

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Third
Legislature*

OF THE

STATE OF MAINE

1967

KENNEBEC JOURNAL
AUGUSTA, MAINE

ERRATA:

The header on page 835

in the Regular Session

should read

“HOUSE, MARCH 28, 1967”

instead of

“HOUSE, MARCH 24, 1967”

HOUSE

Tuesday, March 28, 1967

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. C. Duncan Moores of Eliot.

The members stood at attention during the playing of the National Anthem by the Marshwood High School Band, S.A.D. 35, of Eliot and South Berwick.

The journal of the previous session was read and approved.

Papers from the Senate

From the Senate: The following Communication: (S. P. 584)

STATE OF MAINE
BUREAU OF PUBLIC
IMPROVEMENTS
AUGUSTA

March 22, 1967

The Honorable Senate and House of Representatives of the One Hundred and Third Legislature

In accordance with the provisions of Title 5, Section 1742, Maine Revised Statutes Annotated, we are submitting herewith the "Status of Capital Improvement Projects, Authorized by the 102nd and Previous Legislatures, Including Cash Expenditures Through June 30, 1966."

Respectfully,

(Signed) NIRAN C. BATES
State Director of Public
Improvements

Came from the Senate read and with accompanying papers ordered placed on file.

In the House, the Communication was read and with accompanying papers ordered placed on file in concurrence.

From the Senate: The following Joint Resolution:

Whereas, the City of Presque Isle has made outstanding progress in several major areas of civic improvement and turned potential economic misfortune into a substantial community betterment; and

Whereas, the National Municipal League and Look Magazine co-sponsor annual awards honoring cities whose citizens have taken concerted action to improve their communities; and

Whereas, the City of Presque Isle is one of eleven communities in the United States of America to receive this award of distinction which is a national example of the high degree of courage, determination and progressive leadership of the citizens of this State; now, therefore, be it

Resolved: That the City of Presque Isle be heartily commended by the Maine Senate and the House of Representatives of the 103rd Legislature for this significant achievement made possible through the cooperative efforts of the members of the Presque Isle City Council, the City Manager and the Presque Isle Industrial Council, and the support of countless dedicated citizens of this spirited community; and be it further

Resolved: That special recognition be given to those in the Legislature who represent this proud community which has brought recognition and honor to our State, namely, Senator George H. Barnes, Senator Floyd L. Harding, Representative George W. Scott and Representative Ronald S. Wight; and be it further

Resolved: That a copy of this resolution, duly authenticated by the Secretary of State, be transmitted by the Secretary of State to Frederick B. Lunt, Chairman of the Presque Isle City Council, Dr. Arthur Reynolds, President of the Presque Isle Industrial Council, for distribution to their members and the aforementioned Legislators. (S. P. 585)

Came from the Senate read and adopted.

In the House, the Resolution was read and adopted in concurrence.

Senate Reports of Committees Ought to Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought to pass" on Bill "An Act relating to Nonlapsing

Funds for Development of Swan Island" (S. P. 242) (L. D. 602)

Report of same Committee, acting in accordance with Joint Order (S. P. 579) reporting a Bill (S. P. 582) (L. D. 1546) under title of "An Act Appropriating Moneys for Research Study of Pesticides" and that it "Ought to pass"

Report of the Committee on Claims reporting same on Resolve in favor of Loudon C. Minor of Cape Elizabeth for Automobile Damage by Escapee from Boys Training Center (S. P. 469) (L. D. 1161)

Report of the Committee on Inland Fisheries and Game reporting same on Bill "An Act Prohibiting the Use of Dogs for the Hunting of Wild Animals in Lincoln County" (S. P. 189) (L. D. 424)

Report of same Committee reporting same on Resolve Allocating Money to Repair Fish Screen at Outlet of Thompson Lake (S. P. 230) (L. D. 555)

Came from the Senate with the Reports read and accepted and the Bills and Resolves passed to be engrossed.

Reports were read and accepted in concurrence, the Bills read twice, Resolves read once, and tomorrow assigned.

Ought Not to Pass Tabled and Assigned

Report of the Committee on Inland Fisheries and Game reporting "Ought not to pass" on Bill "An Act Prohibiting the Hunting of Muskrat, Mink, Otter and Fisher with Firearms or Bow and Arrow" (S. P. 6) (L. D. 12)

Came from the Senate with the Bill substituted for the Report and passed to be engrossed as amended by Senate Amendment "A".

In the House: Report was read.

(On motion of Mr. Haynes of Camden, tabled pending acceptance of the "Ought not to pass" Report and tomorrow assigned.)

Non-Concurrent Matter

Bill "An Act relating to Legal Size of Salmon Taken from Green Lake, Alligator Lake and Upper Middle Branch Pond, Aurora, and T28 MD, Hancock County" (S. P.

108) (L. D. 179) which was passed to be engrossed as amended by House Amendment "A" in non-concurrence in the House on March 17.

Came from the Senate passed to be engrossed as amended by House Amendment "A" as amended by Senate Amendment "A" thereto in non-concurrence.

In the House: The House voted to recede and concur with the Senate.

Non-Concurrent Matter

Bill "An Act relating to Social Security Payments to Beneficiaries after Death of Individual" (H. P. 137) (L. D. 201) which was passed to be engrossed in the House on March 21.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" in non-concurrence.

In the House: The House voted to recede and concur with the Senate.

Non-Concurrent Matter Tabled and Assigned

Bill "An Act Concerning the Practice of Public Accountancy" (H. P. 1016) (L. D. 1508) which was referred to the Committee on Legal Affairs in the House on March 8.

Came from the Senate referred to the Committee on Business Legislation in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Scribner.

Mr. SCRIBNER: Mr. Speaker and Members of the House: I would like to move that this item be tabled until the next legislative day, for the benefit of the members of both the Legal Affairs Committee and the Business Legislation Committee. This same bill was before the 102nd Legislature, and it was withdrawn. It's quite a lengthy bill, and the four members of the Legal Affairs Committee that were concerned with this before, and I would like to have it tabled until I can talk

with the Chairmen of both committees to see if they might concur in referring it to the Legal Affairs as it was originally.

(On motion of Mr. Benson of Southwest Harbor, tabled pending further consideration and tomorrow assigned.)

Orders

On motion of Mr. McMann of Bath, it was

ORDERED, that Mark Gediman and Kevin Lemont of Bath be appointed to serve as Honorary Pages for today.

On motion of Mr. Hewes of Cape Elizabeth, it was

ORDERED, that Mr. Payson of Falmouth be excused from attendance while he is undergoing a check-up at the Maine Medical Center.

On motion of Mr. Ross of Bath, it was

ORDERED, that Mr. Hunter of Durham be excused from attendance for the duration of his illness.

The SPEAKER: Will the Sergeant-at-Arms escort the gentleman from Southwest Harbor, Mr. Benson, to the rostrum to serve as Speaker pro tem.

Thereupon, Mr. Benson assumed the Chair as Speaker pro tem and Speaker Kennedy retired from the Hall.

House Reports of Committees Leave to Withdraw

Mrs. Wheeler from the Committee on Legal Affairs on Bill "An Act relating to Transportation of Liquor by Minors" (H. P. 524) (L. D. 755) reported Leave to Withdraw.

Mr. Dennett from the Committee on State Government reported same on Bill "An Act Increasing Salary of Supreme Court Messenger in Cumberland County" (H. P. 548) (L. D. 780)

Reports were read and accepted and sent up for concurrence.

Ought Not to Pass

Mr. Brennan from the Committee on Judiciary reported "Ought not to pass" on Bill "An Act relating to Charitable Solicitations" (H. P. 450) (L. D. 625)

Report was read and accepted and sent up for concurrence.

Ought to Pass in New Draft New Drafts Printed Tabled and Assigned

Mr. Gaudreau from the Committee on Inland Fisheries and Game on Bill "An Act relating to Use of Power Boats on Big Nesowadnehunk (Sourdnahunk) Lake, Piscataquis County" (H. P. 220) (L. D. 310) reported same in a new draft (H. P. 1088) (L. D. 1555) under same title and that it "Ought to pass"

Report was read.

The SPEAKER pro tem: The Chair recognizes the gentleman from Gardiner, Mr. Hanson:

Mr. HANSON: Mr. Speaker and Members of the House: I have no quarrel with the members of the Fish and Game Committee and so forth, but I think that this type of legislation should be looked over a little, because shortly we'll have so many lakes in the State that we won't be allowed to fish on unless we go out and purchase a small motor and a small boat as well to fish with. I haven't too large a boat, but I do have a 55-horse Homelite motor, and I can troll down with that motor as easy as you can with a 10-horse motor. If I remember right, this is the third bill that's been before this body, and I would hope that somebody would table this pending acceptance of the report of the committee, to see if this could be ironed out.

(On motion of Mr. Gaudreau of Lewiston, tabled pending acceptance of the Committee Report and specially assigned for Thursday, March 30.)

Mr. Hewes from the Committee on Judiciary on Bill "An Act relating to Children Needing Protective Custody" (H. P. 607) (L. D. 851) reported same in a new draft (H. P. 1089) (L. D. 1556) under

same title and that it "Ought to pass"

Report was read and accepted, the New Draft read twice and tomorrow assigned.

Ought to Pass Printed Bills

Mr. Quinn from the Committee on Judiciary reported "Ought to pass" on Bill "An Act relating to Validation of Defects in Foreclosure of Real Estate Mortgages" (H. P. 753) (L. D. 1100)

Mr. Shaw from the Committee on Legal Affairs reported same on Bill "An Act to Change the Name of the Congregational-Christian Conference of Maine and to Enlarge its Purposes" (H. P. 530) (L. D. 760)

Reports were read and accepted, the Bills read twice and tomorrow assigned.

