

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One-Hundredth Legislature

OF THE

STATE OF MAINE

1961

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, March 28, 1961

Senate called to order by the President.

Prayer by Rev. Sam Kalamaras of Biddeford.

On motion by Mr. Boardman of Washington,

Journal of Friday read and approved.

The PRESIDENT: We have in the Senate Chambers a grandson of one of our Senators and I am sure it will be a great pleasure for the Senate to have the Chair appoint this young man a page for today. The young man is Donald W. Towne of Sebec, Maine, age fourteen. He attends Higgins Classical Institute. The Chair would like to ask his grandad, the Senator from Piscataquis, Senator Parker, to escort this young man to one of the pages chairs. (Applause)

We also have in the Senate Chambers a hundred members of the senior classes of American History and Government of South Portland High School, accompanied by Clark Freise and Rosella Loveit. It is a pleasure to have you young folks with us today. We hope that your stay is enjoyable and educational and that you will visit the State House in all of its many quarters. We hope that some day you will be sitting here in the Senate Chambers being good citizens and taking your place serving your state as a member of the Senate. In the Senate Chambers this morning are three of the Senate members of your county. The fourth member would be here except for a death in the family and he has been excused for the day. I would like to introduce to you Senators Davis, Porteous and Lord of Cumberland County.

We also have in the Senate Chambers a former member of this Body, a man who spent many years serving the state, and it gives me great pleasure to introduce to you former Senator George Weeks of Cumberland County. I would like to ask the Sergeant-at-Arms to escort Senator Weeks to the rostrum and I would ask the Senator to say a word.

Ex-Senator GEORGE WEEKS of Cumberland: Mr. President and members of the Senate: I appreciate your invitation which has been extended to me by your President, especially on this fine day in the year when I have so many of my young South Portland boys and girls — young ladies and gentlemen — forgive me! It is only a short time ago that I was sitting in one of these chairs and doing my utmost to accomplish moves for the benefit of the people of the State of Maine and I know that the present members of the Senate are equally endowed with that same objective. It is not an easy task, it is time consuming and you must have patience. The problems which confront this Body are solemn and affect the future of every one in the state. Certainly it is of the utmost importance that we give it the fullest support of which we are capable. I frankly confess that to a certain extent at least I miss having the opportunity to join in these activities which are of such great importance. However, the time must come when all must go about their affairs somewhere else. I wish you all the best of luck and thank you for all the services you are rendering for the State of Maine. Thank you, Mr. President.

The PRESIDENT: Thank you, George. It is a pleasure to have you with us.

Communication

STATE OF MAINE
SUPREME JUDICIAL COURT
AUGUSTA

March 24, 1961

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

Dear Mr. Winslow:

There are enclosed the Answers of the Justices to the Questions of March 7, 1961, relative to "An Act Relating to Payment by Dealers to Producers for Milk Purchased", (L. D. 1345)

Respectfully yours,
ROBERT B. WILLIAMSON

Enclosure

Which was read and placed on file.

Communication

Communication from the Supreme Judicial Court transmitting Opinion of the Justices of said Court Relating to Questions Propounded by the Senate, Concerning the Constitutionality of (S. P. 402) (L. D. 1345), Bill, "An Act Relating to Payment by Dealers to Producers for Milk Purchased."

Reply of the Justices

To the Honorable Senate of the State of Maine:

The undersigned Justices of the Supreme Judicial Court individually acknowledge receipt of your communication of March 7, 1961, requesting our advice concerning the constitutionality of a bill entitled, "An Act Relating to Payment by Dealers to Producers for Milk Purchased", (Senate Paper 402, Legislative Document 1345).

In considering the questions submitted, we are faced with the fact that on two occasions our Court has held statutes of like purpose with L. D. 1345 unconstitutional.

In *State v. Latham*, 115 Me. 176, the Court in 1916 held a 1915 Act unconstitutional in violation of the equal protection clause of the Fourteenth Amendment of the Constitution of the United States. The statute read as follows:

"Every person, firm or corporation purchasing cream or milk for the purposes of reselling or manufacturing the same into other products, shall pay the producer, unless otherwise provided for by written contract, semi-monthly; payment to be made on the first day of each and every month for all cream or milk received prior to the fifteenth day of the preceding month, and payment to be made on the fifteenth day of each and every month for all cream or milk prior to the first day of the same month."

The Court said, at p. 177:

"The statute in question when analyzed appears to be designed to compel purchasers of a particular product, intended for a particular use, to pay their purchase debts at particular times on pain of criminal prosecution, punishment by fine, and, of course, imprisonment for thirty days, if the fine is

not paid. R.S. ch. 136, sect. 12. Whether such a statute, designed to aid in the collection of mere civil obligations by the use of the strong arm of the criminal law is within the proper exercise of the police power is at least questionable. Certainly it is not unless the regulation intended be for the promotion of the public health, safety, morals, comfort or welfare." and again at p. 179:

"It is class legislation. Its discriminations are not based upon any real differences in situation or condition. We feel compelled to hold that it conflicts with fundamental laws and is, therefore, of no effect."

In *State v. Old Tavern Farm, Inc.*, 133 Me. 468 (1935), the Court, with two justices dissenting, declared unconstitutional a 1933 Act requiring that the proprietor of a milk gathering station give a bond, or deposit money or securities, to secure payment to producers, as a condition precedent to obtaining a license. The Court held the Act violated both the Fourteenth Amendment of the United States Constitution and Art. 1, Sec. 1 of the Maine Constitution. The opinion of the Court reads, at p. 471:

"The Constitution of the State of Maine affirmatively secures to all persons an equality of right to pursue any lawful occupation under equal regulation and protection by law. Its words are these:

"All men are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness." *Const. of Maine*, Art. 1, Sec. 1.

"Pertinent provisions of the Fourteenth Amendment to the Constitution of the United States are:

"...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." at p. 476:

"The *Latham* Case is of controlling analogy."

In *State v. Latham*, *supra*, we have payment to producers re-

quired under criminal penalties. In *State v. Old Tavern Farm, Inc.*, supra, we have a bond or other security as a condition of obtaining a license. In L. D. 1345 we have a proposal of payment required under penalty of loss of license under the Milk Control Act (R.S. c. 33). The three proposals are alike in substance.

We are cognizant of the following facts:

(1) that the Old Tavern Farm case arose under a statute enacted in 1933, and was decided in July 1935, only a few months after the original enactment under the Emergency Clause of the Act creating a Milk Control Board (Laws 1935, c. 13);

(2) that the decision in the Old Tavern Farm case was in accord with the minority view of the decided cases in the nation; or stated differently, that the two justices in dissent adopted the majority view;

(3) that the requirement of a bond to secure payments by dealers to producers (using the terms in a general sense, and not with the definitions of the Milk Control Act specifically in mind) has been apparently upheld in connection with Milk Control Acts (*Nebbia v. New York*, 291 U.S. 502, and

(4) that neighboring states provide by statute for bonds designed to secure payments to producers of milk (New Hampshire R.S. annotated, c. 185:4 through 10; Vermont statutes annotated, T. 6, 1965, 1966, and 1978; Massachusetts General Laws annotated, c. 94, 42B).

In light of the earlier cases, the questions submitted in substance come to this: In the opinion of the justices would the Supreme Judicial Court sitting as the Law Court overrule its decisions of 1916 and 1935 in the Latham and Old Tavern Farm cases?

