LEGISLATIVE RECORD

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DAILY KENNEBEC JOURNAL
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SENATE

Friday, May 21, 1965

Senate called to order by the President.

Prayer by Rev. Leo J. Cyr of Van Buren.

On motion by Mr. Stern of Penobscot, the Journal of yesterday was Read and Approved.

Out of order and under suspension of the rules, on motion by Mr. Harding of Aroostook,

ORDERED, the House concurring that when the Senate and House adjourn they adjourn to meet on Monday, May 24th. (S. P. 562)

Which was Read and Passed and sent forthwith to the House for concurrence.

Papers from the House

Non-concurrent matters

Bill, "An Act Providing for Cost of Living Plan for Retired State Employees, Teachers and Participating District Employees, or Beneficiaries of Same." (S. P. 530) (L. D. 1509)

In Senate, May 6, Passed to Be Engrossed.

Comes from the House, Passed to Be Engrossed as amended by House Amendment "A" (H-339) in non-concurrence.

In the Senate, that body voted to recede and concur.

Bill, "An Act Relating to Working Capital of Liquor Commission." (S. P. 377) (L. D. 1194)

In Senate, May 5, Passed to Be Engrossed as amended by Committee Amendment "A" (S-171)

Comes from the House Indefinitely Postponed in Non-concurrence.

In the Senate, on motion by Mr. Jacques of Androscoggin, the Senate voted to insist.

Bill, "An Act Relating to Employment of Minors Under 16 Years of Age." (H. P. 342) (L. D. 445)

In House, May 18, Passed to Be Engrossed as amended by Committee Amendment "A" (H-333)

In Senate, May 19, Indefinitely Postponed in Non-concurrence.

Comes from the House, that body having voted to Insist and ask for a committee of conference.

In the Senate, on motion by Mr. O'Leary of Oxford, the Senate voted to insist and join in the Committee of Conference, and the President appointed as Senate conferees, Senators O'Leary of Oxford, Smith of Cumberland and Chisholm of Cumberland.

Bill, "An Act Relating to Qualifications for Practice of Hairdressing and Beauty Culture, and to membership on the State Board of Hairdressers." (S. P. 491) (L. D. 1456)

In House, Passed to Be Engrossed, May 12.

In Senate, Passed to Be Engrossed as amended by Senate Amendment "A" (S-209) in Non-concurrence.

Comes from the House Indefinitely Postponed in Non-concurrence.

In the Senate, on motion by Mr. Casey of Washington, the Senate voted to reconsider its former action whereby the bill was passed to be engrossed, and to further reconsider its action whereby Senate Amendment A was adopted. The same Senator then presented Senate Amendment A to Senate Amendment A.

Mr. CASEY of Washington: Mr. President and members of the Senate: As you know, I have been accused of being the chairman of the "rubber stamp" committee, towns and counties, for going along with everything that came before the committee and being very liberal. This I cannot go along with, the indefinite postponement of this bill coming for the House. I think it is a disgrace that the schools have given the girls time off when they should be studying to run over to the legislature to protect the school's business. It shows again that the emphasis is on business rather than training. It is a disgrace to send these students over to try to influence legislation by emotion. This is downright sneaky. The

school operators should not be hiding behind the skirts of their female students.

How does it happen that they did not send any male students? How is it that some of the male beauty school owners did not come over to the legislature to do their own work. I wonder how the students' parents would like what is going on — sending their daughters over to the House of Representatives and the Senate consisting of 141 male members? I think that the lady members of the House and the Senate can influence the male members.

This shows to what extent some of the school operators will go in using their students to promote their own business.

I would like to say that on this bill when it was presented before the committee there were approximately five hundred hairdressers that appeared before this committee. Some were for it and some were against it. It had quite a long hearing. This bill was offered in a new draft. It was then suggested that we bring this bill out as a new bill instead of a new draft and it was heard again.

I believe this bill will protect the hairdressers. The hairdressers are the ones that I am interested in, being a member of the association. I feel that there is need to strengthen this organization. The first amendment, Amendment "A", Filing No. 209, is to add two more members to the board, which we believe will strengthen this board and enable them to fulfill their duties better, to do a better job. The second amendment, Filing 251, was to put back onto the bill the effective date that this would go into effect, July 1, 1966.

We feel that this is a good bill, it is backed one hundred per cent by the Association. We feel that in order for this association to advance we need stronger legislation to help protect it. As a professional organization, we feel that, in order to do justice to their profession, stronger legislation would help them, and this is why I presented this bill and these amendments, and I should hope I would have the support of my fellow senators on the majority "Ought to pass" report on this bill. Thank you.

Mrs. SPROUL of Lincoln: Mr. President, I would ask through the Chair a question of the Senator. Is it true that this amendment would take care of the students who are now in the school?

The PRESIDENT: The Senator from Lincoln, Senator Sproul, directs a question through the Chair to the Senator from Washington, Senator Casey, who may answer if he so chooses.

Mr. CASEY: Yes, Mr. President, this would take care of the students in school now and it would also take care of students who would enter in the fall, and this would not go into effect until July 1, 1966. We felt that if we moved it far enough ahead that it would cover everybody in school, it would cover those now in school who might lose time on account of sickness. This is why we pushed it so far ahead.

Mr. CAHILL of Somerset: Mr. President: I was a bit depressed to hear the argument used that we have girls down here from the school, taken away from the school and hiding behind the skirts of their teachers. Almost every day we have students from our public schools down here at the legislature, listening to the legislature and so forth. Also we have the effect of nice looking young women on the legislature. I am sure that everybody in the legislature is aware that we have other things added to the beautiful women to help us make up our minds in this legislature.

I hate to oppose the Senator from Washington, Senator Casey. We have gotten along very well. I believe this bill does damage to some degree. I believe the bill says that after you have graduated from this hairdressers' school that you must practice a year before you can go into business for yourself. We have barber schools and when a barber graduates from school he can go and open his shop the next morning. We have other schools that operate in the same manner, I believe. I

think they aired this very well over in the House yesterday, and I would move that we recede and concur.

The PRESIDENT: The motion before the Senate is the motion to adopt Senate Amendment "A" to Senate Amendment "A".

Mr. CASEY of Washington: Mr. President, Senator Cahill just mentioned that the barbers didn't have to apprentice. I would like to correct that. They do have to apprentice, when they finish school, for six months; they have to wait until their exam, which is probably around six months, before they can get their license. Most trades do have an apprenticeship, even professions have something like an apprenticeship.

We feel that this will strengthen and make the association better and stronger. We feel that this apprenticeship will not infringe on the students coming out of school, this will give them a chance to work in a shop. We feel that they need that extra experience.

One girl brought up the fact that when she gets out of school and has to serve an apprenticeship all she would be doing would be shampooing heads and scrubbing floors. I say if that is all she is capable of doing that is fine, but when she is hired in a shop the shop owner is interested in what she can do for the shop owner, the amount of business she can do. We are not interested in paying somebody for scrubbing floors. I feel that this bill has a lot of merits and should be considered.

Mr. MOORE of Washington: Mr. President, I do not really know whether I should intervene here or not since I am in the opposite profession — or really I might say in the same profession only dealing with the opposite sex.

This is almost identical to the procedure which is used in the barber profession as far as schooling qualifications are concerned. I feel, as a result of the large number of beauticians and also the large number of barbers who are going through these institutions today, that eventually the beautician trade and the state barber trade is going to be so overloaded that really there is not going to be a beautician trade or a barber trade, it is simply going to be a cutthroat trade in either profession because of the large number of registered people in either profession. If this bill is passed it may possibly eventually affect the barber school, the one and only barber school which we have now in the State of Maine, located in Lewiston.

I feel that perhaps this is a good bill in that it would substantially, perhaps over a period of years, protect this particular profession. I know in my area we have far too many beauticians for any one individual to make what you would consider a substantial income as a result of working at this profession. I feel that perhaps if the owners of these schools had to put up with this bill there might possibly and would probably be an increase in tuition. In our profession, in the barber profession, we are at the present time trying to decide ways and means of protecting the so-called profession by in one way or another inserting rules and regulations whereby we can increase the standards and what have you and thereby encourage only those who are truly interested in practicing this business to go into the particular trade.

Getting back to the increase in tuition, this would probably have a great deal of bearing on the number of both beauticians and barbers in the state for perhaps the next ten or fifteen years. I have to say that I feel this bill does have a great deal of merit. Getting back to the tuition, I think it costs more to attend these institutions than most people realize. A lot of people think that the practicing of beauty culture and barbering is very simple. That is not the case, I can assure you. I truthfully feel that perhaps as a result of protecting the profession this is a good bill.

Mr. CARTER of Kennebec: Mr. President, I feel as Chairman of the Health and Institutions Committee which heard this bill that I must stand up and defend the bill.

I concur with what Senator Casey has stated. This indeed is a good bill, and the requirement that students gain practical experience by serving one year of apprenticeship is not a new procedure in this field because sixteen states in the union have a one-year requirement, five states in the union have a two-year requirement, three states in the union have a three-year requirement and one state has a one-year requirement and another state has a four year requirement. Now these requirements are there for a purpose. It was pointed out at the hearing that many of these schools are not putting the proper emphasis on shop operation, and there was evidence to support this. It was brought out at the hearing that in 1963 two to three hundred shops went out of business and in 1964 approximately four hundred shops went out of business. I submit to you ladies and gentlemen of the Senate that this is a good bill and should deserve your utmost consideration. I hope that you will support Senator Casey's motion.

The PRESIDENT: The motion before the Senate is the adoption of Senate Amendment A to Senate Amendment A. The Chair will request a division.

A division of the Senate was had.

Twenty-three having voted in the affirmative and five opposed, Senate Amendment A to Senate Amendment A was adopted; Senate Amendment A as amended by Senate Amendment A was adopted and the bill as amended was passed to be engrossed in non-concurrence.

Sent down for concurrence.

The PRESIDENT: The Chair would like to recognize in the back of the Senate a group of five Bucksport Cub Scouts from Pack 26, Den 3 and they are chaperoned this morning by Mrs. Rosalie Dowdy who is the niece of the Senator from Penobscot, Senator Bernard. They are from the town of Bucksport in the County of Hancock. We welcome you here this morning and we hope that you enjoy and benefit from your visit here. (Applause)

Bill, "An Act Increasing Salaries of Official Court Reporters." (S. P. 164) (L. D. 494)

In Senate, May 17, Passed to Be Engrossed, as amended by Committee Amendment "A" (S-151)

Comes from the House Passed to Be Engrossed as amended by House Amendment "A" (H-354) in Non-concurrence.

In the Senate, on motion by Mr. Violette of Aroostook, the bill was tabled pending consideration and especially assigned for later in today's session.

Bill, "An Act Clarifying the Inland Fisheries and Game Laws." (S. P. 428) (L. D. 1375)

In Senate, May 5, Passed to Be Engrossed as amended by Committee Amendment "A" (S-172)

In House, May 13, Passed to Be Engrossed as amended by Committee Amendment "A" (S-172) as amended by House Amendment "A" thereto (H-303) and as amended by House Amendment "A" (H-214) and as amended by House Amendment "B" (H-304) and as amended by House Amendment "C" (H-316) in Non-concurrence.

In Senate, May 19, Passed to Be Engrossed as amended by Committee Amendment "A" and House Amendment "A" thereto. By House Amendments "A" - "B" and "C" and by Senate Amendment "A" (S-230) in Non-concurrence.

Comes from the House, that body having Insisted.

In the Senate, on motion by Mr. Harding of Aroostook, tabled pending consideration and especially assigned for later in today's session.

Orders

On motion by Mr. Boisvert of Androscoggin

WHEREAS, freight transportation service and costs are important factors in the economic and industrial growth of this State; and

WHEREAS, the Public Utilities Commission endorses certain

changes in the basic concept of motor transportation under Maine law provided that the public, the common carriers and the contract carriers have opportunity to participate in the consideration of any legislative proposals; and

WHEREAS, the Public Utilities Commission is currently conducting hearings to clarify so-called grandfather rights under which many Maine contract carriers have been permitted to provide transportation service since 1933; and

WHEREAS, clarification procedure by the Public Utilities Commission and a legislative proposal to create common carriers over irregular routes should be correlated; and

WHEREAS, clarification decisions by the Public Utilities Commission, unaccompanied by legislation to authorize common carriers over irregular routes or some other form of specialized carrier authority, may impair existing transportation service; now, therefore, be it

ORDERED, the House concurring, that a committee be created consisting of a Senator to be appointed by the President of the Senate, two Representatives to be appointed by the Speaker of the House, the Director of the Transportation Division of the Public Utilities Commission, three members to be appointed by the Governor, one of whom shall be designated a public member, one a common carrier member and one a contract carrier member, to report, if possible, to the 102nd Legislature, any recommendations for legislation relating to clarification of contract carrier permits or creation of a new class of motor vehicle carrier non-scheduled transportation service, or both; and; be it further

ORDERED, that the members of the committee shall serve without compensation, but shall be reimbursed for their expenses incurred in the performance of their duties under this Order; and be it further

ORDERED, that the committee shall have the authority to employ such expert and professional advisors as it shall deem necessary within the limit of the funds provided; and be it further

ORDERED, that there is appropriated to the committee from the Legislative Appropriation the sum of $1,000 to carry out the purposes of this Order. (S. P. 557)

On motion by Mr. Boisvert of Androscoggin, tabled pending passage.

Reports of Committees
House

Leave to Withdraw

The Committee on Judiciary on Bill, "An Act Providing for an Additional District Court Judge for District 10." (H. P. 921) (L. D. 1249) reported that the same should be granted Leave to Withdraw.