Ought to Pass with Committee Amendment

Mr. Jalbert from the Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating Money to Supplement Federal Vocational Funds for Area Education Programs for Apprentices and Other Adults Workers" (H. P. 777) (L. D. 1139) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was read and accepted and the Bill read twice.

Committee Amendment "A" was read by the Clerk as follows:

COMMITTEE AMENDMENT "A" to H. P. 777, L. D. 1139, Bill, "An Act Appropriating Money to Supplement Federal Vocational Funds for Area Education Programs for Apprentices and Other Adult Workers."

Amend said Bill by adding at the end before the Statement of Facts the following:
"The breakdown shall be as follows:

EDUCATION,	1967-68	1968-69
DEPARTMENT OF		
Matching Funds—		
Federal Vocational		
Act-Adult Educa-		
tion Program		
All Other	\$30,000	\$30,000'

Committee Amendment "A" was adopted and the Bill assigned for third reading tomorrow.

Mr. Brennan from the Committee on Judiciary on Bill "An Act relating to Suspension of Motor Vehicle Operator's License Pending Appeal in Operating under the Influence Cases" (H. P. 270) (L. D. 391) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was read and accepted and the Bill read twice.

Committee Amendment "A" was read by the Clerk as follows.

COMMITTEE AMENDMENT "A" to H. P. 270, L. D. 391, Bill, "An Act Relating to Suspension of Motor Vehicle Operator's License Pending Appeal in Operating Under the Influence Cases."

Amend said Bill by striking out everything after the amending clause and inserting in place thereof the following:

"If any person convicted of any violation of this section shall appeal from the judgment and sentence of the trial court, his license and right to operate a motor vehicle in this State shall be suspended during the time his appeal is pending in the appellate court, unless the trial court shall otherwise order, or unless the Secretary of State, after a hearing, shall restore the license or permit pending decision on the appeal; **provided that in all cases of first conviction under this section the license and right to operate a motor vehicle shall not be suspended during the time his appeal is pending in an appellate court.** The license of any person against whom probable cause is found and who is held under bail pending the action of the grand jury for the violation of this section, shall be suspended until the final disposition of the charge."

Committee Amendment "A" was adopted and the Bill assigned for third reading tomorrow.

Mr. Brennan from the Committee on Judiciary on Bill "An Act relating to Detention of Juveniles" (H. P. 407) (L. D. 573) reported

“Ought to pass” as amended by Committee Amendment “A” submitted therewith.

Report was read and accepted and the Bill read twice.

Committee Amendment “A” was read by the Clerk as follows:

COMMITTEE AMENDMENT
 “A” to H. P. 407, L. D. 573, Bill, “An Act Relating to Detention of Juveniles.”

Amend said Bill by striking out all of the last 4 lines (last 3 in L. D. 573) and inserting in place thereof the following: ‘In exercising its discretion, the court may order that the juvenile be detained, pending disposition of the case, in any place deemed by the court to be suitable, including a jail but excepting the Boys Training Center and juvenile institutions.’

Committee Amendment “A” was adopted and the Bill assigned for third reading tomorrow.

**Divided Report
 Tabled and Assigned**

Majority Report of the Committee on Election Laws on Bill “An Act relating to Applications for and Marking of Absentee Ballots” (H. P. 215) (L. D. 305) reporting “Ought to pass” as amended by Committee Amendment “A” submitted therewith.

Report was signed by the following members:

Messrs. ANDERSON of Hancock
 BERRY of Cumberland
 —of the Senate.

Messrs. HAWES of Union
 HENLEY of Norway
 HODGKINS of Greene
 JANNELLE

of Scarborough
 BOURGOIN of Fort Kent
 BERNARD of Auburn
 Mrs. BOUDREAU of Portland
 —of the House.

Minority Report of same Committee reporting “Ought not to pass” on same Bill.

Report was signed by the following member:

Mr. COUTURIER
 of Androscoggin
 —of the Senate.

Reports were read.

The SPEAKER pro tem: The Chair recognizes the gentleman from Union, Mr. Hawes.

Mr. HAWES: Mr. Speaker and Members of the House: I move that we accept the Majority “Ought to pass” Report.

Thereupon, on motion of Mr. Gill of South Portland, tabled pending the motion of Mr. Hawes to accept the Majority “Ought to pass” Report and specially assigned for Thursday, March 30.

**Divided Report
 Tabled and Assigned**

Majority Report of the Committee on Election Laws reporting “Ought to pass” on Bill “An Act relating to Opening and Closing Time for Polls” (H. P. 577) (L. D. 809)

Report was signed by the following members:

Messrs. ANDERSON of Hancock
 BERRY of Cumberland
 COUTURIER
 of Androscoggin
 —of Senate.

Mr. BERNARD of Auburn
 Mrs. BOUDREAU of Portland
 Mr. JANNELLE
 of Scarborough
 —of the House.

Minority Report of same Committee reporting “Ought not to pass” on same Bill.

Report was signed by the following members:

Messrs. HAWES of Union
 BOURGOIN of Fort Kent
 HENLEY of Norway
 HODGKINS of Greene
 —of the House.

Reports were read.

(On motion of Mr. Henley of Norway, tabled pending acceptance of either Report and specially assigned for Tuesday, April 4.)

Passed to Be Engrossed

Bill “An Act relating to Salaries Paid by the State to Ministers of the Gospel” (H. P. 83) (L. D. 113)

Bill “An Act relating to Area Directional Sign for China Lake Region” (H. P. 138) (L. D. 202)

Bill "An Act Reclassifying Certain Tidal Waters of Hancock County" (H. P. 196) (L. D. 285)

Bill "An Act Reclassifying Certain Tidal Waters in York County" (H. P. 236) (L. D. 344)

Bill "An Act Reclassifying Certain Tidal Waters of Waldo County" (H. P. 239) (L. D. 347)

Bill "An Act Classifying Certain Inland Waters of the Presumpscot River Basin" (H. P. 280) (L. D. 400)

Were reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed and sent to the Senate.

Third Reader

Tabled and Assigned

Bill "An Act Authorizing the City of Portland to Use Park Lands for Public Highway Purposes" (H. P. 520) (L. D. 732)

Was reported by the Committee on Bills in the Third Reading and read the third time.

(On motion of Mr. Richardson of Cumberland, tabled pending passage to be engrossed and specially assigned for Tuesday, April 4.)

Bill "An Act relating to Registration and Safety of Inland Steamers for Hire" (H. P. 523) (L. D. 754)

Bill "An Act Providing for Oceanographic Research Projects by Division of Geological Survey, Department of Economic Development" (H. P. 536) (L. D. 765)

Bill "An Act Revising the Railroad Workers Credit Union of Maine" (H. P. 676) (L. D. 948)

Bill "An Act relating to Biennial Elections of Penobscot Tribe of Indians" (H. P. 746) (L. D. 1068)

Bill "An Act relating to Biennial Elections of Passamaquoddy Tribe of Indians" (H. P. 748) (L. D. 1095)

Were reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed and sent to the Senate.

Amended Bills

Third Reader

Tabled and Assigned

Bill "An Act relating to Definition of Wilderness Area Under State

Park and Recreation Laws" (S. P. 453) (L. D. 1132)

Was reported by the Committee on Bills in the Third Reading and read the third time.

(On motion of Mr. Littlefield of Hampden, tabled pending passage to be engrossed and specially assigned for Thursday, April 6.)

Resolve Providing for Purchase of Copies of History of Richmond-on-the-Kennebec (H. P. 464) (L. D. 677)

Resolve Designating Certain Highways in Lincoln County as Mariner and Pioneer Trail (H. P. 743) (L. D. 1065)

Were reported by the Committee on Bills in the Third Reading, read the second time, passed to be engrossed as amended by Committee Amendment "A" and sent to the Senate.

Bill "An Act to Revise the Oil Burner Men's Law" (H. P. 1074) (L. D. 1504)

Was reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed as amended by House Amendment "A" and sent to the Senate.

At this point, Speaker Kennedy returned to the rostrum.

SPEAKER KENNEDY: The Chair thanks the gentleman from Southwest Harbor, Mr. Benson, for his service and commends him for an excellent performance.

Thereupon, the Sergeant-at-Arms escorted the gentleman from Southwest Harbor, Mr. Benson, to his seat on the Floor, amid the applause of the House, and Speaker Kennedy resumed the Chair.

Passed to Be Enacted Emergency Measure

An Act relating to Cooperative Agreements to Enforce Highway Transportation Laws (S. P. 356) (L. D. 940)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members

elected to the House being necessary, a total was taken. 123 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Increasing Indebtedness of Town of Woodland School District (H. P. 479) (L. D. 692)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure Tabled and Assigned

An Act relating to Permits for Motorcycle Operation (H. P. 566) (L. D. 798)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

(On motion of Mr. Lewin of Augusta, tabled pending passage to be enacted and specially assigned for Friday, April 7.)

Emergency Measure

An Act Appropriating Funds for Capital Construction and Equipment at Aroostook State College, Gorham State College, Central Maine Vocational-Technical Institute and Stevens Training Center (H. P. 1087) (L. D. 1549)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Finally Passed Emergency Measure

Resolve to Continue Review of Maine Criminal Statutes (S. P. 374) (L. D. 987)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of same and none against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act Authorizing Out-of-State Banks and Trust Companies to Act as Fiduciaries (S. P. 105) (L. D. 176)

An Act relating to Admission of Patients to State Hospitals (S. P. 156) (L. D. 327)

An Act relating to Religious Faith of Foster and Adoptive Homes (S. P. 246) (L. D. 606)

An Act relating to Election of Town Officials (S. P. 332) (L. D. 866)

An Act relating to Transfer of State Prison First Offenders under Age of Thirty-six to Reformatory for Men (S. P. 362) (L. D. 958)

An Act Authorizing the Taking of Bail in the District Court (S. P. 375) (L. D. 988)

An Act relating to Divorce Actions by Military Nonresidents Stationed in Maine (H. P. 104) (L. D. 131)

An Act Providing for Voluntary Foster Home Placement of Children (H. P. 184) (L. D. 273)

An Act Regulating the Daily Limit of Certain Fish Taken from Inland Waters of the State (H. P. 317) (L. D. 451)

An Act relating to Issuance of Notes by Clinton Water District (H. P. 375) (L. D. 522)

An Act relating to Investment of Funds of Credit Unions (H. P. 414) (L. D. 580)

An Act Repealing Noncontributory Pension Plan for Police Department of City of Brewer (H. P. 452) (L. D. 627)

An Act Prohibiting Fictitious Grouping in the Business of Insurance (H. P. 474) (L. D. 687)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

**Enactors
Tabled and Assigned**

An Act Increasing Fees for Registration of Barbers (H. P. 487) (L. D. 700)

An Act relating to Definition of the Practice of Barbering (H. P. 488) (L. D. 701)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed.