It becomes, therefore, of the highest importance that we determine precisely our duty as individual justices in acting upon the questions presented.

"They (the Justices of the Supreme Judicial Court) shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when re-

quired by the governor, council, senate or house of representatives." Maine Constitution, Art. VI, Sec. 3.

The opinion given is the opinion of each justice as an individual. It is not the opinion of the Supreme Judicial Court. The fact that justices often, and perhaps usually, join in one opinion does not alter the fact that the opinion is not that of the Court, but of each justice. To illustrate, the Court decided the Old Tavern Farm case by a vote of 4 to 2. The dissenting justices stated their reasons for the record. The vitality of the case comes from the action of the majority who decided the issue.

In an advisory opinion there is no decision; there is no binding precedent.

We said in *Martin v. Maine Savings Bank*, 154 Me. 259, at 269:

"It is familiar law that an advisory opinion binds neither the justice who gave the opinion nor the court when the same questions are raised in litigation. Justice Rufus Tapley, in *Opinion of the Justices*, 58 Me. at 615, stated the principle in apt language:

"We can only proceed in the investigation upon the views of the law appertaining to the question, as they appear to us upon first presentation, and anticipate as well as we can the ground which may be urged for or against the proposition presented, never regarding the opinions thus formed as conclusive, but open to review upon every proper occasion."

"Our duty is to consider the problem anew in light of the issues presented and with the aid and assistance of the research, briefs, and arguments of counsel."

In the questions before us we have the converse of the *Martin* or *Industrial Building Authority* Act case. There an advisory opinion was followed by a litigated case. Here we have like statutes declared unconstitutional in two fully litigated cases followed by the request for an advisory opinion.

Each justice in giving his advisory opinion must necessarily be bound by the existing law under the decided cases of the Court. He cannot, any more than if he were sitting as a single justice to hear

and decide a case, or were a judge of any other court, or a member of any other tribunal, do other than accept the decision of the Supreme Judicial Court sitting as the Law Court, except, of course, insofar as the laws of the United States or the decisions of the Supreme Court of the United States might control. When, as here, the issue has been clearly determined, he should not indicate what his views may be, or, indeed whether he has views, upon the existing validity of the settled law.

The occasion to reconsider the issue, with all the relevant facts arising both in the legislative process and in the development and presentation of the particular case, and with the benefit of briefs, research, and arguments, will come in litigation between party and party. "The impact of actuality and the intensities of immediacy are wanting," to quote from Justice (then Professor) Felix Frankfurter. 37 Harvard Law Rev. 1002, 1006. At best, in an advisory opinion we consider the legislative proposal. The tug of litigation, it seems to us, is of prime importance in the situation here presented. It was in litigation that our predecessors as a Court forty-five years ago, and again twenty-six years ago, made the decisions. It is this process which we consider here appropriate.

This is not the occasion to write at length on the advantages and disadvantages of advisory opinions. It is sufficient to note that however useful such opinions may be as a guide in proposed actions, they do not replace, and are not designed to replace, or to be a substitute for, decisions made in course of litigation.

The Justices of the Massachusetts Court said, in an analogous situation, in 115 N.E. 978, at 979 (1917):

"It is established also that in answering questions submitted to them under chapter III, article II, of the Constitution, the Justices of this court are bound by the decisions of the court upon matters respecting which that court is the final authority. It is not open to the Justices in answering questions submitted to them under the Constitution to attempt to overrule a

decision made by the court in a cause between party and party or to speculate upon the correctness of such a decision. If such a decision is to be overruled, it can be only after argument in another cause between party and party, where the rights of all can be fully guarded. It cannot be overturned by an advisory opinion of the Justices given without the benefit of argument. Without intimating that there is ground to question our decisions, it is enough to say that we are bound by them.

"We construe all of the questions as applying to the two bills presented therewith and answer them all in negative."

In Colorado, we read:

"It is well understood that during the last ten years this Court has rendered several decisions denying the power. . . That there are decisions by the courts of other states in opposition as well as in support of the doctrine thus announced must be admitted. But we are decidedly of the opinion that the decisions of this court, deliberately announced in actual litigated cases, ought not to be overruled upon ex parte arguments in response to legislative questions."

"Without intimating in any manner what conclusion might be reached in case the questions now presented should be brought before the court in the regular course of litigation, we do not deem it proper to express any further opinion at this time." 15 Colorado 598 (1890), *In re House Resolutions Concerning Street Improvements*.

We are aware that the Latham and Old Tavern Farm cases do not touch the third question relating to impairment of contracts. It would seem useless, however, to give our opinion on this question in light of our expressed views on the first and second questions. If the Act becomes law, and if a case comes before the Court, not before us as individual justices, then will be the occasion to determine the constitutional issues in the case.

In responding in this manner, we fully realize that the importance of the questions of law is not lessened by the decisions of the Court rendered in 1916 and 1935.

The question here is whether the justices in their advisory opinion will overrule the earlier decisions of the Court. It is the question which, on mature reflection, we deem should not be answered, but should be left to litigation. Dated at Augusta, Maine, this 24th day of March, 1961.

Respectfully submitted:

ROBERT B.

WILLIAMSON

DONALD W. WEBBER

WALTER M. TAPLEY,

JR.

FRANCIS W. SULLIVAN

F. HAROLD DUBORD

CECIL J. SIDDALL

Which was read and placed on file.

House Committee Reports Leave to Withdraw

The Committee on Appropriations and Financial Affairs on Bill, "An Act Appropriating Funds for Ferry Terminal at Rockland." (H. P. 789) (L. D. 1103) reported that the same should be granted Leave to Withdraw.

The Committee on Education on Bill, "An Act Relating to Brunswick, Topsham and Harpswell High School Pupil Tuition Authorization." (H. P. 191) (L. D. 314) reported that the same should be granted Leave to Withdraw.

The same Committee on Bill, "An Act Establishing Secondary Area Vocational Schools." (H. P. 111) (L. D. 151) reported that the same should be granted Leave to Withdraw.

The Committee on Inland Fisheries and Game on Bill, "An Act Relating to Closed Season on Wild Rabbits on Cranberry Isles, Hancock County." (H. P. 393) (L. D. 568) reported that the same should be granted Leave to Withdraw.

The same Committee on Resolve, Regulating Fishing in Aunt Hannah Brook, Franklin and Oxford Counties. (H. P. 93) (L. D. 133) reported that the same should be granted Leave to Withdraw.

The same Committee on Resolve, Regulating Taking of Smelts in Crooked River and Songo River, Cumberland County. (H. P. 52) (L. D. 93) reported that the same

should be granted Leave to Withdraw.

The same Committee on Resolve, Regulating Fishing in Certain Ponds in Palermo, Waldo County. (H. P. 96) (L. D. 136) reported that the same should be granted Leave to Withdraw.

The Committee on Judiciary on Bill, "An Act Relating to Bequests and Devises Made by Will to Trustee of Existing Trust." (H. P. 503) (L. D. 702) reported that the same should be granted Leave to Withdraw.

The Committee on Public Utilities on Bill, "An Act to Incorporate the Boothbay Harbor Water and Sewer District." (H. P. 772) (L. D. 1069) reported that the same should be granted Leave to Withdraw.

Which reports were severally read and accepted in concurrence.