Ought Not to Pass

The same Committee on Bill, "An Act to Establish a Department of Family Relations." (H. P. 497) (L. D. 650) reported that the same Ought not to pass.

Which reports were Read and Accepted in concurrence.

Ought to Pass

The Committee on Public Utilities on Bill, "An Act Defining Public Utility in Relation to Certain Sewer Districts and Systems." (H. P. 930) (L. D. 1268) reported that the same Ought to pass.

Comes from the House Indefinitely Postponed.

In the Senate, the report was read and on motion by Mr. Boisvert of Androscoggin, was accepted; the bill was read once and tomorrow assigned for second reading.

Ought to Pass — As Amended

The Committee on Judiciary on Bill, "An Act Providing for the Model Joint Obligations Act." (H. P. 499) (L. D. 652) reported that the same Ought to pass as amended by Committee Amendment "A" (H-341)

The same Committee on Bill, "An Act Providing for Compensation of Attorneys Appointed for Indigent Persons Charged with

Crimes." (H. P. 587) (L. D. 779) reported that the same Ought to pass as amended by Committee Amendment "A" (H-340)

Which reports were Read and Accepted in concurrence, and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence, and the Bills, as amended, tomorrow assigned for second reading.

Divided Reports

The Majority of the Committee on Appropriations and Financial Affairs on Bill, "An Act Appropriating Funds for Classroom Building at Erskine Academy." (H. P. 444) (L. D. 598) reported that the same Ought to pass as amended by Committee Amendment "A" (H-283).

(Signed)
Senators:
DUQUETTE of York
HARDING of Aroostook
BROWN of Hancock
Representatives:
BISHOP of Presque Isle
ANDERSON of Orono
JALBERT of Lewiston
HEALY of Portland

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

(Signed)
Representatives:
DUNN of Denmark
BRAGDON of Perham
BIRT of East Millinocket

Comes from the House, Passed to Be Engrossed, as amended by Committee Amendment "A".

In the Senate, on motion by Mr. Duquette of York, the Majority Ought to Pass Report was read and accepted, the bill read once, Committee Amendment A read and adopted, and the bill was tomorrow assigned for second reading.

The Majority of the Committee on Business Legislation on Bill, "An Act Regulating Public Accountants Other than Certified Public Accountants." (H. P. 618) (L. D. 856) reported that the same Ought not to pass.

(Signed)
Senators:
CARTER of Kennebec
BERNARD of Penobscot
BROWN of Hancock
Representatives:
McKINNON
of South Portland
SCOTT of Wilton
AVERY of Kittery
LABERGE of Auburn
HARRIMAN of Hollis

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

(Signed)
Representatives:
BERNARD of Sanford
FECTEAU of Biddeford

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

In the Senate, on motion by Mr. Bernard of Penobscot, the Majority Ought Not to Pass Report was accepted in concurrence.

The Majority of the Committee on Taxation on Bill, "An Act Relating to Sales Tax on Farm Machinery and Equipment." (H. P. 856) (L. D. 1153) reported that the same Ought not to pass.

(Signed)
Senators:
MAXWELL of Franklin
LETOURNEAU of York
WILLEY of Hancock
Representatives:
CURRAN of Bangor
HANSON of Gardiner
WOOD of Webster
DRIGOTAS of Auburn
ROSS of Bath

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

(Signed)
Representatives:
COTTRELL of Portland
MARTIN of Eagle Lake

Comes from the House, Indefinitely Postponed.

In the Senate, the Majority Ought Not to Pass Report was accepted.

Five Members of the Committee on Taxation on Bill, "An Act Providing State Tax on Deed Transfers." (H. P. 980) (L. D. 1318) reported in Report "A" that the same Ought to pass.

(Signed)
Senator:
WILLEY of Hancock
Representatives:
COTTRELL of Portland
ROSS of Bath
CURRAN of Bangor
DRIGOTAS of Auburn

Five Members of the same Committee on the same subject matter reported in Report "B" that the same Ought not to pass.

(Signed)
Senators:
MAXWELL of Franklin
LETOURNEAU of York
Representatives:
MARTIN of Eagle Lake
WOOD of Webster
HANSON of Gardiner

Comes from the House, the Ought not to pass report "B" accepted.

In the Senate:

Mr. MAXWELL of Franklin: Mr. President, I move acceptance of the Ought Not to Pass Report B in concurrence.

Thereupon, on motion by Mr. Harding of Aroostook, the bill was tabled pending the motion by Mr. Maxwell of Franklin to accept Report B, Ought Not to Pass.

The Majority of the Committee on Taxation on

Bill, "An Act Providing for a State Income Tax." (H. P. 1006) (L. D. 1353) reported that the same Ought Not to Pass.

(Signed)
Senators:
LETOURNEAU of York
WILLEY of Hancock
Representatives:
CURRAN of Bangor
HANSON of Gardiner
WOOD of Webster
ROSS of Bath
MARTIN of Eagle Lake
DRIGOTAS of Auburn

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

(Signed)
Senator:
MAXWELL of Franklin
Representative:
COTTRELL of Portland

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

In the Senate:

Mr. MAXWELL of Franklin: Mr. President, ladies and gentlemen of the Senate, I feel that I must defend my position this morning whereby I signed the Ought to Pass report of the Committee.

I would like to say that over the months that have passed since January 6 up to the present time, we have had some sixty odd separate taxation hearings. During this time one member of my committee has made it a point — and this was at my suggestion at the very first part of the season — to ask each and every person coming up and opposing certain taxes, because in all cases, for the most part when a bill comes up before Taxation the only support it has is usually the sponsor. And there are many people coming to the committee in opposition to these different bills. So we made it a point to ask each and every one of these people coming before us if they didn't like this tax, what tax would they accept. I can truthfully tell you that ninety-nine out of one hundred people this year who have come before me have said that they would prefer an income tax to any hodge-podge of hit or miss taxation.

This is my reason for signing the Ought to Pass report. Perhaps I am talking two years too early. I do have a definite feeling at this time that probably two years from now we will have to accept an Ought to Pass on the Income Tax. I would like to point out that this is a very good bill. It required a lot of time to draft and it hits those people who are most able to pay. By this I mean those who earn better than $5,000 a year. It would in no way affect the low income group. If

we could pass this legislation this morning and enact an income tax, we could also turn around and withdraw from the files, some of the things that we have turned down. We could exempt home gas from taxation. We could perhaps exempt electricity and water from taxation and we could more rightfully go home and say that we have done a good job.

As I said yesterday or the day before when I was speaking on another taxation measure, two wrongs don't make a right. So at this time I would like to move that we accept the Ought to Pass report and let it go at that.

Mr. SNOW of Cumberland: Mr. President, I would like to second some of the remarks which the Senator from Franklin, Senator Maxwell has made. I believe that this tax is the fairest tax which has been suggested to us this year. I believe it places the burden where it can best be borne, on the shoulders of those who have the ability to pay it. I concur entirely with his thoughts. I have observed the same thing that if you ask anyone what tax they prefer, most of them, after consideration, will answer that they prefer an income tax.

I think, however, that the basic reason why we should accept the Ought to Pass report of the committee on this tax is that we all recognize that there are many things still undone which need to be done in this state and that we need to move ahead at a pace faster than that at which we have been moving. This would mean, if enacted, that we would be sharing the tax load at the state level with our communities to a degree which I believe is needed. We all know that the property tax load at the local level, is one of the highest in the nation, and in some cases is already working a hardship. We all know that we would like to do more for our institutions. We know also that we still have unmet needs in the area of higher education and in the area of secondary and elementary education.

We know that even with what we have done this year, that the state is bearing a smaller share of the cost, with its broader taxing powers, of the support of public education than is true in many other states. We know that despite the good legislation we are considering and will probably enact, that we will still not be moving ahead and in some cases even up to the average in our support of higher education.

I think this tax measure is the vehicle which will help us accomplish this and I like it. I like it, because as I said before, it places the load where it belongs, where it can best be paid, because it is based on ability to pay and I would hope that the Senate will accept the Ought to Pass report of the committee.

Mr. HARDING of Aroostook: Mr. President and members of the Senate, it isn't easy for me to disagree with the contentions of either the Senator from Franklin, Senator Maxwell, or the Senator from Cumberland, Senator Snow, because we have agreed on many matters during this session. I do not intend at this time to speak either on the merits or the demerits of the income tax. I think, however, we have arrived in this session at what I call a moment of truth of some of the things which we can do and some of the things which we cannot do. I believe it is a waste of words to talk at this time about the income tax. Maybe at some other I think we have to wait until that time. And so at this time, I move for the indefinite postponement of the bill and all accompanying papers.

Mr. MOORE of Washington: Mr. President, I ask for a division.

A division of the Senate was had.

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

Senate

Leave to Withdraw

Mr. Brown from the Committee on Appropriations and Financial Affairs on Resolve Appropriating Funds for Construction at Boys Training Center. (S. P. 113) (L. D. 340) reported that the

same should be granted Leave to Withdraw.

Ought to Pass

Mr. Harding from The Committee on Appropriations and Financial Affairs, pursuant to H. P. 1128, Joint Order, dated May 12, 1965, transmits Bill, "An Act Providing Funds for Accelerated Program for the University of Maine. (S. P. 564) (L. D. 1576) reported that the same Ought to Pass

Ought to Pass in New Draft

Mr. Duquette from the Committee on Appropriations and Financial Affairs on Bill, "An Act to Appropriate Moneys for Capital Improvements, Construction, Repairs, Equipment, Supplies and Furnishings for the Fiscal Years Ending June 30, 1966 and June 30, 1967." (S. P. 39) (L. D. 210) reported that the same Ought to Pass in New Draft under the same title: (S. P. 563) (L. D. 1575)

Which reports were read and accepted, the bills read once, and on motion by Mr. Harding of Aroostook, the rules were suspended, the bills read a second time, passed to be engrossed and sent down for concurrence.

Mr. Jacques from the Committee on Liquor Control on Recommitted Bill, "An Act Relating to Definition of Hotel Under Liquor Control." (S. P. 384) (L. D. 1200) reported that the same Ought to Pass in New Draft under New Title: Bill, "An Act Relating to Definition of Licensee Under Liquor Law. (S. P. 560) (L. D. 1567)

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

Divided Reports

The Majority of the Committee on Industrial and Recreational Development on Bill, "An Act to Create a State Commission of Culture and Recreation." (S. P. 418) (L. D. 1328) reported that the same Ought to Pass, in New Draft Under New Title: "An Act to Create the Maine Commission on the Arts and Culture." (S. P. 558) (L. D. 1579)

(Signed)
Senators:
HOFFSES of Knox
JACQUES of Androscoggin
MOORE of Washington
Representatives:
KILROY of Portland
LITTLEFIELD of Hampden
NORTON of Caribou
PAYSON of Falmouth
BENSON of Mechanic Falls
FORTIER of Waterville

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

(Signed)
Representative:
TRUMAN of Biddeford

Mr. JACQUES of Androscoggin: Mr. President, I move acceptance of the Majority Ought to Pass Report, and as you will note, in your journals, the L. D. is not printed.

The PRESIDENT: The Chair will further clarify this matter by saying that L. D. 1579 at this time is not back from the printer but it will be before noon.

Thereupon, the Majority Ought to Pass Report was accepted, the bill read once and tomorrow assigned for second reading.

The Majority of the Committee on Judiciary on Bill, "An Act Relating to Liability for Damages for Tortious Conduct of State. (S. P. 205) (L. D. 586) reported that the same Ought to Pass As Amended by Committee Amendment "A" (S-245)

(Signed)
Senator:
STERN of Penobscot
Representatives:
BRENNAN of Portland
GILLAN of So. Portland
DAVIS of Calais
BERMAN of Houlton
DANTON of Old Orchard Beach.

The Minority of the same Committee on the same subject mat-

ter reported that the same Ought to Pass in New Draft under New Title: "An Act Directing Review of Governmental Immunity. (S. P. 561) (L. D. 1573)

(Signed)
Senators:
VIOLETTE of Aroostook
GLASS of Waldo
Representatives:
BISHOP of Presque Isle
RICHARDSON of Cumberland

Mr. VIOLETTE of Aroostook: Mr. President, I move acceptance of the Minority Report, Ought to Pass in New Draft.

Thereupon, on motion by Mr. Stern the bill was tabled pending the motion by Mr. Violette and was especially assigned for later in the day's session.

The Majority of the Committee of Judiciary on Bill, "An Act Relating to Municipal Regulation of Community Antennae Television Systems." (S. P. 310) (L. D. 1023) reported that the same Ought to Pass in New Draft: (S. P. 559) (L. D. 1566)

(Signed)
Senators:
VIOLETTE of Aroostook
STERN of Penobscot
Representatives:
DAVIS of Calais
RICHARDSON of Cumberland
DANTON of Old Orchard Beach
BRENNAN of Portland
GILLAN of So. Portland
BISHOP of Presque Isle

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass

(Signed)
Senator:
GLASS of Waldo
Representative:
BERMAN of Houlton

On motion by Mr. Violette of Aroostook, the Majority Ought to Pass report was read and accepted, the bill read once and tomorrow assigned for second reading.

The Majority of the Committee on State Government on Bill, "An Act Creating the Investment of State Funds Law." (S. P. 502) (L. D. 1468) reported that the same Ought to Pass, in New Draft "A" Under Same Title: (S. P. 555) (L. D. 1564)

(Signed)
Senators:
STERN of Penobscot
MAXWELL of Franklin
WILLEY of Hancock
Representatives:
PITTS of Harrison
EDWARDS of Portland
DOSTIE of Lewiston
STARBIRD of Kingman Township

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass, in New Draft "B" Under New Title: "An Act Relating to Investment of State Retirement System Funds." (S. P. 556) (L. D. 1565)

(Signed)
Representatives:
BERRY of Cape Eliabethz
LIBHARD of Brewer
KATZ of Augusta

On motion by Mr. Maxwell of Franklin, the Ought to Pass Report "A" was accepted, the bill read once and tomorrow assigned for second reading.