(On motion of Mr. Carroll of Limerick, tabled pending enactment and specially assigned for Thursday, March 30.)

An Act relating to Salaries of Members of Board of Optometry and Increasing License Renewal Fees of Optometrists (H. P. 492) (L. D. 705)

An Act Establishing Long Lake Game Management Area, Aroostook County (H. P. 501) (L. D. 714)

An Act Repealing the Law Relating to Labeling of Imported Meats Sold in Retail Stores (H. P. 652) (L. D. 907)

An Act relating to Filing Abstract of Record of Divorce with Superior Court (H. P. 684) (L. D. 955)

An Act relating to Retirement Benefits for Police Officers under State Retirement System (H. P. 719) (L. D. 1014)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

**Enactor
Tabled and Assigned**

An Act relating to Retirement Benefits to Widows of State Police Members Retired under Noncontributory Statute (H. P. 1077) (L. D. 1540)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

(On motion of Mrs. Fuller of York, tabled pending enactment and specially assigned for Tuesday, April 4.)

Finally Passed

Resolve relating to Ice Fishing on Fourth Musquacook Lake, T.

10, R. 11, T. 11, R. 11, Aroostook County (S. P. 229) (L. D. 554)

Resolve to Change the Name of Long Pond, Sandy River Plantation, Franklin County, to Beaver Mountain Lake (H. P. 324) (L. D. 458)

Resolve Authorizing Attorney General to Convey Interest of the State in Certain Islands in Little Sebago Lake to Merton A. Look (H. P. 367) (L. D. 514)

Resolve Designating U. S. Route No. 1-A in Maine as a Blue Star Memorial Highway (H. P. 628) (L. D. 884)

Resolve Providing Funds for Fisheries Instruction and Literature Publication and Dissemination (H. P. 641) (L. D. 896)

Resolve Providing for a Retirement Allowance for Lois Blackwell Goodwin (H. P. 721) (L. D. 1016)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, finally passed, signed by the Speaker and sent to the Senate.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

HOUSE REPORT — Ought to Pass in New Draft — Committee on Election Laws on Bill "An Act to Revise the Election Laws" (H. P. 445) (L. D. 620) — New Draft (H. P. 1076) (L. D. 1539)

Tabled—March 21, by Mrs. Boudreau of Portland.

Pending—Acceptance.

On motion of Mrs. Boudreau of Portland, the "Ought to pass" in New Draft Report was accepted and the New Draft read twice.

The same gentlewoman then offered House Amendment "A" and moved its adoption.

House Amendment "A" was read by the Clerk as follows:

HOUSE AMENDMENT "A" to H. P. 1076, L. D. 1539, Bill, "An Act to Revise the Election Laws."

Amend said Bill by inserting after the enacting clause, a new section, as follows:

'Sec. 1. R. S., T. 21, § 362, amended. The first sentence of

section 362 of Title 21 of the Revised Statutes is amended to read as follows:

On request at least 3 5 business days in advance of a municipal caucus by the person who calls it, the registrar shall prepare a certified copy of the voting list for use at the caucus, at the expense of the municipality.'

Further amend said Bill in section 4 by inserting after the underlined word "**appoint**" in the last line (same in L. D. 1539) the underlined words '**the necessary number**'

Further amend said Bill by striking out all of section 6 (same in L. D. 1539) and inserting in place thereof the following section:

'**Sec. 6. R. S., T. 21, § 532, sub-§ 5, amended.** The last sentence of subsection 5 of section 532 of Title 21 of the Revised Statutes, as enacted by section 4 of chapter 451 of the public laws of 1965, is amended to read as follows:

They shall be in attendance at all times during voting hours on election day.'

Further amend said Bill by adding at the end thereof, a new section, as follows:

'**Sec. 22. R. S., T. 21, § 1579, sub-§ 17-A, amended.** Subsection 17-A of section 1579 of Title 21 of the Revised Statutes, as enacted by chapter 103 of the public laws of 1965, is amended to read as follows:

17-A. Soliciting certain votes. A person who solicits votes from patients in a state hospital for the mentally ill the mentally ill and persons committed to jails and the State Prison;'

Further amend said Bill by renumbering the sections of the Bill to read consecutively.

Thereupon, on motion of Mr. Ross of Bath, tabled pending the adoption of House Amendment "A" and specially assigned for Thursday, April 6.

The Chair laid before the House the second tabled and today assigned matter:

An Act relating to Fishing for Bass in Sheepscot River and Tributaries, Lincoln County (H. P. 500) (L. D. 713)

Tabled—March 21, by Mr. Bernard of Auburn.

Pending—Passage to be enacted.

Thereupon, on motion of Mr. Bernard of Auburn, passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the third tabled and today assigned matter:

SENATE MAJORITY REPORT (9)—Ought Not to Pass—Committee on Industrial and Recreational Development on Bill "An Act relating to Technical Assistance by Maine State Park and Recreation Commission" (S. P. 214) (L. D. 477)

MINORITY REPORT (1) — Ought to Pass.

Tabled — March 23, by Mr. Fraser of Mexico.

Pending—Motion of Mr. Littlefield of Hampden to accept Majority Report in concurrence.

The SPEAKER: The Chair recognizes the gentleman from Mexico, Mr. Fraser.

Mr. FRASER: Mr. Speaker, out of courtesy to the gentleman from Waterville, Mr. Fortier, as he is out of his seat I would ask that it be tabled again until tomorrow.

Thereupon, on motion of Mr. Benson of Southwest Harbor, tabled pending the motion of Mr. Littlefield of Hampden to accept Majority Report in concurrence and tomorrow assigned.

The Chair laid before the House the fourth tabled and today assigned matter:

HOUSE MAJORITY REPORT (7)—Ought to Pass—Committee on Judiciary on Bill "An Act relating to Equal Fault of Claimant Under Comparative Negligence Law" (H. P. 605) (L. D. 849) MINORITY REPORT (3)—Ought Not to Pass.

Tabled—March 23, by Mr. Conley of Portland.

Pending Motion of Mr. Hewes of Cape Elizabeth to reconsider Acceptance of Majority Report.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker and Members of the House: This relates to a bill which deals with negligence laws primarily, it was reported out of committee 7 to 3 "ought to pass." I feel that it ought not to pass. In my opinion it is one of about ten bills that have been proposed before the Legislature this term to revamp negligence laws.

We have already enacted one of the laws, the one dealing with loss of consortium for wife. You maybe recall that the gentleman from Bath, Mr. Ross, called upon the gentleman from Houlton, Mr. Berman, to define loss of consortium for you when this passed the House several weeks ago. That was one of the bills. The one with which we are concerned now, which is L. D. 849, is another bill.

Another one for example, L. D. 994, prohibits anyone from the age of seventy from serving on a jury. L. D. 994 places persons seventy or older in the same category with persons engaged in unlawful traffic of intoxicating liquors who are known to be officially addicted to the use of intoxicating liquors or have been convicted of any scandalous crime of gross immorality.

Another bill, of these ten or so, is L. D. 850 which removes the charitable immunity—not just the charitable immunity up to the limits of the insurance coverage—but the unlimited charitable immunity.

Last session three major laws were enacted by the Legislature revamping the negligence laws, and this time, as I said, about ten have been proposed. I would like to see that 849 is not enacted. It seems to me that this bill provides the reckless, the wanton, the wrongdoer who is very much at fault in causing an accident, a benefit for his wrongdoing. Now, the Judiciary Committee this particular time favored this bill seven to three. You know, of course, how lawyers differ in matters. The

Supreme Court of the United States has recently come out with — I say recently, or the past few years, with several earthshaking rulings, and there are many lawyers that believe in those laws and the rulings of the Supreme Court, and there are many lawyers who will not go along with the Supreme Court. In the same vein, this particular Judiciary Committee seven to three favors this bill. If the Speaker of the House and the President of the Senate had appointed other lawyers to be on the Committee rather than the ten that were appointed it might have been that this bill would be coming out of committee seven to three, "Ought not to pass."

I believe that it is poor legislative procedure for a bill to be passed this year and then next year perhaps or next term, next session, to be repealed. Two years ago the Legislature enacted, or passed a bill which was signed by the Governor allowing the party who was somewhat at fault, perhaps partially at fault, to recover in a tort action. This bill would go all the way and let anyone who was at fault in causing an accident recover against somebody who might only be a bit at fault.

I want to call your attention to a bad situation which I believe was discussed two years ago on the floor of the House. It dealt with the pedestrian who was crossing a street, near a crosswalk, and his feet were a few feet or a foot or two over the crosswalk so that he was struck by a passing motorcyclist I believe, and the example was stated that under that law as it existed back ten, twenty, thirty, fifty years ago, would not permit that plaintiff to recover one iota because he was perhaps one percent or three percent or ten percent at fault. Now this bill would go — as a matter of fact two years ago the law was changed so that anyone who was up to fifty percent at fault can now recover. The party who was less at fault may recover from the person who is more at fault.