Ought Not to Pass

The Committee on Agriculture on Bill, "An Act Relating to Prices of Milk Sold by Producers to Dealers by Bulk Tank." (H. P. 787) (L. D. 1102) reported that the same Ought not to pass.

Comes from the House recommitted to the Committee on Agriculture.

In Senate, recommitted to the Committee on Agriculture in concurrence.

The Committee on Business Legislation on Bill, "An Act Providing Funds to Municipalities for Purchase of Fire Equipment." (H. P. 1045) (L. D. 1362) reported that the same Ought not to pass.

The Committee on Claims on Resolve, in Favor of Arthur R. Gould Memorial Hospital of Presque Isle. (H. P. 733) (L. D. 1021) reported that the same Ought not to pass.

The Committee on Inland Fisheries and Game on Bill, "An Act Abolishing Spring Trapping for Muskrats." (H. P. 926) (L. D. 1274) reported that the same Ought not to pass.

The same Committee on Bill, "An Act Relating to Regulation of Fishing by Commissioner of Inland Fisheries and Game." (H. P. 978) (L. D. 1365) reported that the same Ought not to pass.

The same Committee on Bill, "An Act Relating to Open Season on Mink and Fisher." (H. P. 983) (L. D. 1370) reported that the same Ought not to pass.

The Committee on Judiciary on Resolve, Authorizing Clifford E. Grass to Bring Civil Action Against State of Maine. (H. P. 602) (L. D. 822) reported that the same Ought not to pass.

The same Committee on Bill, "An Act Relating to Color of Canes Carried by Blind Pedestrians on Public Ways." (H. P. 817) (L. D. 1132) reported that the same Ought not to pass — Covered by other Legislation.

The same Committee on Bill, "An Act Relating to Evidence of Intoxication and Chemical Tests for Alcoholic Content of Blood of Motor Vehicle Drivers." (H. P. 933) (L. D. 1281) reported that the same Ought not to pass.

Which reports were read and accepted in concurrence.

The Committee on Public Utilities on Bill, "An Act Relating to Motor Carriers Operating as School Buses." (H. P. 834) (L. D. 1149) reported that the same Ought not to pass.

Comes from the House recommitted to the Committee on Public Utilities.

In Senate, recommitted to the Committee on Public Utilities in concurrence.

The Committee on State Government on Bill, "An Act Increasing Salaries of Members of Public Utilities Commission." (H. P. 777) (L. D. 1059) reported that the same Ought not to pass.

The same Committee on Bill, "An Act Increasing Salary of the State Auditor." (H. P. 844) (L. D. 1158) reported that the same Ought not to pass.

The same Committee on Bill, "An Act Increasing Salary of Commissioner of Agriculture." (H. P. 902) (L. D. 1236) reported that the same Ought not to pass.

The same Committee on Bill, "An Act Increasing Salary of Hearing Examiner for Liquor Commission." (H. P. 1022) (L. D. 1423) reported that the same Ought not to pass.

The Committee on Transportation on Bill, "An Act Relating to License Plates for Motor Vehicle Owners Who Operate Amateur Radio Stations." (H. P. 862) (L. D. 1176) reported that the same Ought not to pass, as Covered by Other Legislation.

The Committee on Welfare on Bill, "An Act Relating to the Town's Share of the Cost of Aid to Dependent Children." (H. P. 721) (L. D. 920) reported that the same Ought not to pass.

Which reports were severally read and accepted in concurrence.

Change of Reference

The Committee on Inland Fisheries and Game on Bill, "An Act Regulating the Operation of Motor Boats." (H. P. 982) (L. D. 1369) reported that the same should be referred to the Committee on Judiciary.

Which report was read and accepted in concurrence; and the bill so referred.

Ought to Pass

The Committee on Legal Affairs on Bill, "An Act Relating to Public Hearing on Certain Articles in Warrant for Town Meeting." (H. P. 159) (L. D. 222) reported that the same Ought to pass.

The same Committee on Bill, "An Act Relating to Construction of Drains and Sewers in City of Portland." (H. P. 523) (L. D. 721) reported that the same Ought to pass.

Which reports were read and accepted in concurrence, the Bills read once and tomorrow assigned for second reading.

Ought to Pass — As Amended

The Committee on Transportation on Bill, "An Act Relating to Short Term Permits for Certain Farm Trucks." (H. P. 917) (L. D. 1251) reported that the same Ought to pass, as amended by Committee Amendment "A" (Filing H-107)

Which report was read and accepted in concurrence, and the Bill read once. Committee Amendment "A" was read and adopted in concurrence and the Bill, as amended, tomorrow assigned for second reading.

Ought to Pass — New Draft — Same Title — Indefinitely Postponed

The Committee on Towns and Counties on Bill, "An Act Relating to Uniforms for Deputy Sheriffs." (H. P. 169) (L. D. 232) reported that the same Ought to pass in New Draft under Same Title: (H. P. 723) (L. D. 790)

Comes from the House, Report Accepted, and subsequently the Bill was indefinitely postponed.

(In the Senate, on motion by Mr. Stilphen of Knox, tabled pending acceptance of the report.)

**MAJORITY — Ought to Pass
MINORITY — Ought Not to Pass**

The Majority of the Committee on Inland Fisheries and Game on Recommended Resolve, Regulating Fishing in Maranacook Lake, Kennebec County. (H. P. 490) (L. D. 690) reported that the same Ought to pass.

(Signed)

Senator: STILPHEN of Knox

Representatives:

MERRILL of Stetson
ANDERSON of Ellsworth
WADE of Skowhegan
HANSON of Bradford
MOORE of Casco
WALLS of Millinocket

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

(Signed)

Sensors: CARPENTER

of Somerset

CYR of Aroostook

Representative:

DODGE of Guilford

Comes from the House, Majority Report Ought to pass accepted and the Bill passed to be engrossed.

In the Senate:

Mr. CARPENTER of Somerset: Mr. President, I move acceptance of the Minority Report, Ought Not to Pass, in non-concurrence.

Thereupon, on motion by Mr. Stilphen of Knox, the bill and accompanying papers were tabled pending motion by Senator Carpenter of Somerset.

**MAJORITY — Ought Not to Pass
MINORITY — Ought to Pass**

The Majority of the Committee on State Government on Resolve, Proposing an Amendment to the Constitution for Appointment of Attorney General by the Governor with Consent of the Senate. (H. P. 638) (L. D. 855) reported that the same Ought not to pass.

(Signed)

Sensors: NOYES of Franklin
CHRISTIE of Aroostook
LOVELL of York

Representatives:

DENNETT of Kittery
KIMBALL

of Mt. Desert

HAUGHN of Bridgton
WHITMAN of Woodstock
BEARCE of Bucksport

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

(Signed)

Representatives:

DOSTIE of Lewiston
NOEL of Waterville

Comes from the House, Majority Ought Not to Pass Report accepted.

In the Senate, on motion by Mr. Noyes of Franklin, the Senate voted to concur with the House.

**MAJORITY — Ought Not to Pass
MINORITY — Ought to Pass**

The Majority of the Committee on State Government on Resolve, Proposing an Amendment to the Constitution Repealing Limitation of Number of Representatives from One City. (H. P. 780) (L. D. 1062) reported that the same Ought Not to Pass.