Second Readers

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

House

Bill, "An Act Relating to Relatives' Financial Responsibility to Recipients of Aid to the Aged, Blind or Disabled." (H. P. 626) (L. D. 833)

Comes from the House Leave to Withdraw report Accepted.

In Senate Bill substituted for the report and Read Once.

Which was Read a Second Time and on motion by Mr. Shiro of Kennebec was tabled pending passage to be engrossed and was especially assigned for later in today's session.

Bill, "An Act Relating to Definition of Hotel Under Liquor Law." (H. P. 1063) (L. D. 1439)

Which was Read a Second Time and Passed to Be Engrossed in Non-Concurrence.

House — As Amended

Bill, "An Act Relating to the Inhalation of Certain Vapors and to the Possession of Certain Drugs." (H. P. 1123) (L. D. 1533)

Which was Read a Second Time and Passed to Be Engrossed, as Amended, in Non-Concurrence.

Bill, "An Act Protecting the Right of Public Employees to Join Labor Organizations." (H. P. 741) (L. D. 978)

Which was Read a Second Time and on motion by Mr. Harding of Aroostook was tabled pending passage to be engrossed and especially assigned for the next legislative day.

Senate

Bill, "An Act Authorizing Payroll Deductions for Union Dues of Certain Governmental Employees.' (S. P. 446) (L. D. 1383)

Which was Read a Second Time and Passed to Be Engrossed.

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Relating to Title References in Conveyances of Real Estate." (S. P. 399) (L. D. 1224)

Which was Read a Second Time and Passed to be Engrossed As Amended by House Amendment "A" (H-232)

Sent down for concurrence.

Enactors

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

Bill, "An Act Exempting Liquor Bottled or Manufactured in Maine from Additional Taxes." (S. P. 326) (L. D. 1048)

(On motion by Mr. Duquette of York, placed on the Special Appropriations Table pending passage to be enacted.)

Bill, "An Act Affecting Certain Statutes Pertaining to Court Process and Procedure in Criminal Cases and to Kindred Matters." (S. P. 356) (L. D. 1140)

Bill, "An Act Relating to the Reporting of Traffic Accidents." (H. P. 1025) (L. D. 1388)

Which bills were passed to be enacted.

Resolve, Authorizing the Establishment of a Residential and Day School for the Mentally Retarded in Northern Maine. (H. P. 452) (L. D. 606)

(On motion by Mr. Duquette of York, placed on the Special Appropriations Table pending final passage.)

Orders of The Day

The President laid before the Senate the 1st tabled and especially assigned item (H. P. 211) (L. D. 279) House Reports; from the Committee on Highways on Bill, "An Act Relating to Permits by Highway Commission for Trucks in Construction Areas"; Majority Report, Ought not to pass; Minority Report, Ought to pass; tabled on May 19, by Senator Boisvert of Androscoggin pending acceptance of either report; and that Senator yielded to Senator Cahill of Somerset.

Mr. CAHILL of Somerset: Mr. President, I move acceptance of the Majority Ought Not to Pass Report.

Mr. JUTRAS of York: Mr. President, I would like to speak briefly on this and comment on the merits of this legislative document, believing that all trucks serve the public in Maine and these trucks used in heavy construction are vitally needed because the construction of highways is impeded because of this restriction. We have passed laws I know favoring the trucking industry but these small operators who have concrete mixers on their trucks, they should be helped and I believe it is a severe blow to the operators and owners of these trucks not to be favored by this Legislature and for that reason I hope that we do not discriminate against the owner and operator of this type of truck.

The PRESIDENT: The question before the Senate is the motion of the Senator from Somerset, Senator Cahill to accept the Majority Ought Not to Pass report.

Mr. Bernard of Penobscot: Mr. President, I would like a division on the motion.

A division of the Senate was had.

Seven having voted in the affirmative and eighteen opposed, the motion to accept the Majority Ought Not to Pass report did not prevail.

Thereupon, the Minority Ought to Pass report was accepted, the Bill read once and tomorrow assigned for second reading.

The President laid before the Senate the 2nd tabled and especially assigned item (S. P. 230) (L. D. 767) Bill, "An Act Providing for a New Charter for the City of Lewiston"; tabled on May 19, by Senator Jacques of Androscoggin pending adoption of Senate Amendment "A" Filing S-179; and on further motion by the same Senator, the bill was retabled and especially assigned for the next legislative day.

The President laid before the Senate the 3rd tabled and especially assigned item (H. P. 945) (L. D. 1065) Bill, "An Act Relating to Hours for Sale of Liquor"; tabled on May 19, by Senator Jacques of Androscoggin pending consideration.

Mr. JACQUES of Androscoggin: Mr. President, I move that the bill be retabled and especially assigned for the next legislative day.

Mr. JUTRAS of York: Mr. President, I request a division on this motion.

A division of the Senate was had.

Fifteen having voted in the affirmative and twelve opposed, the motion prevailed and the bill was retabled.

The President laid before the Senate the 4th tabled and especially assigned item (H. P. 804) (L. D. 1096) House Report; Ought to pass, in New Draft Under same Title (H. P. 1127) (L. D. 1537) from the Committee on Health and Institutional Services on Bill, "An Act Relating to Practical Demonstrations Without Fee in Schools of Hairdressing and Beauty Culture"; tabled on May 20, by Senator Sproul of Lincoln pending acceptance of report.

Mrs. Sproul of Lincoln: Mr. President, I am not sure how well I understand this bill but I do want to say one thing. I would prefer to keep out of this but one of my constituents happens to be going to the school and since that is the case, I figure that it becomes my problem.

I have watched these girls for several years— well, for the years that I have been here which is now six years and I have eaten with them in the cafeteria and I certainly have no objection to them coming here today and telling how they feel about this bill. I know I have discussed their problems with them and they have even told me that if they had me over there they would do certain things which I thought was very nice of them.

As far as this bill goes, as I understand from the proprietor of this school, this would eliminate the possibility of his charging any amount of money for supplies which the girls use and he would have to go up on the price of tuition. This I do know, that these hair sprays and other things that they use cost money, and presumably he must make some profit, and thereby be able to reduce his tuition. I really feel that I am not very happy with the bill and I move for its indefinite postponement.

The PRESIDENT: The motion before the Senate is the motion of the Senator from Lincoln, Senator Sproul, that the bill be indefinitely postponed.

Mr. CASEY of Washington: Mr. President, I ask for a division.

A division of the Senate was had.

Eight having voted in the affirmative and twenty opposed, the motion to indefinitely postpone did not prevail.

Thereupon, the report was read and accepted, and the bill read once.

Mr. CARTER of Kennebec: Mr. President, I move that the rules be suspended and the bill be read a second time.

There being objection, a division of the Senate was had.

Twenty-two having voted in the affirmative and six opposed, twenty-two being more than two-thirds of the members present, the rules were suspended, the bill read a second time and passed to be engrossed.

The President laid before the Senate the 5th tabled and especially assigned item (H. P. 758) (L. D. 995) House Reports; from the Committee on Retirements and Pensions on Bill, "An Act Relating to Rules Regarding Retirement of Teachers"; Majority Report, Ought to pass; Minority Report, Ought not to pass; tabled on May 20, by Senator Faloon of Penobscot pending acceptance of either report.

On motion by Mrs. Chisholm of Cumberland, the Majority Ought to Pass report was read and accepted and the bill read once.

Mr. Carter of Kennebec presented Senate Amendment A and moved its adoption.

Which amendment (S-255) was read and adopted, and the bill as amended was tomorrow assigned for second reading.

The President laid before the Senate the 6th tabled and especially assigned item (S. P. 43) (L. D. 214) Senate Reports; from the Committee on State Government on Resolve, Proposing an Amendment to the Constitution Affecting the Apportionment of the State Senate; Majority Report, Ought not to pass; Minority Report, Ought to pass, in New Draft same Title; (S. P. 539) (L. D. 1529) tabled on May 20, by Senator Mendell of Cumberland pending acceptance of either report.

Mr. MENDELL of Cumberland: Mr. President, I move acceptance of the Minority Report, Ought to Pass in new draft.

Mr. MAXWELL of Franklin: Mr. President, as a signer of the Ought Not to Pass report, I would hope that this motion does not prevail and I ask for a division.

Mr. MENDELL of Cumberland: Mr. President, I would like to be a little brief on this reapportionment of the Senate. I have gone over the redraft and it is a good bill. Last August the Governor of this great state of Maine requested that the Senate reapportion itself. I am sort of concerned why this has not been done and that is why I spent so much time on this reapportionment. If we do not reapportion, some citizen of Maine can go to the courts and sue the State of Maine and all thirty-four state Senators in this body will be running statewide for election shortly.

I believe we can reapportion ourselves. This redrafted legislative document is, once again I say it, a good one. I have gone over it completely after my original bill. It divides the state into districts and these districts will conform with the Supreme Court decision in which they stated it was one man, one vote. I hope that we accept the Minority Ought to Pass in new draft report.

Mr. HARDING of Aroostook: Mr. President and members of the Senate, I know that I am speaking against tradition on this matter, but whether we like it or not, the Supreme Court has made a decision in regard to reapportionment. And whether we like it or not the Senate now is not properly reapportioned according to the ruling of the Supreme Court of the United States.

I feel that this Senate does have an obligation and this legislature has an obligation to make an attempt at least to conform to the requirements of the Supreme Court of the United States insofar as the election of our state Senators is concerned. Now I know there are some here who believe that if we do nothing, all things will remain as they are and we will all run from the same counties as we ran before. I would only call to your attention that in those states which have not obeyed the rules of the Supreme Court, when someone has brought a suit to a district court and brought this to the attention of the district court, those district courts have ruled that the legislators, if the legislature has not been properly reapportioned,

will run at large throughout the state.

That would mean that if we do nothing at this session or if we do nothing at a special session in regard to reapportionment and someone chooses to do so, they may bring suit to the district court and whether we like it or not, those of us who choose to run again will be running at large from the whole state of Maine.

I feel that we have a responsibility in this regard. If there are those here who feel that this is not a good draft and that they can improve on it, I feel that they have a responsibility to bring in an amendment which will be to their liking and which will be in conformance with the ruling of the Supreme Court of the United States. So I don't know that I can come up with the right answer on this, but in reading this bill it looks to me like a good bill.

It says that the districts will conform as near as may be to county lines. I don't know how else you can do it and we do need to be redistricted as I interpret the law according to senatorial districts.

As I say, if someone here has a better answer to this bill, I think that they have a responsibility to come forward with it and I would hope that this legislature would not go home without having faced this problem and attempted to do something about it in conformance with the law of the United States of America.

This matter has not been taken up in leadership and I am only speaking on it as the Senator from Aroostook and also as a lawyer but I can tell you that it troubles me deeply that we haven't taken a more positive stand on the matter and attempted to do something to conform with the laws of the United States of America which we must do unless we all want to face the possibility of running at large in the next election.

Mr. BERNARD of Penobscot: Mr. President, I am just speaking as the Senator from Penobscot and I wish to go on record as supporting this legislative document.

Mr. Smith of Cumberland: Mr. President, I would like to have this tabled until the next legislative day to get a little more information.

Mr. HARDING of Aroostook: Mr. President, I ask for a division.

A division of the Senate was had.

Seven having voted in the affirmative and nineteen opposed, the motion to table did not prevail.

Mr. JACQUES of Androscoggin: Mr. President and members of the Senate: I hope some of you senators look over this bill before you vote on it and I hope you realize what it is going to do. This is one of the reasons I did go along with tabling the bill. We just had this bill in our hands a few days ago and we are expected to go ahead and pass it and not say anything. It then goes to the voters, but when the voters decide this the majority of them are going to say, "Well, it looks all right. The legislature passed it." You know on these constitutional amendments the majority of the people go along with them. I just hope that you people look at it and discuss it before you vote. Maybe there will be a second reading and we can kill it then. I do not believe that this is a good bill.

Mr. SMITH of Cumberland: Mr. President, as a member from one of the largest counties in the state occupying Seat 20, I will go along with the Senator from Lewiston when he says that we have not discussed this thoroughly in order to understand it. I think he should be given some consideration on that position.

The PRESIDENT: The motion before the Senate is the motion of the Senator from Cumberland, Senator Mendell, that we accept the minority "Ought to pass" report of the committee.

Mr. SNOW of Cumberland: Mr. President, I understand a division has been requested. I would request to be allowed to pair my vote with that of the Senator

from Hancock, Senator Brown, who, if here, would vote against acceptance of this measure and I would vote in favor of it.

The PRESIDENT: The Senator from Cumberland, Senator Snow, requests permission to pair his vote with the Senator from Hancock, Senator Brown. If the Senator from Hancock, Senator Brown, were here he would vote against the motion and the Senator from Cumberland, Senator Snow, would vote for the motion to accept the report "Ought to pass in New Draft." Does the Chair hear objection to the pairing: The Chair hears none and the senator may pair his vote.

Mrs. SPROUL of Lincoln: Mr. President, I certainly cannot go along with this. The words that I object to in this bill are: "The districts shall conform as near as may be to county lines. Now, as I understand the constitution, at the present time there is one senator from counties with a population of thirty thousand or less. Having stood here and tried to look out for Lincoln County, as everyone knows, believe me it is not an easy job and it is particularly not an easy job when you are not in the majority party. As far as I am concerned, anyone in a bigger county would be better—well, they are protected already. Aroostook has three, let's face it, Cumberland has four, and I could go right on down the line. You take the smaller counties, Lincoln, Sagadahoc, Knox, they have one—and I had forgotten Piscataquis—they have one, and if we are not going to be able to represent our own county it is just hopeless. I certainly cannot go along with this bill.