Now L. D. 829, with which we are concerned right now, permits

a party who is 99 percent at fault — say the motorcyclist we are using in our hypothetical example who strikes this pedestrian or who loses control of his motorcycle because the pedestrian is not on the crosswalk, but is a foot or two or a few feet from the crosswalk, this bill permits that motorcyclist who is perhaps 95 percent at fault to recover something for his own wrongdoing, his own misdeed.

I believe it's immoral that such a law be enacted. We lawyers will, of course, follow any law that is passed here, but it seems to me that the party who is only slightly at fault, more or less innocent, will lose in this case. The only ones who will benefit are the party who was reckless and wanton or very much at fault and his lawyer. The little man, in effect, will lose in the situation if this bill becomes law. It almost seems as though they are trying to make two wrongs a right in a case such as this, the wrong done by the wrongdoer and the wrong of passing this law.

So, in short, it is my contention that this bill is unjust, unfair, immoral. The main beneficiaries would be the wrongdoer and his lawyer, and it is my belief that this bill should not become law, and for that reason I have asked reconsideration of the acceptance of the Majority Report, and would ask that we reconsider this and then in due course recede from our previous action and refuse to accept this report and this bill. I thank you.

The SPEAKER: Is the House ready for the question? The motion before the House and the pending question is reconsideration of the acceptance of the Majority "Ought to pass" Report.

The Chair recognizes the gentleman from Houlton, Mr. Berman.

Mr. BERMAN: Mr. Speaker and Members of the House: As House Chairman of the Judiciary Committee and as one of the seven members signing the Majority "Ought to pass" Report, and I repeat, the "Ought to pass" Report, I have gone to some length to answer the somewhat, I would say in all due regard, immodest

and unfair remarks which have been uttered. I strongly oppose the motion of the gentleman from Cape Elizabeth, Mr. Hewes, to reconsider. He was one of a minority of three who sought to undermine the majority of the Committee, and I use the word advisedly, abort a most civilized and humane bill, L. D. 849, a bill which I have had the privilege of sponsoring.

If we look back across time, we see in western civilization men emerging from the ice age; men emerging from the stone age; men emerging from the iron age. We see honest and conscientious people listening to the words of the great prophets, to the words of Him who said: Do unto others as you would have them do unto you; men listening to the words of Socrates and Aristotle, of Sir Thomas Moore and Thomas Jefferson; of Abraham Lincoln and Theodore Roosevelt; and believe me, ladies and gentlemen, Theodore Roosevelt when he was President of the United States signed into law, if I remember my history correctly, a bill very similar to the one which I am asking this House to consider today, and I have never considered President Theodore Roosevelt a very immoral man, as a matter of fact I thought that his character was of the highest.

Now as men listen to those who would define justice, and justice was defined succinctly to render to every man his due. As our predecessors wrote into the preamble of the American Constitution way back in 1787 the striking phrase: to promote the general welfare, the great son of our sister state, New Hampshire, travelled down to the mother state, Massachusetts, and there Mr. Daniel Webster who proclaimed that justice, justice, ladies and gentlemen, is the greatest concern of man on earth, and this bill, this simple bill 849 is concerned with simple justice, and I hope that this House will concur in that noble proclamation of Daniel Webster.

Now this bill which I stand asking for today had a full and expository hearing before the one en-

tirely professional committee of the Legislature, the Committee on Judiciary. I say this not in derogation of any other committee, but in complete frankness, sincerity and candor, that the seven-man majority on that Judiciary Committee did its work and did its work thoroughly and well. Their report was for true justice. Their report was to help as this bill will help, the crippled and the maimed and the widow and the orphan, for actually all this bill is is an act to purify the law of comparative negligence as a great improvement on our present statute, and it is that purification that I am speaking about today. Certainly, there is no attempt, and this bill will never see that anyone profits from his own wrong, for that would be shabby. All we are asking in this bill, that no wrongdoer who has caused greater injury to another than that which was caused to him, that this wrongdoer shall not escape, as he can escape today, but that this wrongdoer shall respond in damages to the extent that the injuries that he caused exceed the injury caused him.

To give a very simple example, if a man does \$2,000 worth of damage to you and through some fault of your own you have done \$1,000 worth of damage to him, under the present law if the court or the jury or both in concert determine that you were equally at fault, the fact that you had sustained \$2,000 worth of damage and the other man sustained only \$1,000 worth of damage would mean that you could not recover one nickel, even though your loss was greater. All this simple law says, if you have sustained \$2,000 worth of damage as determined under the procedure presently laid down in the Statute, and we are not changing that procedure, and the other man has sustained \$1,000 worth of damage because of some negligence on your part, you should not in all fairness receive the full \$2,000, but you should receive the difference, \$1,000, and that is simply all this bill is about, and I, for one, do not consider that immoral. As a mat-

ter of fact, I consider that very sound and very just.

Now to go back to the Majority Report on this bill, we have sitting on the Judiciary Committee three learned and able men who have been judges in this state: Judge John Quinn of Bangor, Judge Edmund Darey of Livermore Falls and Judge Peter Mills of Farmington. All three of those judges were in favor of this bill. Also, the former House Chairman of Judiciary, the estimable gentleman from Old Orchard, Mr. Danton, was in favor of this bill, and the conscientious and diligent gentleman from Portland, Mr. Brennan, was in favor of this bill. The two junior members on the Committee were joined by a third in issuing the seven to three or the three to seven as you would have it Minority "Ought not to pass" Report.

Now naturally I would have been pleased for those three to have gone along with us, because on the other bill which I had introduced earlier in the session and which I believe is now to be the law of Maine, the other bill which went to purify the injustice which had formerly existed in the law of consortium, received a one hundred percent report from the Committee on Judiciary "Ought to pass." This bill has received a seventy percent of the Committee on Judiciary "Ought to pass." Now I don't know how many members of this House, including myself, got a seventy percent majority when we ran for election, but I say that a seventy percent majority on a committee as thoroughly trained as the Committee on Judiciary is a very, very sound proposition.

Furthermore, I am not asking you to rely on my opinion that this proposition is very sound. We are not alone in this. A truly distinguished jurist and one of the great authorities in this field of law in the entire world, in the entire world, ladies and gentlemen, is on our side. This jurist is honored and respected both in America and abroad. He has spent

his entire life in this field of law. He is the author of the monumental second restatement of the law of torts as published by the American Law Institute which is the acme of distinction in this Country. His name is William Lloyd Prosser. Mr. Prosser tells us that civil law jurisdictions apportion damages without Maine's unhappy restriction and that these civil law jurisdictions have no particular difficulty, contrary to what the estimable gentleman from Cape Elizabeth may feel on this so-called pedestrian situation which he expressed to you. I am speaking about the overall fundamentals of the law.

Furthermore, this is very conclusive in my opinion. The American Admiralty law, which can involve one or two or more ships, apportions damages without restrictive barnacle, which this bill seeks to remove from the Maine Law. So I say to you members of this House, if our American Admiralty Courts sitting the length and breadth of the land, from Maine to Hawaii, from California to New York, from the Great Lakes states with their navigable waters to the Florida Keys, if these American courts can operate without the restrictive barnacle, the unhappy barnacle of a last minute concession, I say it is only fitting and proper to strike off this barnacle from the Maine law and to purify it.

Members of the House, I have modeled this law after the law which the magnificent Winston Churchill wrote upon the statute books of England many years ago. As a matter of fact, some ten years ago I went to London with a contingent of American lawyers to hear Mr. William Lloyd Prosser discuss this very matter at the Inner Temple on King's Bench Walk. He told us that as the accident rate mounts, obviously as more people are born and more automobiles are on the highways and byways, that the apportionment of damages will become so familiar and so accepted that most states should be willing to change.

Now I would think that our able and learned judges are fully as capable as the British judges and the English juries, and if the English Courts of Law can do arithmetic, the American Courts of Law with their college and university training and the juries with their vast educational experience that is available in this country today certainly can do their arithmetic.

Now I know I have been long in this presentation, but it is because I have been long in this pilgrimage; it has been some ten years. It has been some ten years that I have been preparing for this very bill, and I say to you in all sincerity, I am not as well prepared as I would like to be, but I hope you will forgive me if I have transgressed a bit on your patience. I can say in complete candor that perhaps no one aside from myself has spent as long a time considering this measure. If they have, I certainly will be glad to apologize, because I am always willing to learn although learning doesn't always come easy. Therefore, members of this House, I say let this bill have life, it was born last week, and do not commit any abortion today by voting for the motion of the gentleman from Cape Elizabeth, Mr. Hewes, to reconsider which would kill the bill. I am going to request a division when the vote is taken, and I urge you with all my heart to vote against aborting this bill; do not vote to reconsider. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Members of the House: I did come in late on this thing, and I expect a question that I might be about to ask probably I will be told by my legal friends in this group that it is beside the point and is not pertinent. However, the thing, as I glance at this and I have heard discussion on this bill before, I am going to ask this question to this group in regard to perhaps its hinging a little bit on determin-

ing equal liability. What I am going to say is, supposing I am walking along on the sidewalk and I step out into the street, a lone foot person, I had no right to, probably I didn't look, somebody else in a car, a vehicle of death and destruction is proceeding down the street and he was also exceeding the speed limits, he looked around and he didn't see me step out in the street, so perhaps we were equally liable.

Are my heirs, I am going to say, because I expect I would have been killed, is this going to be decided that they can be given no consideration under such a situation as this? I would be glad if any of my legal friends would attempt to answer me or tell me that I am way off in left field and not considering the point in issue at all.

The SPEAKER: The gentleman from Perham, Mr. Bragdon, poses a question through the Chair to any member who may answer if they choose.

The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker, in answer to your question, under the proposed law of Mr. Berman the party who ran into you and was more at fault than you were could sue your estate sir, for any damages that he received if his car went out of control in trying to dodge you, and he was injured, and he would receive a percentage of damage from your estate if your estate were solvent, at least he would receive a judgment against your estate I might say.