(Signed)

Sensors: NOYES of Franklin
CHRISTIE of Aroostook
LOVELL of York

Representatives:

DENNETT of Kittery
KIMBALL

of Mt. Desert

HAUGHN of Bridgton
WHITMAN of Woodstock
BEARCE of Bucksport

The Minority of the same Committee on the same Subject matter

reported that the same Ought to pass.

(Signed)

Representatives:

DOSTIE of Lewiston
NOEL of Waterville

Comes from the House Majority Report Ought Not to Pass accepted.

In the Senate, on motion by Mr. Noyes of Franklin, the Senate voted to concur with the House.

MAJORITY — Ought Not to Pass
MINORITY — Ought to Pass

The Majority of the Committee on State Government on Bill, "An Act Relating to Appointment of the Commissioner of Agriculture by the Governor with Consent of the Senate." (H. P. 841) (L. D. 1156) reported that the same Ought not to pass.

(Signed)

Senators: NOYES of Franklin
CHRISTIE of Aroostook
LOVELL of York

Representatives:

DENNETT of Kittery
KIMBALL
of Mt. Desert
HAUGHN of Bridgton
WHITMAN of Woodstock
BEARCE of Bucksport

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

(Signed)

Representatives:

DOSTIE of Lewiston
NOEL of Waterville

Comes from the House, Majority Ought not to pass Report accepted.

In the Senate, on motion by Mr. Noyes of Franklin, the Senate voted to concur with the House.

MAJORITY — Ought Not to Pass
MINORITY — Ought to Pass

The Majority of the Committee on State Government on Resolve, Proposing Amendment to the Constitution Relating to Apportionment of Members of House of Representatives. (H. P. 846) (L. D. 1160) reported that the same Ought not to pass.

(Signed)

Senators: NOYES of Franklin

CHRISTIE of Aroostook
LOVELL of York

Representatives:

DENNETT of Kittery
HAUGHN of Bridgton
WHITMAN of Woodstock
DOSTIE of Lewiston
NOEL of Waterville

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

(Signed)

Representatives:

KIMBALL of Mt. Desert
BEARCE of Bucksport

Comes from the House, Majority Report, Ought not to pass, accepted.

In the Senate, on motion by Mr. Noyes of Franklin, the Senate voted to concur with the House.

Senate Committee Reports
Leave to Withdraw

Mr. Bates from the Committee on Education on Resolve, to Establish a Secondary Area Vocational School in Washington County at Calais. (S. P. 280) (L. D. 881) reported that the same should be granted Leave to Withdraw.

Sent down for concurrence.

Ought to Pass

Mrs. Lord from the Committee on Legal Affairs on Bill, "An Act Providing for Compensation for Members of the Planning Board of the City of Lewiston." (S. P. 328) (L. D. 1093) reported that the same Ought to pass.

Mrs. Lord from the same Committee on Bill, "An Act Authorizing City of Bangor to Construct Bridge Structures over Kenduskeag Stream." (S. P. 296) (L. D. 907) reported that the same Ought to pass.

Which Reports were read and accepted, the Bills read once and tomorrow assigned for second reading.

Ought to Pass — As Amended

Mr. Farris from the same Committee on Bill, "An Act Relating to Retirement Benefits for Members of the Lewiston Fire Depart-

ment." (S. P. 260) (L. D. 777) reported that the same Ought to pass, as amended by Committee Amendment "A". (Filing S-67)

Which report was read and accepted, and the Bill read once. Committee Amendment "A" was read and adopted, and the Bill, as amended, tomorrow assigned for second reading.

Mr. Marden from the Committee on Judiciary on Bill, "An Act Relating to Acquisition and Compensation for Land Taken for Highway Purposes." (S. P. 291) (L. D. 902) reported that the same Ought to pass, as amended by Committee Amendment "A". (Filing S-63)

Which report was read and accepted, and the Bill read once. Committee Amendment "A" was read and adopted, and the Bill, as amended, tomorrow assigned for second reading.

Mr. Erwin from the same Committee on Bill, "An Act Declaring Uncovered Excavations to be Nuisances." (S. P. 348) (L. D. 1081) reported that the same Ought to pass, as amended by Committee Amendment "A". (Filing S-65)

(On motion by Mr. Farris of Kennebec, tabled pending acceptance of the report.)

Mr. Stilphen from the Committee on Transportation on Bill, "An Act Requiring Persons Seventy-Five Years of Age to Take Examination for Motor Vehicle Driver's License." (S. P. 387) (L. D. 1197) reported that the same Ought to pass, as amended by Committee Amendment "A" (Filing S-64)

Which report was read and accepted, and the Bill read once. Committee Amendment "A" was read and adopted, and the Bill, as amended, tomorrow assigned for second reading.

Ought to Pass in New Draft — New Title

Mr. Noyes from the Committee on State Government on Bill, "An Act Creating a Constitutional and State Government Committee." (S. P. 126) (L. D. 271) reported that the same Ought to pass in New Draft under New Title: "An Act

Creating a Constitutional Commission." (S. P. 498) (L. D. 1498)

Which report was read and accepted, and the Bill in New Draft read once and on motion by Mr. Farris of Kennebec, tabled pending assignment for second reading.

MAJORITY — Ought to Pass, As Amended

MINORITY — Ought Not to Pass

The Majority of the Committee on Inland Fisheries and Game on Bill, "An Act Relating to Retirement of Chief Warden of Inland Fisheries and Game." (S. P. 165) (L. D. 411) reported that the same Ought to pass, as amended by Committee Amendment "A" (Filing S-68)

(Signed)

Senators: STILPHEN of Knox
CARPENTER

of Somerset
CYR of Aroostook

Representatives:

DODGE of Guilford
HANSON of Ellsworth
MERRILL of Stetson
WALLS of Millinocket
MOORE OF Casco

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

(Signed)

Representative:

WADE of Skowhegan

Mr. CARPENTER of Somerset: Mr. President, I move acceptance of the Majority Report.

Thereupon, on motion by Mr. Noyes of Franklin, tabled pending the motion of Senator Carpenter of Somerset.

Second Readers

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

House — As Amended

Resolve, Regulating Ice Fishing on Millinocket Lake, Big Pleasant Lake and Spider Lake, Piscataquis County. (H. P. 483) (L. D. 683) Amended by Com. Amend. "A" (Filing H-50)

Bill, "An Act Revising the Savings Bank Laws." (H. P. 574) (L. D. 794) Amended by Com. Amend. "A" (Filing H-118)

Which were read a second time and passed to be engrossed as amended.

Senate

Bill, "An Act Providing for an Assistant County Attorney for York County." (S. P. 21) (L. D. 46)

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

Sent down for concurrence.

Bill, "An Act Revising the Laws Relating to the Organization and General Supervisory Powers of the Department of Banks and Banking." (H. P. 494) (L. D. 805)

Which was read a second time.

Mr. Porteous of Cumberland presented Senate Amendment A and moved its adoption.

The Secretary read the amendment.

Mr. PORTEOUS of Cumberland: Mr. President, I would like to explain the amendment. This amendment has been requested by the Commissioner of Banking, Mr. Carl Bradbury and at the present time, under the present laws, legislation governing the Department of Banking, the Commissioner is directed to hire bank examiners, if he needs them, to the number of fourteen. He now only has eleven. He is required to hire college graduates. Under the present personnel laws, the starting salary that is permitted by past legislation and the starting salary even if the Jacobs Committee report were to be accepted are too low to obtain and attract college graduates to these very important positions. I call them important positions because they are men of responsibility who have to go into our banks and are protecting the public from any infractions of the banking rules.

