselves — and there were two or three on each side — were in disagreement, and in fact the medical authorities were so much in disagreement that we adjourned the hearing for approximately a month and came in again.

The man was only in the hospital for a few days; the amount of recovery at the most was extremely small, and yet, as I said before, the question was so technical and involved that even the medical men themselves were in disagreement. How could this poor employee possibly have hoped to win his point if he had gone into this hearing all alone? Both the physician and myself had to discount our fees for

services in order that the man might have anything left.

The questions which come up here, such as: "Did the particular injury result from the employee doing a particular act in the line of his duty?" often become extremely involved questions. Also, if a man has been injured the question many times arises: Is he now able to go back to work? Has he recovered so that he can do light work, or can he accept part-time employment? These questions also can be extremely involved, and even the doctors themselves in many of the hearings will disagree.

I had another case a short while before that, where two very eminent orthopedic surgeons were on opposite sides, and the employee without the help of a physician and attorney I feel would have been lost; and yet it involved the question of whether he was ready to go back to light work or whether he was still totally incapacitated within the meaning of the workmen's compensation law. In this case again, the amount of recovery involved only a small amount, and if the orthopedic physician had charged what he should have charged or if the attorney had charged what he should have charged there would have been very little left for the employee.

The question is: Do we want to be fair to the employee? I feel that in this set-up which we have where the employer's insurance carrier almost without exception appears with very able counsel and with medical witnesses, that the employee should have the same right; but the amount involved in many of the questions coming up is so small that the employee just cannot afford to do it and have anything left for the number of weeks that he is out of work. So why not have the provision made that the employee may have the same support and help which the employer had? So far as I am concerned, I would not oppose a provision that it be left up to the Industrial Accident Commissioner to award the attorney's fees and witness fees only in those cases where he thought there was a meritorious question. In that way it would prevent any abuse of this privilege. But I do

feel that in very many cases there are legal questions and there are medical questions which require that the employee be represented by attorneys and medical people, and I think if we allowed the commissioner to state in what cases there was a question which was meritorious enough so that the employee should be entitled to those helps, that there would be no abuse of this right and at the same time we would at least be giving the employee a chance to meet the employer on even grounds in these often very technical cases.

Mr. MacDONALD of Oxford: Mr. President and members of the Senate: I spoke a few words on this matter before it was tabled and I would like to talk again on it.

You can always say that talk is cheap. I suppose that is because the supply exceeds the demand. Therefore I will not worry you with many words this time.

My good friend, the Senator from Penobscot, Senator Bates, said, if I could hear him properly, that the employer would be paying money to be used against him. I think I said the other day that it is just the other way around: The employer is using the employee's money and has been using it for years since it started, because it has always been considered from the beginning, and I mean the McGillicuddy bill, as a fringe benefit to the employee, so therefore it is the employee's money that is used against him.

In the conduct of cases before the Industrial Accident Commission, I want to say that I have always found that the commission tried to be as fair as they possibly could, but they cannot be conversant with or know the situation in each and every section of the State, the people with whom they have got to deal and so forth.

Now in my younger days I did a lot of this work. I had to take a number of cases to the Law Court. And at all times the insurance company had with them an attorney very well versed in this type of work, because that was all he did the year round. They had the doctors who are representing the insurance companies, and they would use terms that a laboring man and

very few who are not doctors would not understand. For instance, I never yet heard a doctor say "baking soda"; he always would have to call it "sodium bicarbonate." And in my opinion — and I have said it to doctors on the stand — they did it primarily to confuse the layman. But when there is an attorney or when there is a doctor who knows what it is about from alpha to omega the poor laboring man hasn't got a chance. I have been in the courtroom when hearings were being held and I have seen men come in on crutches or with a cane. He could see those people there and you could see that he was terrified. I was not representing him; I happened at the time to be representing other people who had hearings at the same time. He was given the right to cross-examine, but he didn't understand what cross-examination was. He would still simply make his statement, an argumentative statement, which would not assist him in the least.

Further, if this case is a close case and if this man wants to go to the Law Court, which is an appeal through what we call an equity process to the Superior Court and then through, how in God's name can the poor laboring man ever do that without legal assistance? A number of attorneys find it hard; they find their cases dismissed because of the wrong appeal, the wrong wording.

I would say that I would agree with Senator Hunt on an amendment that it be left to the Industrial Accident Commission to say when attorneys' fees should be paid. I do not think that an attorney should come in on every simple little thing, but there is the absolute necessity when a laboring man is laid up for weeks and weeks with an average income of twenty-two dollars a week, because with a family he just cannot afford to hire an attorney.

Mr. ROSS of Sagadahoc: Mr. President, once again this morning we have been listening to platitudes in favor of the poor employee. I certainly have compassion for the working men and women in the State of Maine, but this bill, in my opinion, is against their best interests.

We have heard this morning that it is the employees' money. The employer pays this insurance; he pays it to protect his men and women. It is not considered a fringe benefit. I know of no negotiation where the labor side ever considered it a fringe benefit when they were looking for other things. This bill would be a detriment to the orderly proceedings of the Industrial Accident Commission.

The chief proponent before our hearing was an attorney, but this bill does not have the backing of the Maine Bar Association. I have said that it was against the interests of the working man and woman. Here are three reasons: It would slow up the proceedings of the Industrial Accident Commission. It would slow up the payments to these men and women when they are in such dire need of such payments. It would complicate the entire situation.

I think there is one fact that has not been mentioned that should be mentioned. This commission is composed of attorneys, and they have interpreted the law, and in the great majority of cases they make their rulings in favor of the employee. There have been very few complaints, and a very small number of these employees would need a lawyer. If they all had lawyers at all times the lawyers probably would make a lot of money out of it but the employees' judgments would be changed in a very minimum of cases. In my opinion this certainly is not sound legislation for the Industrial Accident Commission, and I move that it be indefinitely postponed in concurrence with the House.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Sagadahoc, Senator Ross, that L. D. 515 and both committee reports be indefinitely postponed in concurrence.