If I might comment in answer to some of Mr. Berman's comments, it is my understanding that in Admiralty the liability is only up to the limit of the value of the vessel and that would not be the case under attorney Berman's bill, Brother Berman's bill. I also understand that only one or two states have this type of law that is proposed in this bill and the other forty-five or more do not have such a bill, and just in short I feel it is immoral for a reckless,

wanton wrongdoer to recover for his own wrong.

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Scott.

Mr. SCOTT: Mr. Speaker and Ladies and Gentlemen of the House: Fools rush in where Angels fear to tread, and I feel probably that's what I am doing here this morning, but I feel that I would be remiss in my duty if I didn't point out a few things to you. First, I want to support my good friend, the gentleman from Cape Elizabeth, Mr. Hewes, and review for you briefly what has happened on this type of legislation.

Last session the Trial Lawyers' Association through this House repealed the contributory negligence law, and substituted in its place the comparative negligence law. They were also successful in removing the \$35,000 limit for instantaneous death, so now the sky is the limit for awards of this type. We haven't begun to feel the effect of these changes in our automobile insurance rates, and now we have before us an equal fault bill which means that in the case of an accident both parties can collect.

Now ladies and gentlemen of the House, I think it is about time we began thinking about the insuring public because they are the ones that are going to pay the bill, and I hope you join me in supporting the gentleman from Cape Elizabeth, Mr. Hewes.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker and Members of the House: I would like to just briefly comment about committee reports from the Judiciary Committee. I've had two bills before this Committee this year, one was aimed at helping unfortunate persons who get in financial difficulties and the other was on our calendar today having to do with charitable solicitations to prevent fraudulent solicitations. This had the backing of the Cancer Society, Heart, National Foundation, Multiple Sclerosis, Pine Tree Society and all of those most worth-

while organizations, and on both of these very fine causes I received a one hundred percent report from the Judiciary Committee, "Ought not to pass". So it would appear that an affirmative seventy percent report from this committee is a very auspicious thing.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Richardson.

Mr. RICHARDSON: Mr. Speaker and Members of the House: I am speaking in my individual capacity of course and not as the majority floor leader, and I come before you with fear and trepidation because those of you who were here during the last session of the Legislature will recall seeing the gentleman from Cumberland, Mr. Richardson go down in flames over this very issue.

In the last session of the Legislature as has been pointed out, the American or Maine Trial Lawyers Association, a group made up of lawyers who represent plaintiffs, injured parties in law suits, succeeded in getting through the Legislature a number of changes, some of which I agreed with and others which I did not agree with. They did succeed in getting through a comparative negligence statute which says in essence this, if you by some slight act of negligence or thoughtless inattention get yourself injured, if you were the fellow in the gentleman from Perham, Mr. Bragdon's factual setup who just stuck his foot over the edge of the curb, and a speeder comes down the road roaring drunk and runs over you and kills you, under our earlier law it was suggested the deceased party's estate could recover.

Well, we made that change in the law, but when this was discussed in the Judiciary Committee, of which I was then a member, they said: Harry, why are you so opposed to this, and I said: because somebody who is to a greater extent at fault, somebody, as the result of their own thoughtless inattention or getting themselves into a state of drunkenness that they don't know what they are doing and who are ninety-nine and

nine-tenths percent responsible for what happened, that person I don't think should be allowed to recover. No problem, no problem. So on the law these words were put: if such claimant, that is, if this injured party is found by the jury to be equally at fault, the claimant shall not recover. Now I didn't like the whole law in the first place and this amendment was just a first step I thought in clearing up some of its problems. Someone who has been tremendously involved I don't think should be permitted to recover, and if you don't think an injured party represented by a skilled attorney can find you guilty of at least one percent of negligence, then I don't think you are being honest with yourself.

I agree with the gentleman from Cape Elizabeth, Mr. Hewes, that we have gone far enough. Mr. Berman, the gentleman from Houlton, refers to the ice age and the stone age; this ladies and gentlemen is a bill to honor the dollar age. It is simply an attempt to get recovery in every case regardless of fault, regardless of legal responsibility. I hesitate to fly in the face of the majority of the learned Committee on Judiciary. However, as an attorney and again not speaking as the majority floor leader, I am very much opposed to this L. D. and I hope that you will favor reconsideration. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Berman.

Mr. BERMAN: Mr. Speaker and Members of the House: As a lawyer practicing in a modest-sized town where I was born, I have very little to do with the type of law that is practiced in the metropolitan areas, but I do know justice when I see it, and as I listened to the words that have been spoken by the opposition I thought, are they talking about the merits of the bill or is there something else involved? Are there insinuations or innuendo here? There is one word that I haven't mentioned. I hope that no one will mention it, because this has nothing to do with simple justice, whether a wrongdoer should escape if he has

caused more harm than that which was caused to him.

Now some of you who know me well know that I have a habit which is not always good, it leads to eyestrain, I read a lot, and the situation that my good friend from Cumberland, Mr. Richardson speaks about you should reach a point where you don't help the crippled and the maimed and the widows and the orphans, the father or husband was damaged far greater than the damage that he may have caused to someone. It's like the Pharisee in the New Testament, he wrang his hands and went away saying so sorry, but he did nothing to help the cause.

Now with regard to the estimable remarks of my experienced colleague from Bath, Mr. Ross, about the Committee on Judiciary, I would say this, and this I say in full sincerity, in full candor, my bill L. D. 849 is about as simple a bill as could be. It merely strikes out one sentence. When Mr. Ross came before our committee, and it is an overworked committee, I can plead to that, I am sorry that it happens to be so, but it is a very overworked committee, Mr. Ross, in both those bills, which had merit mind you, were very lengthy bills running many, many, many pages. Now those of us who labor reasonably hard and reasonably conscientiously cannot be expected to take all those long and verbose bills that come down to Judiciary when they have something that has some good in it and expect to come out with something reasonable and practicable. It just is not that simple. And I hope that the fair-minded and conscientious people in this House will well consider that fact.

Now my estimable friend from Wilton just talked about certain kinds of rates. I say to you that Mr. William Kiplinger is not one of the flaming liberals in this country, he is not one of the do-good editors, he is a very sound and sensible man; he is as conservative in money matters as perhaps some of you who know me well when these appropriation bills come down the line as I am.

Now only last month in his Changing Times, the Kiplinger Service for Families, which is not written in technical or legal language, he discusses to some extent the rates of insurance in the various states. This is of February, 1967. The law which was supposed to send rates skyrocketing out of orbit, that the bi-partisan House and Senate passed last time, and in this House it was by more than a two-thirds vote and if my memory serves me correctly my estimable friend from Cumberland got up and said this is the worst, this is about the most atrocious bill that I have seen in this Legislature, and ladies and gentlemen of the House, that was the bill that was written twenty years ago by Winston Churchill's government, and it wasn't the worst bill, it was one of the better bills. I have tried to do my homework, and when I have gone into the Kiplinger Newsletter when it talks about the rates in the states, what are the states where the rates are below the average? Maine; Maine, is one of the many states where the rates are below the average, so I am not going to be scared of insurance rates and Mr. Kiplinger tells us that Maine has insurance rates below the average.

The estimable gentleman from Cape Elizabeth, Mr. Hewes, told us about the American Admiralty law, and where the amount of damages is limited to the value of the ship. It is limited to the value of the ship for very practical reasons. Only today if memory serves me correctly, I was reading I think it was in the Kennebec Journal and I think it may have been on the last page of the Kennebec Journal, where there was some discussion of what happened to an unfortunate tanker off the coast of England, and it cited what the value of that tanker was. Now Admiralty Law is very practical as this law is very practical. When Admiralty Law limits the amount of recovery to the value of the ship, I suggest that you look to the back page of the Kennebec Journal if I am not mistaken, and I could be in error as to the page,

and you will see what the value of that ship was. So I am not going to be taken in by any insinuations or innuendos no matter how well meant. I know the facts of this case and I know them well. I know the philosophy of this case and I know it well, and all I am asking you to do is to vote against the motion for reconsideration and let the people of Maine have simple justice.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Sullivan.

Mr. SULLIVAN: Mr. Speaker and Members of the House: I want to congratulate Mr. Berman on doing a very thorough job. Also I want to call the attention of these lawyers in this Legislature to the story on page 32 of this morning's Wall Street Journal — they will not only collect on insurance on that tanker but they will collect insurance on the millions and millions of dollars worth of oil in that tanker.

Further, I want the members of this House to remember that my dearly loved friend from my County of Cumberland is an insurance lawyer and he demonstrated in the last Legislature, the 102nd, that he was an insurance lawyer—

The SPEAKER: The gentleman will—

Mr. SULLIVAN: And he demonstrated this morning that he is looking at the interests—

The SPEAKER: The gentleman will restrain his remarks—

Mr. SULLIVAN: I'm sorry. I want to point out that these happen to be facts and he, in my opinion, is not interested in the welfare of anybody hurt or damaged in any kind of an accident.

The SPEAKER: The gentleman will be careful of his remarks.

Mr. SULLIVAN: Those are my opinions and I believe under the right of free speech I have the right to express them.

The SPEAKER: The Chair would call the gentleman to order, that he may not attack any member.

Mr. SULLIVAN: I am not attacking the gentleman! I'm making simply a statement of fact! And further, settlements in this State, in my opinion, when people are hurt in accidents of any kind, the settlements in relation to our sister states are very low. And in my opinion the insurance companies have too much of a tie-up with certain doctors; and also the claim agents have too much freedom, and I know from personal experience that they overstep their rights. Thank you.

I hope that you will go along with Mr. Berman and not reconsider this bill.

Mr. McMann of Bath then moved the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question it must have the consent of one third of the members present. All those in favor of the Chair entertaining the motion for the previous question will vote in the affirmative and those opposed in the negative. The Chair will open the vote.