The amendment gives the Banking Commissioner, with the consent of the Personnel Board — it does not take these men from under their authority — permission to hire and pay sufficient wages to attract these college graduates into the employment of the Banking Commission. Now it has been questioned as to how much this will cost the state. The bank examinations are paid for by the banks themselves. The full cost of the examination is passed on to the banks. Therefore in the words

of the Banking Commission, "This would cost the state nothing." This is, I believe, a good amendment. It is very necessary to the operation of the Banking Department. He has been unable to hire men of caliber that he is required to hire so he is in a very grave quandary unless this amendment should pass and I strongly urge favorable action this morning.

Thereupon, on motion by Mr. Davis of Cumberland the bill was laid upon the table pending motion by Mr. Porteous of Cumberland to adopt Senate Amendment A.

Bill, "An Act to Amend the Charter of the Union Mutual Life Insurance Company." (S. P. 158) (L. D. 404)

Bill, "An Act Relating to Open Season on Black Bass Fishing." (S. P. 193) (L. D. 526)

Bill, "An Act Repealing the Tri-State Authority for Collective Construction and Operation of Institutions in Maine, New Hampshire and Vermont." (S. P. 196) (L. D. 529)

Bill, "An Act Providing for a Compact with New England States for Confinement, Treatment and Rehabilitation of Offenders." (S. P. 198) (L. D. 531)

Bill, "An Act Concerning Qualifications of Municipal Court Judges and Associate Judges." (S. P. 252) (L. D. 769)

Resolve, Regulating Fishing in Cusuptic River, Oxford County. (S. P. 288) (L. D. 889)

(Which was read a second time, and on motion by Mr. Carpenter of Somerset, was tabled pending passage to be engrossed.)

Bill, "An Act Relating to Penalty for First Offense for Driving Motor Vehicle Under the Influence of Intoxicating Liquor." (S. P. 289) (L. D. 900)

Bill, "An Act Relating to Penalty for Assaults Upon Enforcement Officers." (S. P. 292) (L. D. 903)

(Which was read a second time, and on motion by Mr. Couture of Androscoggin, was tabled pending passage to be engrossed.)

Which Bills and Resolve were read a second time and passed to be engrossed.

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Relating to Hospitalization of Persons Suffering from Excessive Use of Alcohol." (S. P. 200) (L. D. 533) Amended by Com. Amend. "A" (Filing S-57)

Bill, "An Act Increasing Salary of Secretary of State." (S. P. 384) (L. D. 1194) Amended by Com. Amend. "A" (Filing S-60)

Which Bills were read a second time and passed to be engrossed, as amended.

Sent down for concurrence.

Enactors

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

Bill, "An Act Revising the Maine Milk Law." (H. P. 219) (L. D. 334)

Bill, "An Act Relating to Appointment of Town Clerk of Town of Wells." (H. P. 263) (L. D. 377)

Bill, "An Act Relating to Public Ways and Parking Areas at State Institutions." (H. P. 517) (L. D. 715)

Bill, "An Act Increasing Compensation of Mayor and Councilmen of City of Biddeford." (H. P. 686) (L. D. 964)

Bill, "An Act Relating to Elections in the City of Biddeford." (H. P. 688) (L. D. 966)

Bill, "An Act Relating to Employment of Minors in Establishments Selling Frozen Dairy Products." (S. P. 255) (L. D. 772)

Bill, "An Act Relating to Private Roads in Unorganized Territory." (S. P. 374) (L. D. 1185)

Which Bills were passed to be enacted.

Resolve, to Reimburse Canton Water District for Damage from Highway Construction. (H. P. 298) (L. D. 450)

Resolve, in Favor of Richard S. Foster, of York. (H. P. 465) (L. D. 665)

Resolve, Appropriating Funds to Complete Survey for a Maine-Quebec Highway. (H. P. 478) (L. D. 678)

Resolve, Providing for Publication of Information on the Public Lots by Forestry Department. (S. P. 491) (L. D. 1486)

Which Resolves were severally finally passed.

Emergency

Bill, "An Act Relating to Police Power Ordinances for Ogunquit Village Corporation." (H. P. 261) (L. D. 375)

Which Bill, being an emergency measure, and having received the affirmative vote of 28 members of the Senate, was passed to be enacted.

Orders of the Day

The President laid before the Senate the 1st tabled and today assigned item (S. P. 156) (L. D. 402) Senate Report, Ought to Pass, from the Committee on Business Legislation on Bill, "An Act Relating to Nonforfeiture Benefits and Valuation Standards for Life Insurance Policies", tabled on March 24 by Senator Couture of Androscoggin pending acceptance of the report; and on further motion by the same Senator, the report was accepted, the bill read once and tomorrow assigned for second reading.

Mrs. Christie of Aroostook was granted unanimous consent to address the Senate.

Mrs. CHRISTIE: Mr. President and members of the Senate: A few weeks ago we asked for a letter to be sent to the "Wildcats" of Presque Isle who were in the semi finals in the basketball tournament. I have here a reply to our letter and would like to read it to you.

"Dear Senator Christie: In regards to the letter of congratulation sent to the 'Wildcats' for winning the Eastern Maine Basketball Tournament, I wish to express sincere thanks to you and your constituents for your very thoughtful expression. As this letter was read to the entire squad, their reaction was one of pleasant surprise and delight to know that their state government would acknowledge and commend their accomplishment. On behalf of the team, as their coach, this letter will remain one of our prized congratulatory expressions. I trust that you will

forward our 'thanks' to members of the Maine State Senate.

Sincerely,

(Signed) DANA HEWS, Coach
Presque Isle 'Wildcats'

The PRESIDENT: On behalf of the Senate, the Chair wants to thank the Senator for reading that and we are pleased that the school team was cognizant of the fact that we here in the Senate appreciate what they did. I think we ought to give the team a hand. (Applause)

Mr. FERGUSON of Oxford: Mr. President, may I inquire if H. P. 704, L. D. 982, Bill, "An Act Relating to Digging Clams in the Towns of Cushman, Friendship and Thomaston" is 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 Oxford, Senator Ferguson.

Mr. FERGUSON: Mr. President, I now yield to the Senator from Sagadahoc, Senator Mayo.

Mr. MAYO: Mr. President, I move that the Senate reconsider its action whereby this act was passed to be enacted.

Mr. SAMPSON of Somerset: Mr. President, I move that the bill be tabled pending Senator Mayo's motion and especially assigned for Tuesday next.

Mr. MAYO: Mr. President and members of the Senate: I know that the tabling motion is not debatable but I know that the time of the tabling motion is debatable and I would like to explain why I request that this motion be tabled for a very short time so that we can send this along in its passage. I was approached by the Secretary of the Senate this morning to introduce this reconsideration and it simply is a mistake that has been made in bringing out the amendment and it should go back to the engrossing department to be stricken out. There is no change in any of the wording nor any change in the intent of the bill. It is strictly an error that was made somewhere along the process and I would argue again the time of the motion and ask for a division.

A division of the Senate was had.

Eight having voted in the affirmative and twenty-one opposed, the motion to table did not prevail.

Thereupon, on motion by Mr. Mayo of Sagadahoc, the Senate voted to reconsider its action whereby the bill was passed to be enacted and on further motion by the same Senator, the Senate voted to recede and concur with the House.