Mr. HARDING of Aroostook: Mr. President and members of the Senate: I want to point out that we are today voting only on the acceptance of this report and that if this minority report should be accepted there would be a second reading and this bill would then go to the House, where it will be discussed, and, if it were passed there it would come back to us for enactment. So we still have a lot of time to deal with this matter, that is assuming we do not adjourn next Saturday, as has been some people's hopes. My point here is that this is an important matter and I hope that we get it moving along so we can do something about it. I sympathize with the Senator from Lincoln, Senator Sproul, that she comes from a small county and that that county would like to have a Senator to represent it, but nevertheless I suggest that is not facing the issue. The issue is that this Senate is not properly reapportioned according to the laws of the United States, and unless we do something about it we all face the possibility, should we choose to run next time, of running state-wide. This is what each of you have got to consider. Do you want to run state-wide. Now if you want to run state-wide for the Senate then you of course you do not want to face this problem but let it go and let somebody bring a suit and put you in that position. All I am suggesting here is that I would like to see this senate and I would like to see this legislature face this issue and try to do something about, and this is the vehicle we can use. You will have another crack at it Monday if you should vote to accept the minority report. You can think about it over the week-end and if you can think of some way to improve this fine, I would buy it. After it goes to the House you will still have an opportunity after it comes back. This is my only suggestion. Time is short, and that is why I would hope that we would start facing up to the problem which I suggest we must face.

Mr. GLASS of Waldo: Mr. President, I would pose a question through the Chair, if I might, to the Senator from Cumberland, Senator Mendell, who I am sure has done a considerable amount of work on the new draft, L. D. 1529. Might he inform the senators the result of his research and the proposed districts with specific reference to the number of senators to be elected in the district that would conform as nearly as possible to Cumberland and York and Aroostook?

The PRESIDENT: The Senator from Waldo, Senator Glass, directs a question through the Chair to the Senator from Cumberland, Senator Mendell, who may answer if he so chooses.

Mr. MENDELL of Cumberland: Mr. President, I did not work on the new draft, I composed the original bill, but the new draft is very close to the first one. There will be twelve districts and it will be based on population according to the United States Census on the basis of 30,000 per senator, and this will conform to the ten or fifteen per cent adjustment that the Supreme Court allowed the states to have in reapportioning their senate.

Mr. GLASS of Waldo: Mr. President, it is possible that Senator Mendell did not understand my question. I was referring specifically to the number of senators from the district that would conform as nearly as possible to Cumberland. Possibly he cannot answer it, but if he can that is the question I posed.

The PRESIDENT: The Senator from Waldo, Senator Glass, poses a question through the Chair to the Senator from Cumberland, Senator Mendell, who may answer if he so chooses.

Mr. MENDELL of Cumberland: Mr. President, I still am not sure that I understand Senator Glass's question. However, if you are referring to Cumberland County, there would be six senators because it has a population of 182,000. Certain counties would be lumped together and you would elect possibly two senators from the combined two counties. In other instances, I think down along the coast here, they are going to put together Sagadahoc, Waldo Lincoln, and I believe that adds up to a population of about 60,000 and you would have two senators from that area.

Mr. JACQUES of Androscoggin: Mr. President, if this district is made we might not have you here a couple of years from now.

As you know, Mr. President, we had guests here not too long ago from California where they would have to travel seven hundred miles if they were reapportioned as the federal government wants them to do, and this is one of the problems we might have here. We might have to go to California and ask them to amend the United States Constitution so this wouldn't prevail. I certainly do not want to see our President not come back two years from now and also Senator Glass. I wish he had turned to the other party in the first place. I hope you people carefully consider this bill when it does come up for a vote.

Mr. MAXWELL of Franklin: Mr. President and members of the Senate: I would like to remind the members of the Senate that tabled at the present time is S. P. 486, a joint resolution petitioning congress to propose an amendment to the federal constitution to preserve the bicameral aspect of state legislatures. As of this moment, twenty-three states have done this, and I believe it needs thirty-four to have them set up a commission to do just this thing. Therefore, for this reason, I believe this is the thing we should pass and not this document here before us today. In my case, as the good senator from Cumberland has just said, perhaps some of us would have to be running statewide. I do not know but what it would be just as easy for me to run state-wide as it would be for me to run completely through Oxford County and Franklin County, which is the proposal. I am sure that in traveling around and hitting every town in Franklin County the Sunday before election last fall I checked my speedometer and found I had done 289 miles for the day. I am sure if I was to include Oxford County in that this would be more than doubled, perhaps tripled. Therefore I hope the motion does not prevail.

Mr. SNOW of Cumberland: Mr. President, I would concur with the Senator from Aroostook, Senator Harding. I would also like to point out, and I stand ready to be corrected if I am in error, that this document requires the stamp of approval upon whatever districting plan is adopted to be placed by the legislature which next convenes in special session

or in regular session after this has been adopted. It would seem to me that we have not only an opportunity to consider it during the regular legislative course of the document here but we also have an opportunity to further develop our ideas of proper districting between now and any special session of the legislature or between now and the session of the next legislature. Therefore it seem to me that we need not have the concern which some of the senators have expressed.

Mr. HARDING of Aroostook: Mr. President, I would like only to add that, as you members of the Senate know, the states in the south have tried to resist certain rulings of the Supreme Court of the United States by resolutions and other things. Regardless of what we do on this resolution that the Senator from Franklin, Senator Maxwell, has mentioned, untill congress has acted and the states have acted to amend the constitution we are obliged to obey the constitution, and the issue you still have to face in this regard is: Do you want to do something to conform to the Constitution of the United States as the Supreme Court has interpreted it or do you wish to face the probability of running at large in the next election for the state senate?

Mr. SNOW of Cumberland: Mr. President, I would also like to note, in view of some of the remarks here that two of the advocates of this measure, Senator Mendell and myself, are from Cumberland County, and it would seem to me that if we are required to run at large that, being from the most populous county in the state, our chances of re-election would be perhaps greater and therefore, coming from this county, it would seem to me that our opinion on this should not be considered as working in our own favor necessarily.

The PRESIDENT: The motion before the Senate is the motion to accept the Minority Ought to Pass report and a division has been requested.

A division of the Senate was had.

Fourteen having voted in the affirmative and thirteen opposed and two votes having been paired, the motion prevailed, the Ought to pass report was accepted, the bill read once and tomorrow assigned for second reading.

The President laid before the Senate the 7th tabled and especially assigned item (H. P. 102) (L. D. 110) House Report; Ought not to pass from the Committee on Taxation on, "An Act Relating to Sweepstake Races and Allocating Proceeds for Educational Purposes"; tabled on May 20, by Senator Harding of Aroostook pending motion by Senator Maxwell of Franklin to accept the Ought not to pass report.

Mr. FALOON of Penobscot: Mr. President, I move to substitute the bill for the report of the committee, and I would like to speak briefly, if I may.

The PRESIDENT: The motion before the Senate is the motion of Senator Maxwell of Franklin to accept the "Ought not to pass" report. It is debatable.

Mr. FALOON: Ladies and gentlemen of the Senate, we have before us some figures that were presented to us by the Legislative Finance Officer. These are figures that are taken from the New Hampshire Sweepstakes Commission on the first year of sweepstakes in New Hampshire. Our estimates are taken from the sweepstakes in New Hampshire and we have come up with an estimate of $2,500,000 per year or approximately $5,000,000 for the biennium from operating sweepstakes. Our operating costs, we believe, will not exceed New Hampshire's. We think we can cut down on the operating costs compared with those of New Hampshire. Some people believe that we will not do as well as New Hampshire due to the fact that we do not border Massachusetts. Vermont and Rhode Island have just turned down such legislation, which I think would be beneficial to Maine if we adopt such a sweepstakes.

I also had presented to you figures which were presented to me by the Department of Education

relative to L. D. 110 as to how this money would be broken down among the individual towns. I am sure these figures speak for themselves and they are based on the estimate of $2,500,000 per year. This could vary, of course. If you do not find your town listed in these pages if you are in a school administrative district you will find it listed under the district.

As this bill is written it will provide for the funds to be returned directly to the towns for the purpose of education. This money does not include the present subsidy or the uniform tax effort of 21 mills which is pending in this legislature. For these reasons and the facts we have before us relating to these figures, I would say this would be a good bill so far as the property tax on the home owner. Where this money would revert back to the towns for educational purposes this would surely help the home owner. I urge each senator to look at these figures before they cast their vote and I hope you will support such a measure.

I see nothing wrong with a lottery or sweepstakes. It is no different than beano or horse racing. I hope that the motion to accept the "Ought not to pass" report of the committee does not prevail and when the vote is taken I ask for a division.

Mr. JUTRAS of York: Mr. President and ladies and gentlemen of the Senate: There was a real champion of sweepstakes in the State of Maine who long ago envisioned the potentialities of such a plan. It was long before New Hampshire ever thought of introducing such an income-producing plan sustained by friends and neighbors. His name has been engrossed many times in our state records and he deserves to be remembered and thanked today for his foresight. He occupied Seat No. 13 in the Senate at the previous two sessions of this legislature. His name is Mr. Ralph Lovell of Sanford, Maine.

I shall not go into any statistical expose to endeavor to prove to you that the sweepstakes would be beneficial to our overtaxed municipalities because of their generous appropriations for local schools in consonance with the needs of these changing times and the explosive scholastic population. You do not have to be reminded any more that two plus two equals four and not four and a half or any other sum total. Let's be for once realistic and pragmatic. We need an additional source of revenue to support our scholastic system. We are taxed to capacity. We do have a potential voluntary taxation system in L. D. 110. Let us make use of it now.

Seriously, if this bill does not meet favorable consideration then I shall concede that the occupants of Seat No. 13 in the Senate are clamoring vainly in the wilderness and that future proponents of a similar measure should come from another county. We from York County feel very strongly about the loss of revenue to the State of Maine, revenue that could accrue to our benefit if the other counties would only give us a little more support to stop hard-earned Maine money from ever reaching the shrewd hands of the money-changers of the Granite State in their sales of liquor, cigarettes, food, clothes and sweepstake tickets. I implore you in the name of practicality to support L. D. 110.

Mr. FALOON of Penobscot: Mr. President, one thing I neglected to do was to mention that these figures are per year and they would be approximately doubled for the biennium of course.

Mr. O'LEARY of Oxford: Mr. President, when I look at these figures here I like what they will do for the towns in my area. I can assure you that we need more school subsidy. In my contact with the working people at home I have heard them express a number of times that they are in favor of a lottery. A lottery in Maine is not a moral issue. This will not mean bringing into focus the morals of the individual, it is his own business. It does not mean that there will be a change in the individual's morals, that he will change his mode of living, his habits, his conception of daily liv-

ing. Morals are defined as ethics pertaining to character, conduct, intentions and social relations. By such a concept are we to say that a lottery in Maine is a moral issue, that it is not ethical. Standards of living differ with the individual based on his position in society, the demands upon him and his conduct in his daily life, his business, his contribution to the community in which he lives, his very family life. A moral issue cannot be applied to the citizenry in general. One's viewpoint in this country of free and independent thinking often does not coincide with that of another, thus can we say if a man does not agree that he is immoral? By the same token, can we say that a lottery in Maine is a moral issue? Rather let us say that we believe that a complete harmony of private and public interests is not possible but it certainly is not a moral issue. I believe that this has been kicked around, I believe it is time we had a lottery here in the State of Maine and I will support it.

The PRESIDENT: The motion before the Senate is the motion of the Senator from Franklin, Senator Maxwell, that we accept the Majority "Ought not to pass" report of the committee. A division has been requested. All those in favor of the acceptance of the Majority "Ought not to pass" report will please rise and remain standing until counted; those opposed.

A division was had. 6 having voted in the affirmative and 19 in the negative, the motion to accept the Majority "Ought not to pass" report of the committee did not prevail. On motion of Mr. Faloon of Penobscot the bill was substituted for the report of the committee and was given its first reading. 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 assigned for second reading on the next legislative day.

The President laid before the Senate the 8th tabled and especially assigned item (S. P. 201) (L. D. 582) Senate Reports; from the Committee on Judiciary on Bill, "An Act Relating to Comparative Negligence in Civil Actions"; Report A, Ought to pass in New Draft "A" same title (S. P. 565) (L. D. 1577); Report B, Ought to pass in New Draft "B" same title (S. P. 566) (L. D. 1578); and Report "C", Ought not to pass; tabled on May 20, by Senator Violette of Aroostook pending acceptance of any report.

Mr. VIOLETTE of Aroostook: Mr. President, I move acceptance of Report "B" "Ought to pass in New Draft."

Mr. STERN of Penobscot: Mr. President, thank you. I would like to address the Senate on this matter.

I have been waiting for many years for an opportunity to speak on this particular subject which is dear to my heart. I never thought I would have the opportunity, I never thought I would be in the legislature to address the Senate on this bill.

As many of you know, a great deal of my work is trial work, especially in the negligence field. I expect you are going to hear opposition to this bill and that you are going to hear arguments between the lawyers. I am reminded that even last night, in speaking with my friend Senator Moore in the lobby of the Augusta House, we were talking about these particular bills coming up, and he said, "You know it is difficult for us lay people to understand what to do, especially when one lawyer gets up and argues one way and another lawyer gets up and argues the other way. How are we able to make up our minds?" That reminds me of a recent trial I had before a jury, and when the judge addressed the jury after the lawyers had argued — I was one of them, the attorney for the defendant — he addressed the jury something like this: "The lawyers have argued cleverly, skillfully and at great length, but, despite that fact, the issue is still clear."