78 voted in the affirmative and 47 voted in the negative.

The SPEAKER: Obviously a sufficient number have voted and the motion for the previous question is entertained. The question now before the House is, shall the main question be put now? This question is debatable for no more than five minutes by any one member. As many as are in favor of the main question being put now will say aye; those opposed, no.

A viva voce vote being taken, the main question was ordered.

The SPEAKER: The question before the House is on the motion of the gentleman from Cape Elizabeth, Mr. Hewes, that the House reconsider its action whereby it accepted the Majority "Ought to pass" Report on Bill "An Act relating to Equal Fault of Claimant Under Comparative Negligence Law," and the Chair will order a vote. All those in favor of reconsidering will vote in the affirmative and those opposed in the

negative. The Chair opens the vote.

A vote of the House was taken.

70 having voted in the affirmative and 65 having voted in the negative, the motion to reconsider did prevail.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker, I move that we indefinitely postpone the bill.

The SPEAKER: The gentleman from Cape Elizabeth, Mr. Hewes, now moves the indefinite postponement of the Bill and both Reports. Is this the pleasure of the House?

The Chair recognizes the gentleman from Portland, Mrs. Carswell.

Mrs. CARSWELL: Mr. Speaker and Members of the House: I agree with the gentleman from Cape Elizabeth, Mr. Hewes and the gentleman from Cumberland, Mr. Richardson. It seems to me that this legislation if passed would only encourage the irresponsible person to be that much more irresponsible. I can see a blind person or an elderly person stepping just a little ways from the curb and I can see a racing motorcycle driver or some of these people that race their cars, they think that Congress Street and Main Street is a drag strip, I can see them racing down and saying, "Oh I don't care, if I get in a court case I can get a lawyer and play plenty and I can fight and maybe I can win." So they jazz up the motor and there they go, and the poor innocent person who might have just, because the person was blind or a little bit elderly, just stepped down before they saw the car coming sixty miles an hour up the next block, and the person has to go to court and hire a lawyer and get into a big legal tangle.

I do feel, as I said before, that this only tends to encourage the irresponsible person to become more irresponsible and with all the accidents we have today I think this is very poor legislation. I hope that the bill is indefinitely postponed.

The SPEAKER: The Chair recognizes the gentleman from Kingman Township, Mr. Starbird.

Mr. STARBIRD: Mr. Speaker, I move that this be tabled until Thursday next.

Thereupon, Mr. Benson of Southwest Harbor requested a division on the tabling motion.

The SPEAKER: The gentleman from Kingman Township, Mr. Starbird, moves that this be tabled until Thursday next. All those in favor of the tabling motion will vote in the affirmative and those opposed in the negative. The Chair opens the vote.

A vote of the House was taken.

30 having voted in the affirmative and 106 having voted in the negative, the tabling motion did not prevail.

The SPEAKER: Is it now the pleasure of the House that this Bill and its Reports be indefinitely postponed?

The Chair recognizes the gentleman from Portland, Mr. Brennan.

Mr. BRENNAN: Mr. Speaker and Members of the House: Speaking for myself and not for the Democratic Party, I support the remarks that were made by the gentleman from Houlton, Mr. Berman. If this bill should become law, an individual would be liable only for the damages he caused. I submit that this is justice. What could be fairer? If there is a unsuccessful or a successful cross suit or counterclaim, there would only be one net recovery. I reiterate that there is no recovery unless the defendant is found to be at fault. This is not a give-away program. I urge you to vote against the motion of the gentleman from Cape Elizabeth, Mr. Hewes.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Gill.

Mr. GILL: Mr. Speaker and Members of the House: I do not like to become involved in a matter of which attorneys are so well informed. However, I think that we must respect them for their knowledge. I certainly believe our Judiciary Committee — and as I

said the other day, we might as well do away with our Joint Standing Committees if we are going to start to go against these committee reports, particularly that of the Judiciary Committee.

As far as the problem on Congress Street in Portland, cars speeding up and down — that is a matter for the local police and I personally do not go on Congress Street any more than I have to because we don't have that problem in South Portland. And this apparently appears to be a little bit — and this is no reflection on anyone — a case of the plaintiff versus the insurance companies, and I think we should keep this in mind; and I certainly have all the respect in the world for the Judiciary Committee. So therefore I would suggest that we oppose the motion to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Carswell.

Mrs. CARSWELL: Mr. Speaker and Members of the House: I would hope that nobody in this House thinks that I don't have respect for the Judiciary Committee, because I certainly do. But I feel that when a bill goes to committee it goes to committee so that everybody can have a chance, particularly the public, can have a chance to hear the bill aired, but it doesn't always mean that both branches have to accept the report. If this were so, there would be no reason to have second and third readings; it would come out as a committee reported it and go right through and we could be out of here in a few months.

However, each one of us has the opportunity to represent the people back home; to represent the Highway Safety Committee, to represent social welfare committees. This is why we have a chance to debate on the floor of the House, and I just want you to know that I have very high regard for the Judiciary Committee, for each member, and I also have very high regard for those who have the courage to put out a minority report.

We have to be thinkers, we have to be thinkers for the people who elected us; and I still say that with the accident rate that we have today and with the high insurance that has to be charged for certain teenagers who drive cars — the parents have to insure the cars before these teenagers drive them. I mean these are examples of the problems that we have of irresponsibility — and I will state as I said before, I do feel that this will give the irresponsible person encouragement to become more irresponsible and I feel that we have to protect those people who can't really protect themselves, such as the elderly person who just steps out on the curb and she doesn't realize this car is going sixty miles an hour when it shouldn't be. Is she partially responsible? I say no, and I do hope that this bill is indefinitely postponed.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, the gentelady from Portland, Mrs. Carswell, comments concerning the making the irresponsible more irresponsible, and I think that being true could be a very strong argument. I'd like to ask a question using the motorcycle individual that she mentioned. If this irresponsible motorcycle driver would wind up into an accident and would sue, would he be apt to recover?

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, poses a question through the Chair to any member who may answer if they choose.

The Chair recognizes the gentleman from Portland, Mrs. Carswell.

Mrs. CARSWELL: Mr. Speaker and Members of the House: I feel that whether or not this person would be able to recover would depend upon what goes on. In other words, if a person goes to court and has — and I'm going to say it — and has plenty of money to hire plenty of lawyers, and the other person goes to court and really doesn't have as much money to spend and doesn't have

as much, let's say, help or know-how or whatever you might say, there is possibly a chance that this person might not have as good a chance, and I'm not slamming the judges or any attorneys or anything else, but let's face it, there have been times when justice hasn't been dealt and where there is — just by judicial error or what it might be — and I would hate to see this happen.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Quinn.

Mr. QUINN: Mr. Speaker and Members of the House: I was one of the seven members of the Judiciary Committee that voted favorably on the bill. I haven't entered the debate but I listened intently to a long hearing for our committee on the pros and cons of this bill, and it was my considered opinion that the bill was all right and that I should vote favorably on it, which I did, and I would like to support the bill even now in hope that it is not indefinitely postponed because I think it is for the best interests of the citizens of this State.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Berman.

Mr. BERMAN: Mr. Speaker and Members of the House: First off, I would like to say to the Members of the House that I very deeply appreciate the remarks of the gentleman from South Portland, Mr. Gill, with respect to the Judiciary Committee and the able assistance given me by my very distinguished colleague, Judge Quinn of Bangor.

I was somewhat amused by some of the remarks of the very charming gentlewoman from Portland, Mrs. Carswell, on this bill. To some extent it reminds me of the legendary story of this clean-cut really all-American boy, Nathan Hale, when he stood with his hands tied behind him, his feet bound, and legend has it that those who condemned him to the gallows said: "We have the highest respect for you Mr. Hale, but this hurts us more than it is going to hurt you."

Now this law has been in effect in England since 1945. In 1938, if memory serves me correctly, a very conservative gent, Stanley Baldwin the Prime Minister, later Earl Baldwin of Bewdly said: "This is a matter that needs some study, so we will have a Law Revision Committee of the ablest brains in the United Kingdom." That Law Revision Committee studied and labored long and hard, not for one year, not for two years, but for eight long years. In 1945 while the Churchill government was still in power, it came in with basically the law that I'm trying to have the State of Maine put on the books today. That became the law of the United Kingdom without demur.

Now while I am very, very much concerned about this bill, I know that the State of Maine will live and breathe if this bill is not passed. I also know that it will live and breathe much easier if the bill is passed. I am not a scholar, but I am somewhat of a student and I remember how our forbears from all parts of the world came to this country and came to Maine. I remember that Maine was once a great and proud State. I hope that it is today. I remember when Maine had four representatives in Congress: I should correct that, three. But I know that there was a time when Maine had four representatives in Congress. Now we have two. Our population in Maine is relatively static—some come and some go. Maine has a great opportunity to be in the forefront of the Nation in jurisprudence today. I have tried to give the State that opportunity; I have not put in any irresponsible legislation. As a matter of fact, I do hope that the charming lady from Portland will do what I have done as far as calling this type of legislation what she has termed it, and that it will make law suits and it will make confusion. I wish that she would go down and look through every one of the law reports of the United Kingdom from 1945 through to the present day, and she would see that this law is administrated very fairly, very

equitably, and with no difficulty at all in the United Kingdom.

Now perhaps we're not as smart as those people. Perhaps we're not. At least when we took a vote a short time ago a substantial number of members of the House thought that we were not.