On motion by Mr. Carpenter of Somerset, the Senate voted to take from the table the third tabled and unassigned item (S. P. 106) (L. D. 251) Senate Report from the Committee on Inland Fisheries and Game on Bill, "An Act Abolishing the Merrymeeting Bay Game Sanctuary," Majority Report, Ought not to pass; Minority Report, Ought to Pass, tabled on February 7 by that Senator pending acceptance of either report.

Mr. CARPENTER of Somerset: Mr. President and members of the Senate: After a few brief remarks I am going to move to accept the Minority Ought to Pass report which would remove the game sanctuary was enacted I believe two years ago for a trial and it has not served any useful purpose. Policing this particular preserve cannot be enforced. To do away with the sanctuary would be a conservation measure because the birds congregate in this particular area and when bullets begin to fly across Merrymeeting Bay, they come out across the flats and are certainly slaughtered. The Department has constantly done away with sanctuaries, feeling they serve no useful purpose, including game sanctuaries. Therefore I move the acceptance of the minority Ought to pass report of the Committee.

Mr. STILPHEN of Knox: Mr. President, for information I would like to have the Secretary read the reports of the Committee.

The Secretary read the reports.

Mr. STILPHEN of Knox: Mr. President, thank you. I would like next to call your attention to L. D. 1215 which is an Act Relating to the Boundaries of Merrymeeting Bay Game Sanctuary, which was passed to be enacted here in the Senate and signed by the Govern-

nor on March 22, 1961. Now it would seem to me that we are a bit out of line if we just passed a bill re-establishing the boundaries of this sanctuary a bill signed by the Governor as late as this year on March 22nd and then six days later come in here and do away with the whole sanctuary. I am sure you noted from the report of the committee that it was almost unanimous, with the exception of one vote, that the bill ought not to pass. Therefore I move the indefinite postponement of this bill.

Mr. MAYO of Sagadahoc: Mr. President and members of the Senate: I rise to support the motion of the Senator from Somerset, Senator Carpenter. In Sagadahoc County I represented towns of Richmond, Bowdoin, Topsham and Bath. In that area we have approximately one thousand-odd duck hunters. The majority of these people who are ardent duck hunters, and I am one of them, have found that the sanctuary which we established two years ago has not proven itself satisfactory.

Now it is hard for me to explain exactly what this sanctuary does in the Bay or its location, but I will try to explain it in this way. It sets on tidal waters and the main section of the Kennebec River and it is bounded by posts on the shore. The bill that the governor just signed, changed these posts to longitudinal and latitudinal designations on a chart. The birds as they raft up in these sanctuaries to rest, as the tide comes in or goes out, the birds have a tendency to drift out of the sanctuary line, and as they drift beyond the sanctuary line, the gunners are lined up knee deep, so to speak, with their gunning floats waiting for these birds to drift by the sanctuary line, thinking of course that they are fully protected. As the birds drift by the sanctuary line, the gunners then with their scull boats approach the birds and there is a wholesale slaughter. The people, as I said before, are against it in my area. I am a duck hunter who two years ago voted for the sanctuary thinking it might work out in this new area that they put it in to. I find it is not working out. I feel very

sorry that the Governor has signed a bill and we may possibly be in the process of killing it, but it has been proven that the sanctuary is not doing what it was supposed to do and I certainly support the Senator from Somerset, Senator Carpenter.

Mr. CARPENTER of Somerset: Mr. President, when the vote is taken I ask for a division.

The PRESIDENT: The question before the Senate is on the motion of Senator Stilphen of Knox, that the bill be indefinitely postponed.

A division of the Senate was had. Seven having voted in the affirmative and twenty opposed, the motion to indefinitely postpone did not prevail.

Thereupon, on motion by Mr. Carpenter of Somerset, the Minority ought to pass report was accepted, the bill read once and tomorrow assigned for second reading.

On motion by Mr. Ferguson of Oxford, the Senate voted to take from the table the 17th tabled and unassigned item (S. P. 136) (L. D. 319) Senate Report from the Committee on Highways on Bill, "An Act Combining Use of State Aid and Town Road Improvement Funds," Majority Report, Ought Not to Pass; Minority Report, Ought to Pass; tabled on March 3 by Senator Ferguson of Oxford, pending acceptance of either report.

Mr. FERGUSON of Oxford: Mr. President and members of the Senate: I move to accept the minority "Ought to pass" report after I make a few brief remarks regarding this bill.

This L. D. 319 provides for combining the use of State Aid and Town Road Improvement funds. It provides that the municipal officers may petition the Highway Commission for authority to combine these two funds. It also sets up a provision whereby the municipal officers shall submit a plan for expenditure of these funds. It provides in the bill for a five-year reconstruction program but I will offer an amendment later on if we accept the "Ought to pass" report. Item 5 of L. D. 319: "Funds combined. Upon approval of the pro-

gram by the commission, the commission shall authorize the municipal officers to combine state aid joint funds and town road improvement funds into a single fund to be used to carry out the approved construction - reconstruction." We would combine these funds together and get better roads.

On your desks this morning I have delivered an outline of the various sums that all the municipalities in the State of Maine will receive under Town Road Improvement, the same in 1961 as received in 1960.

As you know, there are over three hundred municipalities in the State of Maine that have a population of less than 2500 and they are administered by town officers who are dedicated town officers and well-acquainted with the problems of highways and with the people's needs. On these back town roads there are thousands of farmers who depend on our town roads. Perhaps some of them should not rightly be called farmers because some of them sell a few dozen eggs on the market. These people use the superhighways very little, but still they are paying for them in our ten-cent tax on gasoline.

This bill is purely permissive: the municipal officers can apply if they so wish and if they think it is for the best interests of the municipality. There are some towns that would now like to do this, not very many, but certainly I strongly believe that these towns who ask permission to do this should be entitled to it.

I feel very strongly on this issue; it is one of my pet bills and I would like to see it go through. In regard to how it originated, I will say as past President of the Maine Municipal Officers Association we had hundreds of requests from municipalities and road commissioners to do this, in fact the Somerset County Municipal Officers Association had a meeting and by unanimous vote they wanted to do this very same thing. I have many letters from some of the larger towns over the State requesting that we should go along with this bill. As I said, I shall offer an amendment if the minority report is accepted. I now make the mo-

tion that we accept the minority "Ought to pass" report of the committee.

Mr. COLE of Waldo: Mr. President and members of the Senate: I rise in opposition to my good seat mate, Senator Ferguson, for several reasons.

First of all, let me explain to some of the members who may not be familiar with the highway set-up the different categories that we have in our highway program. First of all, we have the Primary set-up which takes care of our main thoroughfares; then we have Secondary Highways, which are roads of lesser importance; then we have the Urban fund, which takes care of those highways in built-up sections of our State; then we have State Aid funds for highways which are constructed through joint aid of both municipalities and the State. These particular categories I have named comprise a total of around 12,000 miles of highways within our State. We now come down to the Town Roads, which comprise 8000 miles of the remaining 20,000 miles or more within the State.

A few years ago when I was a member of the other branch we decided that here was a category of around 8000 miles that needed help or assistance from the State, so, with some effort, we established the Town Road Improvement Fund, which has to do with the bill we are discussing now.

I think you will all agree with me that this particular fund has been of tremendous help to industry, to farmers and to everyone living in rural areas.