Fellow Senators, I think after you hear the pros and cons on this particular bill that you will

be able to determine what that issue is and make an intelligent decision as to this bill. I am opposed to the acceptance of the Report "B", I am for the majority report of the committee, Report "A" "Ought to pass in new draft."

I think that some of you have perhaps been subjected to and have heard a little about comparative negligence. An automobile comes careening down the street on a busy highway, a pedestrian is crossing the street and steps perhaps a foot or so outside of the marked cross-walk. Even though the defendant who had been speeding at a tremendous speed is so much greater at fault than the pedestrian who stepped a foot or so outside the cross-walk under our law the plaintiff would be denied recovery. This is the law of contributory negligence. Our law in this state says that if the plaintiff is in the slightest degree at fault he should be denied recovery.

This is something which I have experienced over the years, this is something that I experienced just recently, and I think I mentioned to this Senate that only a short while ago I represented a young boy, some nine or ten years of age, full of life, full of vigor. This was a day when he was going to school. He started across the street and got half way across when this car came careening down through the school zone in violation of the law, and there was no question about the defendant's negligence and the child was permanently crippled for life, but the jury returned a verdict for the defendant, not because there was any question of the defendant's negligence but because of the judge's duty under the law to instruct the jury that if they found that that child was in any way at fault, in the slightest degree at fault, they had a duty, as much as they disliked to do so, to return a verdict for the defendant. When I talked to that jury afterwards they told me that they had no alternative in view of the judge's charge.

Just to show you how ridiculous this concept of contributory negligence is, let me point out to you—I do not have the case at hand but it is a recent case and it shocks my sensibility. Our Supreme Court — and I am not criticizing the Supreme Court, because under this law they had a duty perhaps to do it. But here is this case that just came down in a recent decision of a lady walking along a sidewalk and adjacent to the sidewalk was this gasoline tank or filling station and protruding from the sidewalk was the nozzle or the place where you put in the hose to fill the tanks and it protruded on the edge of the sidewalk. The jury granted a verdict and she recovered and it went to the Supreme Court. The Supreme Court decided that she was, under the law, slightly at fault. In other words, the effect of that decision was, ladies and gentlemen, that when you walk along the street you have got to walk down that street by having your eyes on the ground and not looking ahead of you; in other words, you have got to be looking for gold coins or pennies as you walk along the street, otherwise you might be found guilty of contributory negligence. This is absolutely shocking to me, but this is the law.

Now this is what we commonly call court law. Originally this came down from England way back in 1809, and the reason this law was embodied in our decision law was that at that time there was a rapidly expanding industry and the law was passed to protect the industry so that it could grow. Since then this law has been changed. In 1945 England enacted this law which has been in effect since 1945. Canada has this law, New Zealand, Australia, Central America, South America, and there are several states in the United States that have abolished this doctrine of contributory negligence. In addition to that, there are many jurisdictions, at least there are forty statutes on the books of the various jurisdictions of the country abolishing or modifying contributory negligence. Not

only has England abolished this law but Canada and several states in the United States, but the United States Government, in admiralty cases and in cases under the Federal Employers Liability Act has passed a law to adopt a doctrine which is similar to this which is fair and just in its concept. In other words, it's a railroad's right to determine how much at fault the plaintiff was so they could reduce what he would be entitled to if he had not been at fault and deduct whatever they felt would reduce the amount according to how much of his fault was attributable to the accident. This law of comparative negligence is one that would not in any way affect our insurance rates, in fact in the states where it has been enacted statistics show that in no way did it have an abnormal effect on the insurance rates. I want to emphasize that what comparative negligence does is not to grant a larger verdict to the plaintiff, there is no more money involved than under the law as it now stands today, because as the law stands today the plaintiff sometimes would not be entitled to recovery at all, but, because of the sympathy, perhaps, of the jury he might be allowed a substantial recovery. And there are other times when the plaintiff, because of this unfair and unjust and inequitable doctrine, is absolutely denied recovery, such as in the cases I have illustrated to you, when he should have been allowed recovery and which this doctrine would do. This law would only perhaps more justly distribute the award that might be given in a case. I feel that this doctrine is one that the State of Maine should adopt. In these days of travel by train, by airplane, mechanized devices of all kinds, the citizens of our communities are subjected to tremendous risks of injury, in fact our national statistics show that one out of eighteen are hurt. We feel that the community, if we did not have this law, would suffer a loss because many times the defendant can pay but he gets out of it because of this contributory negligence doctrine even though he is insured. And when they do not pay and a person is injured so he is crippled for life who suffers the loss? We the citizens, must suffer this loss because it devolves upon us to aid and protect the injured.

I feel strongly about this bill, fellow senators, I know that perhaps in this short time I have to address you and explain what this doctrine does that it is a little difficult, but remember that this is a majority report of our committee, and, as I have told you many times, it is quite difficult for the Judiciary Committee to agree unanimously on anything, because there are so many thoughts on this particular subject.

I want to point out further that this law, under this particular act which we hope you will support and enact, permits the jury, after hearing all the evidence, to determine, from all the evidence that they hear in court — and you are the people who serve on the jury, it is not the lawyers — many of you perhaps have already served on a jury, and if you have not many of you will be called upon to serve on a jury. The opposition may tell you, or may try to tell you, because I have heard it so often, how can anyone tell when someone is greater at fault or less at fault and how much at fault, who is to blame? Fellow members of this Senate, our jury system, the right of our juries to determine issues such as this will never be taken away from them. Our jury system over the years has been able, without any formula, without any help from the judge, under proper instructions from the Court, they have been able to determine if the plaintiff is entitled to recover. They must decide the issue as to whether or not the plaintiff has suffered pain, fright, suffering, they must determine how much should be allocated for the pain that has been suffered in the past, they must determine, as they have been doing for years, to determine the future suffering and to project in the future the suffering that this plaintiff will endure, because they decide, under the instructions

of the court, with no help, from all the facts, from evidence which if you are a juror you will hear, as to what they consider fair and just under the circumstances. This has never posed a problem and I do not believe the fact that they would have this additional duty to determine who is more at fault would in any way affect their serious responsibility which they have today and which they have been performing over the years.

I wish to add one thing further: in this bill — and this, as far as I am concerned, is easy to determine—in this bill there is a provision which says: "If the plaintiff is equally at fault then he is barred from recovery." This is a fair concept, this is not a difficult concept. Fellow members of this Senate: in this day and age if you wish to protect yourselves, your children and your grandchildren — and believe me this is not a partisan bill — this is the bill that will do it fairly and equitably. Lest someone say that it is a partisan bill, I want to point out that David Nichols, Chairman of the Republican Party, spoke in favor of this bill. This bill was passed in the Senate a few years ago and passed with quite a majority, but it did not pass in the House. This is a bill regardless of partisanship that we feel is one you should consider, and you should recall that this is the majority report of the committee, and I hope if you never support any other bill that I ever argue for, you will support this one. Everything pales into insignificance. I hope and feel that you will reject the motion of my good friend from Aroostook, I hope that you will reject the minority report — with emphasis on the minority report. Thank you very much.

Mr. GLASS of Waldo: Mr. President, I am as vehemently opposed to this measure as my colleague, the Senator from Penobscot is for it. Quite possibly, not being as articulate or as passionate as the senator is, I won't be as effective, but I hope this is not the case.

I would first like to make a few remarks, if I might, concerning the senator's continual reference to a majority report of the committee. This is true. It was 6-3-1, as I recall. The connotation or innuendo that I think he would leave with you is the fact that all lawyers or the majority of lawyers support this bill. This is not the case, it is far from the case. It is true that this is a non-partisan bill and it is true that David A. Nichols, who is now National Committeeman for the Republican Party, appeared in support of this bill. It is also true that your own Democratic State Chairman, Peter Kyros, supports this measure. It is also true, however, that the State Chairman, Peter Kyros, and the very able David Nichols are members of the Maine Trial Lawyers Association and in turn members of NACCA, of which I also am a member, and, Ed, if you are the secretary you can clue me in on my membership in the Maine Trial Lawyers Association because I do not know whether I have paid my latest dues or not and I would like to consider that I still retain that membership.

The Maine Trial Lawyers Association, just prior to the mid-winter meeting of the State Bar Association, made a drive — and I am quoting now from a page that appeared in the Trial Magazine, the February-March, 1965 edition. Midway in the page it says this: Drive Starts With Doctrine of Comparative Negligence. A perfect showcase example of how an association of trial lawyers can obtain the cooperation and backing of the State Bar Association in endorsing necessary and worthwhile legislation was recently proved in Maine.

"Herbert Bennett of Portland, president of the Maine Trial Lawyers Association, enlisted the help of attorney Peter N. Kyros of Portland, chairman of the Maine Democratic Committee and attorney Norman S. Reff of Portland, Maine.

"An organized telephone campaign was put on to explain to the Maine Bar Association's members the necessity of being 'present' at the Association's regular meeting and the importance of

'certain proposed legislation'. This legislation included: abolishing charitable and governmental immunities, adoption of comparative negligence, elimination of the state's present $30,000 wrongful death limitation in favor of an unlimited statute based on provable damages, and the legalizing of the contingent fee."

Ladies and gentlemen, we have removed the ceiling from the death act. If my memory serves me correctly, the act has been signed into law, and there is no longer any limitation on what a person can recover for a death. I agree wholeheartedly with this measure. We have adopted or are about to adopt a bill legalizing contingent fees for attorneys. I am in favor of this bill, I have worked for its passage. I believe it came out of committee unanimously "Ought not to pass." I stand corrected — it was a 9 to 1 report.

Why do I read these figures, or why do I read this section from a magazine? Because I didn't receive a telephone call and many of us didn't receive a telephone call. When I say what I am about to say I attribute no wrong meaning or doing to any member of the Maine Trial Lawyers Association, but I say that meeting was rigged. The lawyers were not contacted. The mid-winter meeting of the Maine Bar Association is held in Augusta and everybody knows what winter is in Maine. Had I been contacted and had I been advised of what the Maine Bar Association was going to take up, I most certainly would have been there and others of us would have been there, but the fact remains we were not. I submit to you that if the Maine Bar Association were to consider it at its summer meeting, which is fully attended, this doctrine would have been rejected by an overwhelming majority. Such was not the case, however.

I am also given to understand, although I was not there, that people appeared at this Maine Bar Association meeting in the person of the Maine Trial Lawyers Association, negligence attorneys, who had never in the history of the Maine Bar Association attended a meeting. I obtained the minutes of that meeting, ladies and gentlemen of the Senate, and even with this concerted telephone campaign that is set forth in this passage that I read from Trial Magazine the vote was 26 for comparative negligence, 25 against; 26 for the elimination of governmental immunity, 21 against. Now those are not overwhelming odds, they are even closer than our committee report, bearing in mind that only slightly more than fifty lawyers attending that meeting and voted on this measure.

Now I have some original thoughts on this subject, but in reading some material prepared in the nature of addresses that have been given in various parts of the United States before bar associations I found that in these speeches or addresses the objections to this doctrine were stated far more eloquently than possibly I could extemporaneously on the floor of this Senate. If you will bear with me, I would like to read excerpts from them.

This one is from a Superior Court Judge, William J. Palmer of the State of California, in Los Angeles. The title of his address was "Let Us Be Frank About Comparative Negligence" and it was republished from the November, 1952 issue of the Los Angeles Bar Bulletin:

"If a statute introducing to California what is commonly called the doctrine of comparative negligence should be enacted it ought to come into being because it will be good for the people, not because lawyers want it.

"A number of recent public opinion polls have indicated a serious need for informative and good-will publicity in behalf of the legal profession." And to this I say Amen. "Not long ago (and he is speaking about a problem that existed in California) we had a demonstration which I am sure caused many lawyers to reflect soberly upon their standing and reputation as a class with the public. Induced only by suspicion, playing upon a good deal of ignorance of law and legal procedure, the peo-

ple and some of their newspapers, with striking readiness and resentment, censured lawyers, accusing them expressly or inferentially of having brought about a change in the law controlling judicial termination of joint tenancy estates, and of having done so to provide more fees for the lawyers. Against the profession as such, the suspicion and the charge were ridiculous, but the incident and far-reaching effects, not yet overcome, forcefully suggest a reasonable vigilance to prevent repetition.

"In respect to the projected law of comparative negligence, it is, in a way, unfortunate that the legal profession, to which laymen ought to be able to look for impartial guidance in the matter, has a big stake in the project and a self-serving pecuniary motive in advocating it. In this circumstance, this fact of private interest ought frankly to be disclosed to the public and to the legislature."

Now I do not mean for a moment here to intimate that my good friend, the Senator from Penobscot, Ed Stern, is proposing this legislation for his own good. This was not my intention. My intention in reading this passage is to draw your attention to the fact that it will — and I submit that after the arguments are closed you will agree that the only one who will be benefitted from this legislation are the lawyers.

"Virtually every negligence case is handled by plaintiff's attorney on a contingency-fee basis. The most common contract gives to the lawyer a thirty-three and one-third per cent share of recovered compensation in the event of a trial. His share may reach 50 per cent, and is likely to do so if he advances costs. This contingency fee practice is, in a way, a benevolent one." To this I personally subscribe. "It often reflects a good deal of sporting blood and charitable impulse on the part of lawyers. However, it has two aspects which are not wholly beneficial: (1) The client, risking nothing or little, having nothing to lose and everything to gain, is under no restraint of contemplative discretion deciding whether or not to play a long-shot gamble, to add one more lawsuit to the taxpayers' burden, to draft one more citizen as a defendant into the time-taking annoyances of litigation, and to provide casualty insurance companies with one more reason for increasing rates. (2) The lawyer, now being a part owner of the cause of action, such as it may be, and certain to suffer a substantial financial loss if the cause fails, does not have the perspective and disinterestedness which usually contribute much to the understanding, judgment and policy of a counsellor."