I know as I stand here today that the law which I advocate will some day be the law of the land. I would hope that it would come in my time; I would hope that it would come now. But those who like the Pharisee who just wring their hands and let us want, if they have their moment of victory, let them have it. I hope that they do not on the motion for indefinite postponement, but I know one thing, that my cause is just, I hope it triumphs today, but if it does not triumph today, I know that one day it will.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker and Members of the House: Because the motion to table this was defeated, I feel that I must now rise; not as a lawyer because I am not one, but only as a citizen who is now more interested than ever on this bill, and apparently there are many of us who are. I feel that the members who were chosen for this most important Judiciary Committee must have commanded some respect somehow because they were chosen. I also feel that I have heard various remarks and I feel that from these remarks I gathered that some of these have other than a primary interest in this and not just as a member of the House of Representatives. So, therefore, I would request that other people whether they be lawyers, especially if they are lawyers, enlighten me, if it is only for me, but for some of us who might know a little about insurance and would like to hear the other side of it, especially from someone who may or may not have any interest. Now I don't know if all these gentleman do; I know of two of them that do because I have been chosen to serve as a juror, and I do know that in-

urance companies do have a lot of money.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Sullivan.

Mr. SULLIVAN: Mr. Speaker and Members of the House:

First let me say that I'm sorry I'm so emotional, but because many of my friends and immediate family have suffered from the way certain insurance lawyers act, I want to refer to some of the remarks made by that very smart and beautiful fellow-representative from Portland. She is not a lawyer. She gives certain examples which have a very small part to do with this bill. I would suggest that the insurance lawyers, the smart, beautiful member of the Legislature herself, that they give a lot of consideration to what is the cause of deaths and injuries in about 75 percent of the cases in this country, and what are they due to? The drinking of liquor! And there are more people killed and injured on the highways of this country every year than all of the wars, or any war in our history. So I would suggest that they pay some attention to that, and I would suggest that particularly insurance lawyers that are protecting the insurance companies —

Mr. EWER: Mr. Speaker, point of order!

Mr. SULLIVAN: They can reduce the claims and they can save money for themselves and a big majority of the people of the country by curbing the drinking on the roads in the country. Thank you.

The SPEAKER: The gentleman may state his point of order.

Mr. EWER: Is there any method by which we can get back to the question before the House and get some debate and get it over with?

The SPEAKER: The Chair would advise the gentleman that the pending question is the motion of the gentleman from Cape Elizabeth, Mr. Hewes, to indefinitely postpone both reports and bill.

Will the gentleman take his seat.

Mr. SULLIVAN: Which gentleman?

The SPEAKER: I am referring to the gentleman from Portland, Mr. Sullivan, who completed his remarks.

The Chair recognizes the gentleman from Belgrade, Mr. Sahagian.

Mr. SAHAGIAN: Mr. Speaker, I move for the previous question.

The SPEAKER: The previous question has been moved, and for the Chair to entertain this motion, it must have the consent of one third of the members present. All those in favor of the previous question will vote in the affirmative and those opposed in the negative. The Chair will open the vote.

A vote of the House was then taken.

99 voted in the affirmative and 36 voted in the negative.

The SPEAKER: 99 having voted in the affirmative, the motion for the previous question is entertained. The question now before the House is, shall the main question be put now? Which is debatable for five minutes by any one member.

The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker and Members of the House: Oftentimes, in many, many semesters I have asked for the motion for the previous question, I have respect for the thinking of the gentleman from Belgrade Mr. Sahagian. However, I feel this is a very, very important measure, personally, I have asked a question that I would like to ask again; it's not been answered and I would like to have the privilege of asking that question before the motion is placed now. I do hope that we do have an opportunity to hear from those people who would like to be heard on this important measure. I certainly want to re-ask my question.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. Levesque.

Mr. LEVESQUE: Mr. Speaker and Members of the House: In view of the action taken by the members of this House regarding this particular document this morning, and in view of the fact that another member of the Com-

mittee wishes to express his views as a member of that Committee, I think possibly that the House would give every member of this House the opportunity to express his views fully and completely.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker, in answer to Mr. Jalbert's question—

The SPEAKER: The gentleman may not debate except shall the previous question be put now. The Chair now will ask the members, shall the main question be put now? The Chair recognizes the gentleman from Houlton, Mr. Berman.

Mr. BERMAN: Mr. Speaker, I appreciate very much the remarks that have just been made. There was a very modest member of our committee who wished to be heard on this bill, and I certainly hope no matter what you think about the merits of the bill that you will permit Judge Darey to express to you his views. Thank you.

The SPEAKER: Is the House ready for the question? Shall the main question be put now? All those in favor will answer yes, those opposed, no.

A viva voce vote being taken, the main question was not ordered.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I would like to have my question answered. I have a great deal of respect also for the gentle lady from Portland, Mrs. Carswell, but I was unaware that she passed the Bar exam. I would like to have this question answered in all fairness by the attorneys for and against. I think it is a fair question and I have had four notes asking me to ask my question again. Restating my question, if the irresponsible motor cycle driver wound up in court, would he be apt to collect?

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, poses a question through the Chair to

any member who may answer if they choose and the Chair recognizes the gentleman from Cumberland, Mr. Richardson.

Mr. RICHARDSON: Mr. Speaker and Members of the House: As one of those who passed the Bar exam, probably as the result of an administrative oversight, I would like to attempt to answer the question that was posed by the gentleman from Lewiston, Mr. Jalbert. I think the question is excellent; I think it goes to the heart of this whole question.

Under our present law, which is an extremely difficult law to understand, under our present law, if a plaintiff, an injured person who has brought the suit is found to have been to a greater or to an equal degree at fault as compared with the person against whom he seeks recovery, then the law says that he may not recover. This amendment to the law would remove this so that the person could recover regardless of the extent of his fault from any person who was found to be to any degree at fault. May I attempt to put this into perspective.

If you will in your mind's eye consider the typical ninety degree intersection governed by a red light. Let us assume that the gentleman from Lewiston, Mr. Jalbert is driving along this road on the preferred way, no stop sign, no stop light, no nothing, and he is proceeding, and I hope that the gentleman won't take offense, a couple of miles over the speed limit, just a couple. Coming in an opposite direction is a person who is intoxicated to the point that he doesn't even know he is in his car, let alone that he is moving and that he is on a highway, driving 85 or 90 miles an hour, and let us assume that this person comes through the stop light directly into the path of the vehicle being operated by the gentleman from Lewiston, Mr. Jalbert. Now there is no question really but that the person who is dead drunk and coming through the stop light is to a greater de-

gree at fault than is the gentleman from Lewiston, Mr. Jalbert, who just prior to the time this accident occurred was going a couple of miles over the speed limit.

Now a jury would be warranted in finding that a person in Mr. Jalbert's position was one degree negligent because he was established going slightly more than the established rate of speed and this violation is prima facie evidence of negligence. Now under our present law, which I urge you not to change, this drunken irresponsible driver would probably be held by the jury to be a greater degree at fault and he would not be permitted to recover. Under the proposal as suggested by the gentleman from Houlton, Mr. Berman, he would be able to recover, the only effect would be that the amount of damages that he recovered would be reduced to the extent to which he was negligent.

Now I hope that this is a fair explanation of the law for the intended legislative document. It was intended as a fair explanation of the law.

Finally, I want to make one more comment and then you will hear no more from me, thankfully. I have tried two of these comparative negligence cases to a conclusion, and while I have the greatest respect for the members of the Judiciary Committee, all of them, I want you to know that there is no premium or there is no requirement that everything that comes out of Judiciary Committee is absolutely right, and I know that no member of that Committee expects you to accept anything that comes out of that committee as being absolutely right and above question. I know that they all welcome examination, discussion and intelligent comment on any bill that they produce. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Darey.

Mr. DAREY: Mr. Speaker, Ladies and Gentlemen of the

House: I was one of the members of that Judiciary Committee that voted in favor of this bill. The Committee gave it serious consideration. I consider it a most equitable bill and speaking in language that we may understand instead of throwing around thousands and fifty thousand and millions of dollars, let's call it one hundred dollars. It's the law of comparative negligence and means just what it says. The irresponsible person who is entirely at fault certainly will not recover under the bill as it is written now, but let's assume that he had damages of one hundred dollars. Two cars come together, damage to each car one hundred dollars, this bill merely proposes that if one is eighty percent to blame for that accident the other is twenty percent to blame, he is not going to collect that one hundred dollars, he is going to collect twenty dollars. If he is twenty percent to blame that's the amount of his recovery, it's just as simple as that.

Now I have practiced law for over thirty-five years and I consider that this bill as proposed by Mr. Berman is best for the citizens of this State and I feel that it should be passed.

The SPEAKER: The Chair recognizes the gentleman from China, Mr. Farrington.

Mr. FARRINGTON: Mr. Speaker and Ladies and Gentlemen of the House: I think it is exceedingly unfair to cite any particular case because as we all realize cases are varied. The fact that we have passed a comparative negligence law which indicates that to be consistent we perhaps should pay in the same light. I have a great deal of respect for the surgeon so to speak in the case on anyone being in litigation. I have had an occasion to serve on the jury. There are many, many factors regarding the decision of any case in litigation. I think this is a fair bill. I therefore shall vote for the bill.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker, in answer to Mr. Jalbert's question, obviously if it is a one car collision and an irresponsible driver goes off the highway and hits a tree, the irresponsible driver could not recover against the owner of the tree, but if it is a two car collision in which one driver, the irresponsible one is say ninety percent at fault and the other driver ten percent at fault, the irresponsible ninety percent at fault driver may collect ten percent of his damages under L. D. 849 from the party who is only ten percent at fault.

Now it so happens that this L. D. does not apply only to motor vehicle torts. Tomorrow unfortunately I have to defend a man who did not have insurance, he is a defendant, in a contract, in an action in which he was unloading equipment and a link of the chain broke and although he is the defendant he did not have insurance and we are going in there and have to defend him just as though he were insured. The mere fact that this law is passed it doesn't apply only to insureds. It is my opinion that Mrs. Carswell's comments do go right to the heart of the bill because we are not trying to revoke the bill that was passed last year, we are — the law is staying as it was if we do not pass Mr. Berman's bill. If Mr. Berman's bill is passed the law is extended to include a whole new category of people, the people that are primarily at fault, actively at fault, not the party who is passively at fault.