Mr. MacDONALD: Mr. President, when the vote is taken I ask for a roll call vote.

Mr. LESSARD of Androscoggin: Mr. President and members of the Senate: I had not intended to speak on this matter, but since the good and able Senator from Sagadahoc, Senator Ross, has stated that there was no need for attorneys down

there before the Industrial Accident Commission, I am afraid I will have to take issue. I just wish that every one of you who are present could have a little time off some day and go down and sit through a day's hearings at the Industrial Accident Commission when they are sitting in your city or close by your town. I am sure that you would be convinced, after sitting there all day long and listening to these people who come down there without attorneys and seeing what goes on during the hearing. It is strictly a legal hearing, a record is taken, witnesses are introduced, medical testimony is given, testimony is given as to how the accident happened, as to whether it was an accident or not. I have been to many, many of these hearings because I have been practicing law for some time and I have taken care of many of these cases, and I have yet to see once when I have been to a hearing when the insurance company did not have one of the best lawyers in the State of Maine representing them there. I do not think it is fair. I think that the workingman is entitled to it.

It is a pretty tough situation for the lawyer too, because as it is now it is very hard to spend a great deal of time there with these people because they get so little in the way of payments that there is not much left to pay those lawyers when they get through. Perhaps I am up here fishing for the attorneys a little bit too, but on the other hand I say that these people do deserve to be represented. I am speaking now of the people in my section but I am sure the situation is the same throughout the State. If, as the Senator from Sagadahoc, Senator Ross, says, it is not necessary to have lawyers because they have three lawyers on the commission, why do the insurance companies have them? They have the best. They have their own doctors. As a matter of fact, they have a regular traveling circus that goes around the State of Maine; they have an attorney and doctor who travel along with them and they travel from one city to another representing different companies and different employers. I do wish that some of you people here could go down some-

time and spend a day with them, no matter what happens to this legislation. Pick up your newspaper or find out from someone when these hearings are being held. Just take an afternoon off and go down. If that won't change your mind then I will miss my guess.

Mr. HUNT of Kennebec: Mr. President, also on this charge of mere platitudes, I would like to ask the Senator from Sagadahoc, Senator Ross, if he has attended one of these hearings and seen a workingman unrepresented by counsel undergo perhaps half an hour's rigorous cross-examination by one of the better insurance attorneys, and then have the commissioner ask him if he has any questions to ask the other side? The poor workman by that time is pretty well ready to quit.

As has been pointed out, the Commissioner tries to be fair, but it is like an umpire in a game between a high school team and a big league team. The commissioner cannot try the case. He is supposed to be there as an umpire or referee, and no matter how much he wants to help he cannot try the case for the unrepresented employee.

Mr. President, it seems to me that there is an amendment that might be added here that would leave it up to the commission to decide when the injured employee would be entitled to be represented by an attorney or by medical witnesses to be paid from the insurance fund, and for that reason I would like to move that this matter lie on the table.

The PRESIDENT: Is it the pleasure of the Senate that this Bill, L. D. 515, be laid on the table pending the motion of the Senator from Sagadahoc, Senator Ross, that the bill and both reports be indefinitely postponed?

Mr. ROSS of Sagadahoc: Mr. President, I request a division.

Mr. MacDONALD of Oxford: Mr. President I request a roll call.

Mr. FARLEY of York: Mr. President, whether or not at this time—

The PRESIDENT: The Chair will have to interrupt the Senator. A motion to table is not debatable.

Mr. FARLEY: I would like to have an opportunity to add something in regard to the bill, and I would like to inquire whether or not I will have that opportunity.

The PRESIDENT: The Chair will have to rule that the motion before the Senate is a tabling motion and it is not debatable.

The question before the Senate is on the motion of the Senator from Kennebec, Senator Hunt, that L. D. 515 be laid on the table pending the motion of the Senator from Sagadahoc, Senator Ross, that the bill and accompanying reports be indefinitely postponed. A roll call has been requested. In order to have the roll call one-fifth of the members present must express their desire for the roll call.

As many as are in favor of the vote being taken by the roll call will rise and remain standing until counted.

A sufficient number obviously having arisen, the roll call is ordered. The question before the Senate is on the motion of the Senator from Kennebec, Senator Hunt that H. P. 356, L. D. 515, House Reports from the Committee on Labor on Bill, "An Act Relating to Costs of Witness and Attorney Fees Under Workmen's Compensation Act," Majority Report, "Ought not to pass"; Minority "Ought to pass," be laid on the table pending the motion of the Senator from Sagadahoc, Senator Ross, that the bill and reports be indefinitely postponed. As many as are in favor of the motion will say yes when their names are called; those opposed will say no.

The Secretary called the roll and the Senators answered as follows:

YEAS: B o u c h e r, Carpenter, Charles, Coffin, Dunn, Duquette, Farley, Fournier, Hunt, Lessard, Lewis, MacDonald, Martin, Noyes, Pierce, Rogerson, Thurston, Willey, Wyman — 19.

NAYS: Bates, Briggs, Cole, Dow, Hillman, Lord, Parker, Ross, Stillphen, Weeks, Woodcock — 11.

ABSENT: Brown, St. Pierre — 2.

Nineteen having voted in the affirmative and eleven opposed, the motion prevailed and the bill was laid on the table pending motion by Senator Ross to indefinitely postpone.

On motion by Mr. Dunn of Kennebec

Adjourned until tomorrow morning at nine-thirty.