"To the lawyer it would be a boon of no mean proportions if, although his client bore 90 percent of blame for an accident, recovery on a 10 percent basis of elastic damages still could be had. If by legislation much of the gamble could be taken out of the negligence case business for the lawyer, if he could be reasonably sure of some recovery every time he went into court for a plaintiff in such a case, the legislation would be significantly lucrative for us. This stands to reason. If I take a case to court and there are no controls and the jury is authorized to return a verdict depending on how negligent I was or how negligent the defendant was, it stands to reason that they are coming back with something and on a contingent fee basis there is only one person who absolutely benefits," and I submit that it is the lawyer.

"In a legitimate program of self improvement, one society of lawyers has posted a substantial sum of money to be used to bring about the enactment of a law of comparative negligence in California. To their credit let it be said that the fact of this campaign fund was released to, or at least was not concealed from, the press and the public.

"After admitting their own pecuniary interest in a law of comparative negligence, lawyers, I believe, would act wisely if they would refrain carefully from speaking half-truths and misleading statements in advocating the doctrine.

Giving the employee the benefit of the rule of comparative negligence in cases embraced within the Federal Employers' Liability Act to which Senator Stern referred, is an expression of that protective and paternal policy and attitude that now pervades our entire jurisprudence in behalf of employees in their relations to employers, which I submit is correct and proper; a policy founded on the theory that, as between the two, the employer and employee, the employee is the weaker, is more subject to the stress of need, more dependent generally and hence more in need of the law's solicitude.

"In such actions, the one claim that is presented to the court for consideration is that of the employee, or if he dies from his injuries, of his next of kin. I have never known of the employer filing a cross demand against the employee in such a case. This federal law approaches insurance for the safety of the employee while engaged in his employment, but if the employee pays nothing for the policy he is docked proportionately for his own negligence. This is what the Senator from Penobscot is trying to equate with the comparative negligence rule he is asking us to adopt. The law is designed for and is limited in its application not only to a specific relationship but to a selected group of risks among whom a tendency always is at work to eliminate the poor risks. Such a law obviously is not a valid precedent for a universal application of its rule of comparative negligence.

"When John Plaintiff and George Defendant come before us, meaning a jury and court, in a typical automobile accident case, they come as equals; they bear no relationship that gives rise to any cause for special solicitude or legal advantage or paternalism in favor of either party as against the other. John Plaintiff's claim often is countered with a cross claim by George Defendant.

"The Conference of State Bar Delegations in its most recent session recommended for universal application in California a law of comparative negligence that would go all the way in limitation of the rule of the Federal Employers' Liability Act, which I submit is the act before you in its new draft. The vital language of the restricted federal law was copied in the draft of a proposed California act." The language, I might say in passing, is a fine specimen of expertise and ambiguity in drafting, language that has been given intelligibility only by the judicial legislation which made it necessary, a process not yet consistent or complete.

"The projected general California statute would permit a plaintiff to recover something even if found to have been 99 percent to blame for his own injury." This would not apply under Senator Stern's new draft.

What about contributory negligence? The Court had this to say: "What shall we tell the people about the existing law of contributory negligence? I heard one advocate of comparative negligence doctrine, a prominent lawyer, put the matter this way: Under the present law, if the plaintiff was guilty of the teeniest-weeniest — and that is his language — bit of negligence, he cannot recover" and you will recall the Senator's reference to the pedestrian who steps one foot outside the cross walk. "Of course," the Judge goes on to say, "no such law exists. To be guilty of contributory negligence, a person's conduct must first be careless to the degree that it falls short of the conduct of only an ordinary prudent person, and secondly, such conduct must be the proximate cause of his injury."

"Now in Mr. Stern's illustration of the woman, and I too cannot recall the case, Senator, he referred to the fact that someone had tripped over a protruding pipe from a sidewalk and he referred to the fact that he had conversed with one of the jurors who told him that they were forced to find this way because of the rigid application of contributory negligence." I submit that this is not the case. The jury found, or the court found as a matter of law,

I should say, that this woman's conduct in failing to see that which was in fact there, as a matter of law, constitutes contributory negligence, and consequently was the proximate cause of her injury or contributed to the proximate cause of her injury.

"Let us make known to the people that the law of contributory negligence is one of several rules that stem from a basic disciplinary policy, attitude and dignity of our jurisprudence. It is a policy that both reflects and contributes to the moral fibre of a people, that provides disciplinary measures without the necessity of criminal action for certain wrongdoing, that keeps in the foreground for the attention of all concerned, standards of conduct known to be necessary for the preservation of a decent civilization. For example, this juristic policy says: 'If you, yourself, have broken a contract, one of your penalties is that you may not recover damages for a breach by another. Even if we were able to compare the seriousness and seriousness and effect of your breach against that of the other party, we would feel that our courts ought not to be burdened with the claims of one contract breaker against another.'

"The same policy says that he who comes into equity must come with clean hands. It says, 'If you want the courts to be available to you for equitable assistance and relief, see that your own conduct measures up to a reasonable standard in morals, law and equity.'

"The same disciplinary principle announces generally that a person may be estopped by his own conduct from complaining of the conduct of another. And from this same underlying conception of social discipline came the law of contributory negligence, which says to a guilty plaintiff, 'You, too, violated the rules, and unnecessarily endangered your own safety, and possibly that of others. We leave you where we found you.'

Now, I disagree in some respects with the remarks of the learned judge in this connection and this is why I support Senator Violette's Report B. If you would turn to Report B which is 1578, you will see that this goes a tremendous distance in changing what we now consider unanimously a very harsh rule as concerns the law of contributory negligence. Up until now, or still now unless Report B is accepted, the plaintiff has two burdens. He has actually more than two. He has the burden of not only proving that the defendant was guilty of negligence, the proximate cause of which caused his injury but he also has the burden of going forward with the evidence and proving that he himself was free of any negligence, that contributed to his own injury; that is to say, that was a proximate cause of his own injury. Report B changes this. It shifts the burden. "Contributory negligence is an affirmative defense; presumption and burden of proof.

"In all actions, civil or criminal, to recover damages for causing the death of a person or for injuries to the person or property or for consequential damages arising out of such injuries or death, the plaintiff, or the person killed or injured or damaged in his property or caused to sustain consequential damages or his agent or custodian or any other person whose conduct is imputed to him or with whose conduct he is chargeable shall be presumed to have been in the exercise of due care" — it creates a presumption, which I might add, has to be overcome with no little difficulty — "shall be presumed to have been in the exercise of due care and contributory negligence on the part of the plaintiff and every such person, shall be an affirmative defense to be set up in the answer and proved by the defendant." Not the plaintiff. I submit that would go far toward eliminating the objections of the good Senator from Penobscot concerning the harsh rule of contributory negligence. It goes far enough. It goes half way in the opinion of those signers of Report B, not all the way as does this strange document with which nobody has any experi-

ence, in the L. D. 1577 Comparative Negligence. Only seven states in the whole of the United States have adopted this doctrine of comparative negligence and concerning the Senator's remarks as regards insurance rates. I can supply the Senate with statistics which will show Wisconsin's insurance rate which adopted this rule, rose forty percent. Earlier in the course of debate in the Senate, the remark was made that we are rich in the State of Maine. We are rich certainly in beauty and we are rich in many other things but our people, by and large, I submit, and the cost of insuring a motor vehicle to some of us, some of our people, is a significant item in the budget every year. Bear in mind that the Senate has been asked, as well as the other body, to remove the limits on debt, which we have done. The Act is passed and I take this opportunity to advise every one of you to make sure that your limits — or make some attempt to have your limits correspond with this legislation.

Now, if insurance premiums in Maine should follow Wisconsin, and those are the only ones available that I have to quote, there is no reason to suspect that our insurance rates won't rise at least as fast, and this I might add, these statistics were for 1954-56 and I submit it is possible they are now even higher. What will happen? A person who has difficulty buying insurance just won't buy it. We have no compulsory insurance laws in the State of Maine. He just won't buy insurance. Now, to whose detriment does this work? It works to yours because you can be the very plaintiff who is seeking damages from this person who has no insurance. Just as sure as the sun rises in the east, insurance rates in Maine will rise if this comparative negligence bill is passed. And remember this, ladies and gentlemen, you have just as much chance of being the plaintiff in a civil action as you have a defendant. It might be you against whom suit is brought under this bill of comparative negligence, where some hot-rodder on a motorcycle whips out of a Stop sign, passes a Stop sign and bangs into you. He has nothing to lose under this bill. Suppose you were exceeding the speed limit by fifteen miles an hour. The jury assesses the damages. I submit it will increase litigation. As a result, the plaintiff in this situation has nothing to lose. If it increases litigation, it will have to increase taxation. We will have to have more Superior Court judges and more facilities for its operation. The bill is not a good bill and I therefore hope you will support the Senator from Aroostook in his motion to accept Report B. Thank you.

Mr. SHIRO of Kennebec: Mr. President, I rise to speak on this bill. I would like to state first of all, however, that I think that the Senators here will observe this — I would say "contest" between attorneys — will probably find it much more entertaining than watching Perry Mason.

I would like to state — I am not on the Judiciary Committee but you can see the difficulties they must have had on that committee discussing this particular matter. I might feel somewhat as an interloper here speaking on this bill. I am a member of the Legal Affairs committee. But, being a member of the legal profession, being a practicing attorney, a trial attorney, a member of the American Trial Association and the Maine Trial Association. I want to state to you — I know you have listened for a long time to the speeches that have been made here. You have heard, I think, some very able arguments pro and con thus far but you are listening to one of the most significant pieces of legislation that will affect injured individuals as a result of accidental means and that is one reason I feel compelled to speak.

I have had, I think, a great deal of experience in handling this type of case and I have seen many tragic results claims prosecuted in our courts where it would certainly appear that if this law had been in existence, we would have had greater justice. I am wholeheartedly in favor of new

draft "A" as was passed by the majority of the committee and I hope that you will give consideration to the fact that there were six attorneys on the Judiciary Committee who favored this report. That may not mean too much in a way but yet, I think it means a great deal because this was one bill which this committee had under consideration for a long period of time and a lot of thought went into this bill before it came out of committee with the decision as it has.

I would take very strong issue to the statement of the Senator from Waldo, Senator Glass, that this is an Attorney's bill, implying that the attorneys are the only ones who could benefit. This legislation is for the benefit of an individual, the benefit of all citizens. I sometimes think that perhaps the reason why attorneys are criticized and maligned is probably because we speak too long and yet many times we take these matters at heart, and we take these particular cases or causes which we represent, personally and we speak longer than we should perhaps, and I probably will overdo myself here. But, I would like to simply relate to the members of the Senate, my thoughts on this bill because I feel that this bill will allow a jury or a court to exercise compassion for the individual, where compassion would be justice, they are not able to render it.

There has been a great deal of controversy throughout the country on this particular type of legislation. Actually in many cases it boils down to what type of an attorney a person is in determining what side he takes, whether he is for this bill or against the bill. Many times we break it down into whether a person is a plaintiff's attorney, representing the person who is injured and brings the claim or whether he is representing a defendant or the insurance company against whom the claim is brought.

The insurance companies, the defense attorneys who represent them or represent the defendants are very vehement in their opposition to this bill. The plaintiff's attorneys are vehement in their arguments and contentions for the bill. I myself, would rather side with the individual, the person who is injured or maimed and disabled. There are many instances I could relate here to the members of the Senate to show how tragedy could strike a person bringing a claim where he would be entitled to some compensation. We know, and I am sure you will use your own reasoning and your own common sense in knowing that in many, many instances, very seldom is only one party at fault. Many times both parties are at fault. It isn't all black; it isn't all white. Many times one party is more at fault than another. Perhaps they are both at fault but one may be more at fault than the other and that is what this bill is to provide in our courts. The one who is most at fault, providing he is at least fifty percent at fault would then pay a just share of the damages or injuries for which he was responsible.

Now I think when you analyze it you will see in that particular proposition it is only fair and just —and that is the basis of our law; it is the basis of what we call our tort or wrongful injury law— is that persons should pay for damages which they have caused. If they have caused 60 percent of the damages, isn't it only fair that they should pay for 60 percent of the damages?

In the present instance, as was pointed out by Senator Stern if a person comes into court and it is determined after hearing that he was one percent or two percent or five percent at fault or contributed in some way to the accident or his one injury, he is precluded from recovering one cent. He just cannot recover anything. We are living in a different type of world than we were 150 or 200 years ago when this type of law was adopted. As you all know we are hesitant to change and yet we are providing now in our daily lives, something that is a different way of life, more highly mechanized, injuries are multiplying, accidents are taking place at a very great rate and yet we are asked to retain the same type of laws

that existed many, many years ago and that are obsolete.

Of course there has been a drive in the various states, and particularly by the Maine Trial Association because they are the logical ones to bring this type of matter to the attention of the legislature. Who else would there be to bring to our attention that these laws should be changed, should be brought up to date so that they would be better able to promote justice between the parties. And this is all that this law is for, so we would better adjust equities between parties.