Now some may ask: "What has this done?" This particular fund has made it possible for many farmers who lived on back roads, especially at this time of year when milk trucks and feed trucks serving the poultry industry—these roads were impassable and now most of them are passable through the efforts of this fund.

Now this fund is allocated on the basis of \$200 a mile on the town road mileage in each municipality. The total allocation under this formula for all the counties is something over \$52,000. Total allocations already spent and allocated to the

towns over the period of time this bill has been in effect have amounted to \$14,600,000 in round figures, leaving a potential that these towns would have in the future of \$37,795,000, so you see we still have a long way to go and our potential is still great.

Now the main objection to this bill is just in reverse, in my opinion and in the opinion of the majority of the committee. What this bill attempts to do is to take from these 8000 miles of town rural roads a sum that is badly needed and combine it with the State Aid funds for roads of better quality which, in my opinion, are very well taken care of by State Aid funds. There again, we have set up in the allocation of our fund the sum of one million dollars a year for special State Aid, so that particular fund is being assisted also by the State. The farmers living on the poor rural roads are very happy because of the fact that they have received this town road improvement money free, without any matching funds whatever. Now we are attempting to take from this group and give to the better roads, the State Aid roads, some of this money which the committee felt should continue to go to the Town Road Improvement rural roads. So I am bitterly opposed to this particular act because it is doing just in reverse what the original fund was set up for.

Mr. President, I ask when the vote is taken that it be taken by a division and I hope that the members of the Senate will consider very well what this particular bill will do.

Mr. CYR of Aroostook: Mr. President, I concur very readily with the thought just expressed by Senator Cole, however I arise in support of Senator Ferguson's motion.

As a former town official, I have seen this program in action. There is nothing at all in this bill which will be contradictory to the purpose of the Town Road Improvement program, in fact this bill is not mandatory; it will only be used by communities that can use it. In my community, for instance, we have used Town Road Improve-

ment to great benefit and great advantage to our roads. We also have used most of our reconstruction State Aid. Now in the reconstruction State Aid a town can vote four units, but in the construction of State Aid a town can only raise money to match two units, consequently we are slowing down the operation in those various towns that have hardly any more roads that will fit the needs for Town Road Improvement.

A few years back I would say I would have been in opposition to this bill, but as we progress and as our farm roads have been improved I believe that there is room for this type of legislation.

Now the Town Road Improvement, as was mentioned by Senator Cole, is not matched by the community, and that is used on roads that usually do not carry too much traffic and roads that have not been entered in the State Aid group. Now most of these roads in many communities have been taken care of slowly we are progressing; in fact Town Road Improvement used to be called "Mud money" at the time when the only purpose of it was to gravel the road so that you would not have mud holes that would be impassable in the spring of the year. Now in the last few years Town Road Improvement money has been used to further the improvement of these roads to the extent that today they almost come up to the standard of State Aid.

Now all this bill would ask—and it is strongly recommended by the Maine Municipal Association and the Town Managers—in fact I have telegrams and letters from the Town Managers of the towns surrounding my community — strongly supporting the passage of this bill. Now what would this mean in my own community? It would mean this: We have almost completed the reconstruction of State Aid; what we have left is State Aid construction. Consequently, this spring, for instance, we are only raising two units. If this bill should pass we could use the Town Road Improvement money that is allotted to Madawaska for the continuation of State Aid, which would hasten the reconstruction or the

improvement of our back roads, so I strongly support the motion of Senator Ferguson.

Mr. EDGAR of Hancock: Mr. President, may I address a question through the Chair to the Senator from Waldo, Senator Cole?

The PRESIDENT: You may, and the Senator may answer if he wishes.

Mr. EDGAR: Senator Cole, in your remarks you mentioned that the Town Road Improvement money is allocated on the basis of \$200 a mile of town road. Is that correct?

Mr. COLE of Waldo: That is correct.

Mr. EDGAR: My question is this: Is that allocation made with any relation to need or is that an automatic allocation that the town gets whether it needs all of it or not?

Mr. COLE: That is allocated on the total unimproved mileage in the particular municipality.

Mr. EDGAR: Thank you.

Mr. President and members of the Senate: At the urgent request of the town officials of my community, I do rise in support of the motion of the Senator from Oxford, Senator Ferguson. In view of the fact that the Town Road Improvement money is allocated on the basis of mileage rather than on the basis of need, it could very conceivably happen that a community would not actually need the whole amount allocated to it for town road improvement and the part of that money which they did not need, if it were permitted to be combined with their State Aid money, could very well be put to excellent use on the State Aid roads without hurting in any way the existing condition of the town roads in that community. Now this happens to be the case in my community, and, for that reason, in behalf of my own town and in behalf of myself, I do rise in support of Senator Ferguson's motion.

Mr. FARRIS of Kennebec: Mr. President, might I direct a question to Senator Ferguson through the Chair which I think he can probably answer.

The PRESIDENT: The Senator from Kennebec, Senator Farris, asks a question of the Sen-

ator from Oxford, Senator Ferguson, and he may answer if he wishes.

Mr. FARRIS: No. 1, it is my understanding from reading this bill that it is solely permissive—also from the information given by Senator Ferguson. In addition to that, am I correct in my interpretation that this would be for only a five-year period and if a municipality was dissatisfied it could revert back to the sole use of Town Road Improvement fund as allocated?

Mr. FERGUSON: Mr. President, in answer to the Senator's question, that is so, it takes a five-year program. It really does not put any ceiling, but I am going to offer an amendment to take this town to two years. That would conform with the present Town Road Improvement authorization of the State Highway Commission. You could not do it this year in the case of reconstruction, and that is why I am going to offer an amendment.

The PRESIDENT: Does that answer your question, Senator Farris?

Mr. FARRIS: In part. But now the question would be: If a municipality votes to come into this program is there any way in which they can rescind their vote after the two-year period has expired?

Mr. FERGUSON: Yes. You see in Section 3, the very bottom one on your list, it is reviewable every year. I think that will answer your question. When you get my amendment on here for two years, it certainly would not be too long a period.

Mr. FARRIS: Mr. President, on the basis of the explanation that a community or a municipality may enter into this for a two-year period or even a five-year period but is not committed to it irrevocably, I would support the motion of the Senator from Oxford, Senator Ferguson.

Mr. PARKER of Piscataquis: Mr. President and members of the Senate: I rise in opposition to the motion of my good friend, the Senator from Oxford, Senator Ferguson, because I happen to live in a county that is made up of small towns and rural communities and

because I have been somewhat familiar with the highway program over the years.

I want to say first of all: Let's get it very clear what the Town Road Improvement allocation is and what it is doing in our rural communities on our roads.

It has been mentioned that it was called the "Getting Rural Communities out of the Mud fund." I would say from memory that this fund was first advocated by the rural free delivery mailmen a great many years ago and through their efforts this fund was started and it was known as the R.F.D. FUND. Eventually it became known as the Town Road Improvement Fund because it improves town roads.

Most of the arguments that I have heard favoring Senator Ferguson's motion could be equally applied in opposition. To my mind, fifteen or twenty years from now, after these so-called rural roads are reconstructed and we have gotten to the point where there is need to combine this with our State Aid, I might be in favor of it, but certainly it will be many years before we ought to curtail construction of our rural roads and allow those moneys to be used on State Aid roads. If I remember correctly, there is only a matter of about five communities in the whole State of Maine that need anything of this sort. What I am speaking about is the combining of these two funds. Those communities, at the present time, if they really wanted to, could still use their town road improvement money.