What would you say, or what can you tell a client now under the present law when he is riding down the road and all of a sudden he has an accident but he is probably one foot over the center of the road, maybe two feet, but another car coming in the opposite direction may be almost totally in the wrong side of the road and runs head on into him? What do you tell a client like that who may have been seriously and permanently injured or disabled? What do you tell perhaps his widow? What do you tell the child that was injured as a result of that particular type of accident? You have to give him the advice now under the present law, that if the driver of his automobile was contributorily negligent, and it is negligence of course to drive even a small portion over the middle way, but the other party may have been completely on the wrong side of the road. He may certainly in a case like that be precluded from recovering anything, no matter what the injuries were. What do you tell a passenger riding in a vehicle, perhaps the operator is speeding and the argument is given that perhaps he was contributing to his own injury even though he was a passenger in the vehicle because, perhaps he should have given a warning to the driver. Suppose he didn't warn the driver. Now, under this doctrine of contributory negligence you have to do everything possible for your own protection and care. What happens then? These are arguments I tell you now that were given in court and they are given in court all the time. In fact, any time you go to court, on almost every occasion if there is an actual contest, the defense is going to advance the theory of contributory negligence no matter how much or how little that amounted to.

What do you tell a person who suffers a serious whiplash injury or a ruptured disc when he is approaching a red light but slows down and fails to stop, which is evidence of negligence and a vehicle in back of him with inadequate brakes and speeding, runs directly into him? The Court would instruct the jury that "if you find that the plaintiff was in any way negligent, you must find that he is not entitled to recover anything".

There are many instances of this type of situation. I want to tell you one right now that I had not very long ago where a young lady, young married woman was injured quite severely on the turnpike. She was riding along the turnpike and all of a sudden she realized that the vehicle in front of her was backing up instead of going forward. This was right on Route 95. This vehicle was backing up and she didn't realize it. She was going 60 to 65 miles an hour, under the speed limit and didn't realize it in time and had a serious collision. What was the argument advanced. The argument advanced was that this person who was injured was contributorily negligent. She should have been able to observe that the other party was backing up. The view was clear; there were no obstructions on Route 95. In this type of case there is unquestionably the doctrine of comparative negligence which would assure this person of recovery to some extent certainly and I think most of us would agree that the person driving ahead would not have been as negligent as the person backing up right on the turnpike. We all have a stake in this particular bill and I say it is a serious

stake. It will be our friends and our relatives and our neighbors who are going to benefit from this bill. What we pay, if we do pay in added insurance rates — and I doubt very much if they will be appreciably larger — will be for our own protection and the protection of our friends and our neighbors and our relatives and the protection of the people who go into court in the future, now or in the years to come.

The argument is given by many representatives for insurance companies — and most persons now involved in an accident have insurance, although I am sure there are a great many not covered by insurance on our roads — yet the argument is that as a practical matter the jury uses the comparative negligence theory anyway. If that is the case, if this is something that has been common practice, we should certainly give the jury something, a legal excuse, to exercise their compassion and adjust the equities as they see fit according to the justice of the case.

We say that justice takes place in a court of law but actually, justice and the origin of justice takes place right in this chamber. That is where the start of justice is and I say that what we do here is going to mean if this legislation passes on new draft A, we are going to do a great deal for justice to persons who are injured and those are the persons we want to protect.

A lawyer as I know, has a difficult time arguing especially this type of matter to persons who perhaps are not accustomed to this type of proceeding, adversary proceeding. I can assure you that it is these persons, and their trial lawyers who represent these plaintiffs and go into court and see the tragic and unfortunate results that can take place from the least little slip of the hand, the least little slip of the foot, which has hardly any significance in regard to the carelessness, the negligence, the responsibility of the person that might have caused this injury and yet be compensated nothing.

I would argue and I hope that you will certainly support the proposition contained in this new draft "A" to allow the court and the jury to adjust the damages in accordance to what the individuals were responsible for and that is all this particular bill does. That is justice. That is fairness. I would ask you to support it because it will enable us to allow justice with compassion. Thank you.

Mr. GLASS of Waldo: Mr. President, I think sometimes it might be a good thing, although I am sure it wouldn't, to adopt the same rules as adopted in trial proceedings limiting people to argument in their address to the jury. I will be very brief.

I want the record to show that I, too, consider myself a plaintiff's attorney. I do not represent and never have represented insurance companies in personal injury cases or in any other cases for that matter. It is unfortunate indeed that this appeared during the course of debate to obscure the issue here. I was elected to the Senate of this body to protect what I consider the rights of the people, not a group of persons representing injured persons. I am not going to bore you by reading any further information but I have a wealth of it here on my desk. I am looking at the moment at an address prepared by a James A. Dooley. Senator Stern might be familiar with the name. I know I am. The Illinois bar, graduate of Loyola University with his doctorate in law, member of the Chicago Law Institute and the Past President of the National Association of Claimants' Counsel, founder and Past President of the Association of Plaintiff Lawyers of Illinois, which is exactly the counterpart of the Maine Trial Lawyers Association, who just as vehemently opposes this bill as I have this morning, maintaining not only does it increase insurance rates for inhabitants of a given state that adopts it but could weaken the whole judicial structure. I submit that this is correct, because in Wisconsin which adopted the rule of comparative negligence, within three years after they adopted it, the legislature came within one vote of adopting a sys-

tem of insurance as it relates to automobile accidents, as is the case with workmen's compensation, which would completely remove this area from the judicial system, and it fails of passage by one vote.

I might add, in commenting upon the address of the judge from California, California had enough sense to reject it, and I have a list of forty-three other states, some of which have rejected it during their present sessions, and therefore I do hope that you will support the motion of the Senator from Aroostook.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I am speaking on this only as a senator from Aroostook. I know you folks here have heard a lot of arguments, and when I tell you I am going to be brief I am going to be brief.

Lawyers do differ on these things and they differ because there is an emblem or an engraving on the Department of Justice building in Washington which says, "Justice which prevails in our land is the justice which reigns in the hearts and minds of the citizens of the land." Whatever you may have heard here this morning, the motives of the lawyers who have debated is only one thing, and that is to find out what is that justice which reigns in the hearts and minds of the citizens of this land —you people right here. As far as I am concerned, I concur with the Senator from Penobscot, Senator Stern. I respect greatly Senator Violette, my room-mate, and they both disagree on this matter, but of all the arguments which I have heard on it, the argument that more cases would be settled out of court — that is good, because these matters may be disposed of.

Now in one of the arguments made here by Senator Glass he mentioned a statistic which he pulled out of Wisconsin, which was in the years 1954-1956, saying that the insurance rates had risen, I think something like forty per cent. Let me say this: If that were the trend throughout the nation in these states that had had comparative negligence don't you think for one minute that these statistics would not have been available right on your desks at this time. I think it is very unfair to take statistics like that and suggest that it will happen. I think the lawyers are divided on it, and I do not think it is for selfish reasons. I think it is a good law and I would like to see Maine among the leaders in this field rather than followers as we are in so many others. So I do support the Senator from Penobscot, Senator Stern, and I hope you will defeat the motion of the Senator from Aroostook, Senator Violette, and I ask for a division on the same.

Mr. STERN of Penobscot: Mr. President, ordinarily I would not get up on my feet to answer Senator Glass, but I am mad, I am angry, and I feel constrained, I feel that I have to answer him completely.

When I got up to address you fellow members of the Senate I didn't try to throw dust into your eyes by telling you that the Maine Trial Lawyers Association or the Maine Bar Association voted in favor of this by one vote. I did not try to becloud the issue I was trying to present this matter as logically and as fairly as possible so that you could decide the issue on the merits.

Now I didn't get any telephone calls. This was the semiannual meeting of the Maine Bar Association, I got a card and I attended. This is the same amount of people we have every year in the wintertime. When he tells you there were twenty-six members of the Maine Trial Lawyers Association, there were not twenty-six members of the Maine Trial Lawyers Association who got up, there were twenty-five members of defense insurance lawyers, whom I know and with whom I have fought cases over the years. But this is beclouding the issue. He mentions a name to you. If he is going to mention names of outstanding people in this country who feel that this is unjust I can go on for hours, but because he brought it up I feel that I must present the name

that all lawyers, I think without any fear of contradiction will admit—Dean Roscoe Pound, who just died, the most eminent jurist perhaps our country has ever known, barring one, and who incidentally was my professor at Harvard Law School—he said, "It must be recognized that contributory negligence as a doctrine is fundamentally and radically unjust and ought to be given up."

I could go on for hours but I am not going to. I want to thank my good friend, the Senator from Kennebec, and my good friend, the Senator from Aroostook, for supporting me in this measure, and I want to remind you once more that you could argue this for days and you would perhaps have as many lawyers argue one way as you would another way, but in the last analysis it is for you to decide what is logical, what is right and what is fair. I did not want to say anything about this but I feel that Senator Glass brought up something that we do not have in this state, something about what we lawyers charge, contingent fees. We do not have this in the state, this has never been a problem, but we hope we might have something like this in the future. I hope that you will reject the motion made by my good friend, the Senator from Aroostook, and reject the doctrine of Report "B".

One other thing. Fellow members of the Senate, do not feel too concerned about insurance rates. We members of the American Trial Lawyers Association and the Maine Trial Lawyers Association are trying to protect the public on insurance rates. There is now before the United States Senate a matter being proposed by United States Senator Thomas J. Dorr, a Democrat of Connecticut, who is looking into the insurance industry and having hearings to determine whether or not these increases in rates are justifiable. This is now pending before the United States Senate. Also there is an investigation because these great big insurance companies have these interlocking directorates all over the world, they have their connections with these communication systems and they are in a position to give out a lot of false propaganda in regard to insurance rates. I think you have no worry about that proposition, but if you want information, while I did not have time enough to distribute it, I have information for every senator here, and you can look into this independent article if you want statistics. Like Senator Harding, I thought it was unfair to show these statistics, but if you want to compare statistics I have these books, and you will find that the companies, despite these verdicts, and I am sure the verdicts are not large in the State of Maine, although they might be in other states, you will find that the statistics will bear me out that these companies are making more money than ever and that an investigation should be made. Aside from that, this doctrine of comparative negligence is for the people, and I did not want to bring in all these extraneous matters because I hope and I feel that you will so decide.

Mr. VIOLETTE of Aroostook: Mr. President, it is with some degree of timidity that I rise, but I suppose that I should because I ought to defend my own motion. Perhaps at this time the best thing that might be going for me is the fact that this seems to be a morning where minority reports were accepted. I would not want this Senate to feel, as I think some of the opponents of my motion have stated, that by failing to adopt my motion for the redraft of this bill that you are in effect voting against the right of a common man who travels on the highways of this state in automobiles or who flys in the skies of our state in airplanes — I think we should keep in proper context the basic issues with which we are concerned here as far as this proposed law is concerned. I would also state at this time that I represent neither the National Association of Claimants' Attorneys nor am I a member of the Maine Trial Attorneys, nor do I represent Insurance Companies. My feelings in signing this minority

report are those of a general practice attorney and also those of a person who at times thinks more of the layman than those of an attorney. I do not disagree with my good friend Senator Stern, whom I have the utmost respect for, with regard to what we are basically concerned with here today, and that is the abrogation of the doctrine of contributory negligence. Practically all of your outstanding authorities on the question of negligence and torts in this country have denounced the doctrine of contributory negligence, and I agree with them. My approach to this problem I think is not an approach of difference in doctrine with Senator Stern but a difference in approach in the way this problem ought to be resolved. I know that we have debated this matter quite fully. I was a little bit dismayed by the proponents at this hearing who sponsored or proposed this law because they could not even tell me at the hearing how this law would apply with respect to damages which juries and courts would give under this statute. I think if I were a proponent of a bill I ought to be prepared to state all its implications and what it would accomplish. These people could not give us that information at the committee hearing.

I think that we are faced here with a problem which has unfortunately been dodged in our state, has been dodged by our courts and which has brought us to the point where I think it is necessary for the legislature to take some action. I also feel that sometimes when there has been an abuse of some nature there is always a tendency to overshift the other way, and I do not agree with the doctrine which my good friend Senator Stern would like to have us adopt because, in my opinion, it is an overshifting of the burden in an exactly opposite direction. I think it is human nature when you wish to correct some harm if you are not careful and you do not watch yourself you are very apt to go too far. You know they say a man of French ancestry if you tied his hands to his back he couldn't even say a word, and that happens to me at times. But I think there is this tendency to overshift the responsibility with this doctrine, and that is my genuine concern and why I could not agree to go along with it.

I think that the report which I signed, Report "B", which removes the duty of a plaintiff to prove that he was in the exercise of due care brings this matter to pretty much of a middle ground where the opposing parties are placed in a fairly equal position with regard to this doctrine.

I think I am correct in saying that those great authorities who have advocated the abrogation of a contributory negligence doctrine have not, in the second breath said you must go to comparative negligence. That is not the case at all. Forty-three of our states have managed to abrogate the harshness of the contributory negligence rule by legislation, statutes and court decisions which do not endorse this doctrine. I think that is considerable food for thought. Among those states are the states which have been foremost in our country in advocating social legislation for the welfare of our people. These states have been leaders in our country in alleviating by statute or court decisions the harshness of some of our legal doctrines, and yet to this date these states have not seen fit to go to this doctrine as a solution for the alleviation of the harshness of the contributory negligence rule.