I certainly hope that the motion of the Senator from Oxford, Senator Ferguson, does not prevail.

Mr. FERGUSON of Oxford: Mr. President and members of the Senate: There are a couple of things I would like to point out there. The first thing is that this is purely permissive; if we have five towns in the State of Maine that want to combine their State Aid with their Town Road Improvement or vice versa, let us give them this enabling legislation that will let them do it. Another thing, from most of the opposition you would think that this was a one-way deal. It is a two-way deal: it

can be worked from State Aid to Town Road Improvement or from Town Road Improvement to State Aid.

Now at the present time you can transfer your State Aid money to Town Road Improvement, but the Highway Commission does not always approve that. It is a one-way deal and I can show you why they are sometimes opposed to it. You take a town with a one thousand dollar valuation, they put in three hundred dollars for one unit and the State puts in one thousand and fifty where there is some need for reconstruction of a State Aid road. I am talking now about the State Aid matching funds. That is one of the reasons why I would like to see a two-way deal because I think it would soften the Highway Commission up a little bit.

There is no attempt at the State level to combine these funds: again it is only at the request of the municipal officers that this combining would take place.

The Highway Commission has been silent on this: they haven't opposed it or they haven't given it any encouragement, and when you find the Highway Commission silent on an issue they generally are in accord with it.

You have 879 miles of designated State Aid roads in the State that have not been built yet. These are still town ways even though they have been designated State Aid. This would help a great deal in getting these designated State Aid roads built and giving us some means of travel to isolated sections of our towns.

The only opposition we had to this bill in committee was from a group of mail carriers, the Rural Mail Carriers Association and the Farm Bureau spoke against the bill. I am a member of the Farm Bureau myself, I carry a membership card and have for years. I do not believe that we should listen wholly to the Rural Mail Carriers Association against our town officials throughout the State of Maine. I think our town officials are in a much better position to evaluate the need and how these funds should be spent.

On the last page of this information that I had placed on your desks this morning under Town Road Improvement: in 1953 we went to a million and a half. This gives the total of what each county received.

Now no one worked any harder to get this thing through the House than I did. I worked very, very hard, and I hope that my motion prevails. Thank you.

Mr. DAVIS of Cumberland: Mr. President and members of the Senate: I have lived in a small town all my life and I am more or less familiar with these rural roads. I cannot go along with the statement of Senator Edger that possibly these towns that have unimproved roads do not need this money. I think I am right in saying that in most of these small towns the majority of the vote would probably be in the villages and from those people who now reside on the State Aid roads, and I am sure that if this bill passed the pressure would be great on the municipal officers to transfer this Town Road Improvement money to State Aid. This fund was set up to keep the farmers out of the mud, to enable fire protection to get in there during the mud season, and I hope that we continue to leave it for this purpose.

Mr. EDGAR of Hancock: Mr. President, I would agree completely with the very good arguments of both Senator Parker and Senator Davis if there were anything compulsory in this bill. There is not. This bill merely permits a town, if it so chooses, to combine these funds. Now if the town in which Senator Davis lives wants to get the farmers out of the mud it can still go right on and do it; this bill would not compel them to do otherwise; but if my community or any other community considers their town roads in adequate condition but does not have the money to do the job that is needed on State Aid roads, just as Senator Davis' town would be permitted to continue to help the farmers, my town and others like it should be permitted to improve their State Aid roads if the money is not needed on the Town Road Improvement fund. This is purely

permissive, and the evils which Senator Parker and Senator Davis fear are purely optional with their own communities.

Mr. CYR of Aroostook: Mr. President, just one more word.

If you will reflect a little bit on the expense of Town Road Improvement, which calls for \$200 a mile, you know at today's costs what that can provide: just a little sprinkling of gravel maybe on some of these roads, so I think it is sort of a misnomer if we say from that that we are getting out of the mud on those roads. I think in many towns that are up to the standard or have improved their standards close to the State Aid standards this legislation would help them to provide more mileage per year, and in my estimation that would be a much more solid approach.

Mr. STILPHEN of Knox: Mr. President, two years ago I was on the Highway Committee and it appeared at that time that 151 members of the House and 33 members of the Senate all had bad roads. This morning I find that many of the roads must have improved greatly since that time.

Just to try to clarify a bit this two hundred dollars a mile: I may be wrong, but as I understand it this two hundred dollars a mile which is allocated to the town does not mean that they spread that two hundred dollars' worth of gravel over a mile of road. I think that is possibly the impression that my good seat-mate here, Senator Cyr, might have left in the minds of some. For example, take an instance where they had sixteen miles of road and got \$3200, and that would be spent in building road which \$3200 of money would do, not two hundred dollars a mile spread all over the total mileage.

Mr. PIKE of Oxford: Mr. President and members of the Senate: I feel bad not to agree with the good Senator Parker and the good Senator Davis, because I always thought they had wonderful judgment and I most always stand up with them, but in Oxford County we have several towns that are very anxious to have permission to do this, nothing more than permis-

sion. Therefore, believe it or not, I am going to stand up with my seat mate.

The PRESIDENT: The question is on the motion of the Senator from Oxford, Senator Ferguson, to accept the Minority Ought to Pass Report of the Committee and a division has been requested.

A division of the Senate was had.

Twenty having voted in the affirmative and nine opposed, the report was accepted and the bill read once.

Subsequently, Mr. Ferguson of Oxford presented Senate Amendment A and moved its adoption.

Senate Amendment A was read and adopted and the bill as amended was tomorrow assigned for second reading.

The PRESIDENT: The Chair recognizes in the Senate Chamber a former member of this Body, a majority leader and a member who worked hard for the State of Maine. The Chair would ask the Sergeant at Arms to escort to the rostrum former Senator James Reid. (Applause)

On motion by Mr. Brown of Washington, the Senate voted to take from the table the 9th tabled and unassigned item (H. P. 112) (L. D. 152) Bill, "An Act Relating to Use of Artificial Lights for Lighting Game"; tabled on February 21 by Senator Brown pending adoption of Committee Amendment A; and on further motion by the same Senator Committee Amendment A was read and adopted and the same Senator then presented

Senate Amendment A and moved its adoption.

Senate Amendment A was read and adopted and the bill as amended was tomorrow assigned for second reading.

On motion by Mr. Boardman of Washington, the Senate voted to take from the table the 25th tabled and unassigned item (S. P. 465) (L. D. 1464) Bill, "An Act Relating to Use of Motor Vehicles Without Authority in Any Place"; tabled on March 14 by that Senator pending consideration; and on further motion by the same Senator, the rules were suspended and the Senate voted to reconsider its former action whereby the bill was passed to be enacted; and on further motion by the same Senator, the bill was referred to the Committee on Judiciary.

Sent down for concurrence.

On motion by Mr. Brown of Washington, the Senate voted to take from the table the 49th tabled and unassigned item (S. P. 302) (L. D. 890) Senate Report, Ought Not to Pass, from the Committee on State Government on Bill, "An Act Increasing Salary of the Treasurer of State"; tabled on March 24 by Senator Brown of Hancock 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. Noyes of Franklin

Adjourned until tomorrow morning at ten o'clock.