My own feeling is that we should travel more of a middle ground with regard to these things. We have had several bills, as I think Senator Glass indicated to you, surrounding the field of negligence law. Many of them have been presented in this legislature and I think that there has been considerable progress made towards alleviating some of these doctrines. As Senator Glass has stated to you, the Judiciary Committee recommended and the legislature has adopted the removal of the ceiling on the death statute. I concurred wholeheartedly with that report

and with the decision of the legislature. You will have within a matter of days before you another bill coming out of our committee which endorses in a unanimous report, charitable immunities in certain instances. That is also a considerable step in alleviating some of the harshness of some of our rules. You also have before you—and I am afraid because of the length of the debate here and the forensic art to which you have been so wonderfully treated by members of the bar that we will not get to that — but we also have legislation which would take a very forward step in the removal of governmental immunities with regard to tortious acts of our state and its subdivisions. So this legislature, and I as chairman of this committee, have not been unmindful of the steps that ought to be taken in regard to progress in these fields. I think we have to look at these problems not only as legalistic problems — and I think that Senator Stern looked at them very much in that way too—in that they have great social implications. I think we have seen many of our laws depart from the harshness of rules, the Federal Torts Act has been referred to this morning. We have in our laws in every state in the union workmens' compensation laws and industrial accident laws whereby this fault has been removed, and I think this is a most desirable thing for our society, but I am not willing to endorse this doctrine because I feel that it goes too far in the other direction, and while it will alleviate some of the problems that our harsh contributory negligence rule has resulted in I also feel that it will overshift to the other side and would place undue burdens on those people upon whom it would not be justified. For that reason, ladies and gentlemen of the Senate, I hope that you accept my report.

Mr. SHIRO of Kennebec: Mr. President, I will speak very briefly. I think we can say one thing, that perhaps at least nine persons on that Judiciary Committee were convinced that the existing law is not right, it is not just, and therefore something has to be done. I have a lot of confidence in the Judiciary Committee and the Chairman of it, Senator Violette, and I want to agree with Senator Harding and Senator Stern.

Maine has followed the middle of the road for many years, we have tried to and when you try to follow the middle of the road you will always end up at the end of it. Let us take the leadership, because I tell you now our motto "Dirigo" is what is going to be the case in this instance: Maine will be in the forefront and other states will follow. This law has to come, there cannot be any other way to it, because parties involved in accidents need it. It is a just thing and nobody has an advantage over another.

They say that New Draft "B" perhaps will be something which will go a long way to help the situation. I tell you it does not help any, all it does is to require the defendant who is being sued, or the insurance company, to come forward at the trial and produce some kind of proof, that is all, to show a little evidence, no matter how slight it might be, that the plaintiff was negligent, and that is all that has to be done. But at the end of the trial everything is the same as it is now and will be, and I tell you that if you are ever involved in a personal injury case and you are in court as a plaintiff, you may have the fullest confidence in your attorney and you may have the fullest confidence in the witnesses who testify for you, but when you come to the end of the trial and the judge starts to instruct the jury on the law your heart is going to quiver, your heart is going to jump, because when you hear that judge say:" If y o u find, ladies and gentleman of the jury, that the plaintiff was to any extent careless, no matter how slight it might have been, you must come back with a verdict for the defendant." I tell

you now it is not a very comfortable feeling for a person who goes into court knowing that he has a just claim or at least knows he was not as much at fault as the defendant and who feels very strongly that he is entitled to a verdict. If you represent a young child or a man or a woman and you have all the confidence in the world in their case and in their claim, you will say that this is probably one of the most unjust doctrines that there can be on the books.

I would ask the Senate to go along on this New Draft "A" because I tell you it is commonsense and justice will be done in our courts and it will allow the ordinary man to exercise his commonsense. Thank you.

Mr. VIOLETTE of Aroostook: Mr. President, were the honorable Senator from Kennebec not one of my party I would not answer one comment that he has made, but I feel I am obliged to. He has described me as a middle-of-the roader. I am sure he ought to be aware that we have a man in the White House today who received 67 per cent of the votes of the people of this country for that very same position.

Mr. GLASS of Waldo: Mr. President and Ladies and Gentlemen of the Senate: Remember this when you vote: That you can just as well be a defendant in one of these actions that will be heard under this bill as you can be the plaintiff, because there are always two or more, the plaintiff and the defendant, so your chances are about fifty-fifty.

Mr. STERN of Penobscot: Mr. President, the fact that my good friends would sign the minority report, Senator Violette and Senator Glass is recognition of the fact they want to change the law to shift the burden of proof to the defendant, and they recognize that the law of contributory negligence is harsh today and should be changed. All I am saying is that the majority of the committee is for a change and we think the change we suggest is more just and fair to the citizens of our state.

Mr. CAHILL of Somerset: Mr. President, I might just as well stand up; everybody else has. I would like to ask a question. If I understand it right now, Senator Violette and Senator Glass spoke on Report B?

The PRESIDENT: That is correct.

Mr. CAHILL: Mr. President, that is the one we are voting on?

The PRESIDENT: That is correct.

Mr. CAHILL: Mr. President, what report are the others speaking on?

The PRESIDENT: I would assume Report "A". The Chair will stand corrected if this is not so. The motion before the Senate is the adoption of Report "B". A division has been requested.

A division of the Senate was had.

Eight having voted in the affirmative and twenty-one opposed, the motion to accept report "B" did not prevail.

Thereupon, on motion by Mr. Stern of Penobscot, Report "A", Ought to pass in new draft, was accepted, the bill read once and tomorrow assigned for second reading.

The President laid before the Senate the 9th tabled and especially assigned item (H. P. 137) (L. D. 333) House Report; Ought not to pass from the Committee on Judiciary on Bill, "An Act Shortening the Period of Real Estate Mortgage Foreclosure"; tabled on May 20, by Senator Stern of Penobscot pending motion by Senator Violette of Aroostook to accept the Ought not to pass report; and on motion by Mr. Hilton of Somerset, the Ought not to pass report was accepted.

Mr. STERN of Penobscot: Mr. President, it is kind of confusing when we get into these legal cases. I would like to make the motion to reconsider, for the purpose of offering an amendment.

Mr. VIOLETTE of Aroostook: Mr. President, I ask for a division.

The PRESIDENT: The Chair would remind the Senate that the motion to reconsider is debatable.

Mr. STERN of Penobscot: Mr. President, and fellow Senators, I will be brief, as brief as possible. Everything else that I will ever

speak on, everything else that I will ever do in this Senate will pale into insignificance compared to the passage of the bill which you just recently accepted, so if you don't go along with me I won't feel bad, but I do feel that my constituents want me to present it. I will briefly state that I am against the six months shortening of the year foreclosure but there is an amendment here that in effect says that if one third the mortgage amount has been paid then there should be a one year equity of redemption. Under that there should be six months. The reasons I am presenting this is that the savings banks in my area have asked me to present this and their opinion is that this would perhaps allow more credit. They would be in a position to loan more people more money if they didn't have to worry about the future, that the property would depreciate and all that. I will say that this has some basis for it, that the law in the State of Michigan, that great State of Michigan has passed and enacted an amendment or a law similar to the one I am presenting, so I would like to present this amendment and move for its adoption without further argument.

Mr. VIOLETTE: Mr. President, I feel that the reconsideration of our action would lead to the very purpose for which we had a unanimous ought not to pass report out of our committee. The only person who appeared and spoke in favor of this bill was the sponsor. We had similar legislation presented to this legislature two years ago which after considerable and lengthy debate was amended to the extent where at a special session of the legislature the legislature had to reconsider all the action it took with regard to that type of legislation and revert the law to where it was previously and to where it is today and that is that in all foreclosures you have a one year period of redemption.

The Committee felt that the present condition of the law is fair and equitable to everyone concerned. I have seen the amendment which Senator Stern proposes to offer; as a member of the Judiciary and as a Senator it would not be acceptable to me for such a state of confusion that we have to depart in any way from the one year period of redemption. Secondly, because it would again place the mortgage foreclosure in such a state of confusion that we would be back where we were after the adjournment of the last legislature. For that reason I ask that his motion does not prevail.

Mr. SHIRO of Kennebec: Mr. President, the last bill in the debate, I had agreed with Senator Stern and disagreed with Senator Violette. I now wish to reverse myself and agree with Senator Violette and oppose Senator Stern. This is one of the enjoyments of the legal profession. On one day we are very good friends and the next day we are very bitter enemies.

I wish to oppose the motion that we reconsider this particular bill. I think there is a great deal of danger in regard to the bill, and also I think perhaps in making passing remarks, I ought to state that I don't think that Senator Violette is in the middle of the road on this bill. I think he is right out front.

If there is anything that this bill will do — and I feel that I speak with some experience because I represent some financial institutions, several, in fact, and I don't know of too many of the ones that I represent anyway, that are strictly in favor of this bill. I haven't been asked by them to give this bill strenuous support. I don't recall being called by any savings banks saying that this is something that is going to help them or stimulate them giving money but I will tell you what I do think having done a great deal of work for some financial institutions. I think that what this bill will do will be certainly to stimulate second mortgage business by specially organized second mortgage companies. Actually what it will do will be to make easy money and easy foreclosures and that is exactly what this bill will be designed to do. It is not going to bring any more money into the state from anywhere

else. We all know that if there is any we need to stimulate more money in this state is more industry, more economic activity. That is what is going to bring it. But there is a certain amount of attraction for second mortgage money in this state. There are some companies now, financial institutions that are doing it now, and of course it is to their advantage to have this six months redemption period rather than the full year.

But all it can do is just like many persons now who are deluded into thinking that they can borrow money and have the ability to meet it because the money is easy to get, end up in tragedy and financial tragedy for them. Just as we know we all have had the opportunity to discuss how easy it is to get money from a finance company. This is actually the same thing, only the finance company in this case would be a second mortgage company and they would be placing a second mortgage on probably the most important piece of property that a person has in his whole life, and that is real estate, their home.

If a foreclosure takes place on a home and if a foreclosure can take place in a short period of time, an individual stands to lose practically his whole life savings, his whole life investment. This is not in my opinion a good bill and I would say it certainly deserves our vote not to reconsider as much as I would like to extend the courtesy to Senator Stern. We have agreed on most matters during the session. I would ask the Senate in this particular instance to oppose his motion to reconsider.

The PRESIDENT: The motion before the Senate is the motion by Senator Stern of Penobscot that the Senate reconsider its action whereby it accepted the Ought Not to Pass report.

Mr. VIOLETTE of Aroostook: Mr. President, I request a division.

A division of the Senate was had.

One having voted in the affirmative and twenty-seven opposed, the motion to reconsider did not prevail.

The President laid before the Senate the 10th tabled and especially assigned item (H. P. 1096) (L. D. 1493) Resolve, Repealing Authorization for Disposal of Western Maine Sanatorium; tabled on May 20, by Senator Duquette of York pending adoption of Senate Amendment "A"; filing S-239; and on further motion by Mr. Duquette of York, Senate Amendment "A" was indefinitely postponed, and the bill was passed to be engrossed in concurrence.

The President laid before the Senate the 11th tabled and especially assigned item (H. P. 454) (L. D. 608) House Reports; from the Committee on Business Legislation on Bill, "An Act Decreasing Interest Rate for Small Loan Agencies"; Majority Report, Ought not to pass; Minority Report, Ought to pass; tabled on May 20, by Senator Mendell of Cumberland pending acceptance of either report, and that Senator yielded to Senator Harding of Aroostook.

On motion by Mr. Harding of Aroostook, the bill was indefinitely postponed.

The President laid before the Senate Item A-5 on page 2, Bill, "An Act Increasing Salaries of Official Court Reporters" (S. P. 164) (L. D. 494) tabled earlier in today's session by Senator Violette of Aroostook pending consideration; and on further motion by the same Senator, the Senate voted to reconsider its former action whereby the bill was passed to be engrossed.

House Amendment A was read.

Mr. Violette of Aroostook presented Senate Amendment A to House Amendment A and moved its adoption.

Senate Amendment A to House Amendment A (S-256) was read and adopted, House Amendment A as amended by Senate Amendment A was read and adopted.

Thereupon, on further motion by the same Senator the Senate voted to reconsider its former action whereby it adopted Committee Amendment A; and on further motion by the same Senator, Committee Amendment A was indefinitely postponed.

Thereupon, the bill as amended was passed to be engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate Item A-6, Bill, "An Act Clarifying the Inland Fisheries and Game Laws" (S. P. 428) (L. D. 1375) tabled earlier in today's session by Senator Harding of Aroostook pending consideration; and on motion by Mr. Manuel of Aroostook, the bill was retabled and especially assigned for the next legislative day.

The President laid before the Senate Item 6-16, Bill, "An Act to Create a State Commission of Culture and Recreation" (S. P. 418) (L. D. 1328) tabled earlier in today's session by Senator Stern of Penobscot pending motion by Senator Violette to accept the Ought to pass in new draft report.

Mr. VIOLETTE of Aroostook: Mr. President, not being able to inform the Senate as to the probable length of debate on this bill, I move that it be tabled until the next legislative day.

Thereupon, the motion prevailed and the bill was retabled and especially assigned for the next legislative day.

The President laid before the Senate Item 7-1, Bill, "An Act Relating to Relatives' Financial Responsibility to Recipients of Aid to the Aged, Blind or Disabled" (H. P. 626) (L. D. 833) tabled earlier in today's session by Senator Shiro pending passage to be engrossed.

Thereupon, Senator Carter of Kennebec presented Senate Amendment A and moved its adoption.

Which amendment (S-254) was read and adopted, and the bill as amended was passed to be engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Violette of Aroostook, the Senate voted to reconsider its action taken earlier in today's session whereby it passed to be enacted Item 8-2 bill, "An Act Affecting Certain Statutes Pertaining to Court Process and Procedure in Criminal Cases and to Kindred Matters" (S. P. 356) (L. D. 1140); and to further reconsider its action whereby the bill was passed to be engrossed.

The same Senator presented Senate Amendment A and moved its adoption.

Which amendment (S-253) was read and adopted and the bill as amended was passed to be engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Harding of Aroostook,

Adjourned until Monday next at ten o'clock in the morning.