In answer to Mr. Berman's comments, yes, if this law is passed the sun will shine, the sun will rise tomorrow, it may not shine but it will rise tomorrow, and the lawyers will enforce the law, we'll obey the law just as Mr. Bourgoin will obey the law relating to catching twelve Salmon in the lakes in Aroostook, but the mere fact that the law is passed, the bill is passed, doesn't make it a good law, and it is my opinion that this would be a better state in which to live if this law is not passed and therefore I hope that the motion to indefinitely postpone is passed.

The SPEAKER: The Chair would advise the membership that when they are referring to other members out of courtesy they will address them as the gentleman from Houlton, Mr. Berman, and not as simply Mr. Berman. This is the courtesy of the Maine House of Representatives.

The Chair will recognize the gentleman from Houlton, Mr. Berman.

Mr. BERMAN: Thank you, Mr. Speaker, Ladies and Gentlemen of the House, I will try to be relatively brief. You have heard from the opponents of the bill in answer to the question posed by the able gentleman from Lewiston. Now I should like to speak as the proponent of the bill in answering this question.

First off, I would say that this debate has brought forth a very significant fact, that under the law of parliamentary procedure under which parliamentary bodies such as ourselves operate and conduct our business, that this procedure has its limitations; that if we were operating for example a committee of the whole, we would be able to sit down and calmly and dispassionately take the situations that have been given to us and come up with calm and dispassionate answers. I frankly have been somewhat amused and somewhat askance at some of the questions that have been posed, and I will tell you why, and I will try to be quite brief. It has been the custom from time immemorial when you oppose something to think of all the outlandish possibilities. As a matter of fact, some learned men at times in the past used to discuss such apropos questions as how many camels could pass through the eye of a needle.

Now I have actually looked into this law and for twenty-two years since Winston Churchill put this law on the books of the United Kingdom, none of these, and I say it advisedly, absurd examples have occurred.

Now I cannot think that the people of the State of Maine are going to be absurd in these situations. I think they are pretty level-

headed. The irresponsible motorcyclist is not going to recover. As a matter of fact he really has no case which to take to the court. We have been talking about percentages, one percent, nine percent, ninety-nine percent or what have you. If they would simply read the law as it is laid down in the statute books of the court, which the courts will interpret today, this is what the present law states: where damages are recoverable by any person by virtue of this section subject to such reduction as is mentioned, the jury shall find and record the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced. If the irresponsible motorcyclist suffers himself \$2,000 worth of damage but causes \$5,000 worth of damage to another party, that irresponsible motorcyclist will not recover a nickel. As a matter of fact, as a matter of simple justice, that irresponsible motorcyclist will have to pay the opposite party \$3,000.

So we shouldn't worry about what I consider these rather outlandish examples. Again, if we were operating under a committee of the whole, I would be willing to sit down and dispassionately discuss this matter with you. I hope that you will not indefinitely postpone this measure today; I hope you will not abort this bill. You people have a wonderful opportunity this morning. It doesn't come very often, when you can come up with a bill of such significance as this, and I hope that you will defeat the motion for indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Mechanic Falls, Mr. Foster.

Mr. FOSTER: Mr. Speaker and Ladies and Gentlemen of the House: I was one of the members of the Judiciary that signed the Minority Report. I haven't seen or heard anything that has prompted me to change my mind since that day. There have been many comments made about the high quality of the Judiciary Committee. That I will subscribe to.

And one of the members, especially was the gentleman from Houlton, Mr. Berman, I have a great respect for him. And it is for that reason that I now would like to pose a question to him through the Chair.

I would like to ask Mr. Berman what his position was two years ago when this law was before the Judiciary Committee. Now if he has changed his mind since two years ago, and after Churchill had written so many laws, he must be able to reconcile somehow. So that is the question that I pose to the gentleman from Houlton, Mr. Berman.

The SPEAKER: The gentleman from Mechanic Falls, Mr. Foster, poses a question through the Chair to the gentleman from Houlton, Mr. Berman, who may answer if he understands the question. Does the gentleman understand the question?

The Chair recognizes that gentleman.

Mr. BERMAN: Mr. Speaker, out of courtesy to the gentleman from Mechanic Falls, I will say that I think I understand the question. Two years ago, the original bill that came before the Judiciary Committee was not the law that Winston Churchill put on the lawbooks. It was what I consider a very cumbersome law of the State of Wisconsin enunciating many of the same principles but dealing in very difficult propositions. I had the good fortune to know something about the Churchill law and I suggest to the members of the committee that in order to do justice to the people of the State of Maine we take a law that has worked and that has worked well for almost a quarter of a century.

Now one of the members of the committee, I believe it may have been the gentleman who had sponsored the so-called Wisconsin law, insisted on this fifty percent situation. Now I don't know quite how to put this point, but I will try it this way. I am a relatively easy fellow to get along with and I like to see a lot of harmony in the committee, and I made a concession which I regret and I re-

gret most deeply. I conceded to the fifty percent situation. My able friend, the gentleman from Cumberland, Mr. Richardson, also spoke urging the fifty per cent situation. What was his position? Even when I conceded the fifty percent proposition, he voted and fought against the bill.

But that has been the history of the bill and frankly, if I had not been such a good fellow, we wouldn't have this situation, the fifty percent situation would never have gotten into the law. And that I do deeply regret.

The SPEAKER: The Chair recognizes the gentleman from Solon, Mr. Hanson.

Mr. HANSON: Mr. Speaker and Members of the House: There have been two arguments here that have presented a question to me and I would like to ask through the Chair of any of the legal talent here if they could answer. One is the gentlewoman from Portland's argument that a court of law in the United States to some degree favors those with the most means and the most legal talent; and the other point is the gentleman from Houlton's argument, Mr. Berman, in which he continually refers to the English law and specifically to Winston Churchill.

Now like Mr. Berman I enjoy reading and I read a number of things that are perhaps not relevant, but I can recall reading several articles back over the years which indicated to me that the English system of justice is different from ours. And as I remember what I read it was that in an English court the judge, in the interest of justice, can question witnesses and bring out information pertinent to the obtaining of justice.

Now this is the question. Is this correct, is there a difference between the American style of trial and the English style of trial? Thank you.

The SPEAKER: The gentleman from Solon, Mr. Hanson, poses a question through the Chair to the members who have spoken on the issue, and they may answer if they choose.

The Chair recognizes the gentlewoman from Portland, Mrs. Carswell.

Mrs. CARSWELL: Mr. Speaker and Members of the House: I think perhaps the gentleman from Solon, Mr. Hanson, put words into my mouth. I did not say that our courts favor those with means and good attorneys but I did say that there are times that mistakes are made, attorneys and judges are not supernatural. I would like to believe that they are. Now this was the reason I made the statement that there are times, I feel, that justice is not completely dealt.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Berman, who may answer if he chooses.

Mr. BERMAN: Mr. Speaker, I do choose to answer and again I will try to be very brief. I have seen cases conducted both in England and in the United States, and fundamentally there is no difference. Now frankly, ladies and gentlemen, you don't have to take my word for it. The learned Chief Justice of the Supreme Judicial Court of Maine happened to be in England a year or so ago, he mentioned the same fact last summer at the Maine State Bar Association. So to answer the gentleman from Solon, Mr. Hanson, there is no essential difference between the British system and our own except, and I say this without any reference to personalities whatsoever, the English judges are more carefully selected and they are almost never appointed on a political basis.

The SPEAKER: Is the House ready for the question? The pending question is the motion of the gentleman from Cape Elizabeth, Mr. Hewes, that this Bill "An Act relating to Equal Fault of Claimant Under Comparative Negligence Law," House Paper 605, L. D. 849, and both Reports be indefinitely postponed, and the Chair will order a vote. All those in favor of indefinite postponement will vote yes; those opposed will vote no. The Chair will open the vote.

A vote of the House was taken.

62 having voted in the affirmative and 71 having voted in the

negative, the motion to indefinitely postpone did not prevail.

Thereupon, the Majority "Ought to pass" Report was accepted, the Bill read twice and assigned for third reading tomorrow.

The Chair laid before the House the fifth tabled and today assigned matter:

SENATE REPORT — Ought to Pass as amended by Committee Amendment "A" (S-17) — Committee on Inland Fisheries and Game on Bill "An Act Establishing Two Zones for Open Season on Deer" (S. P. 3) (L. D. 6) (In Senate, passed to be engrossed as amended by Senate Amendment "A") (S-32)

Tabled — March 24, by Mr. Gaudreau of Lewiston.

Pending — Acceptance in concurrence.

Thereupon, the "Ought to pass" Report was accepted in concurrence and the Bill read twice.

Committee Amendment "A" was read by the Clerk and indefinitely postponed in concurrence.

Senate Amendment "A" was then read by the Clerk and adopted in concurrence, and the Bill assigned for third reading tomorrow.

The Chair laid before the House the sixth tabled and today assigned matter:

Bill "An Act Prohibiting Hunting Deer with Certain Firearms" (H. P. 31) (L. D. 51) (In House, passed to be engrossed as amended by House Amendment "A") (H-86) (In Senate, passed to be engrossed without amendment in non-concurrence)

Tabled — March 24, by Mr. Richardson of Cumberland.

Pending — Motion of Mr. Shute of Farmington to reconsider receding and concurring.

Mr. Shute of Farmington then asked consent of the House to withdraw his motion to reconsider.

The Chair laid before the House the seventh tabled and today assigned matter:

Bill "An Act relating to a Closed Season on Wild Hares and Rabbits in York County" (H. P. 219) (L.

D. 309) (House Amendment "A")
(H-96)

Tabled — March 24, by Mr.
Levesque of Madawaska.

Pending — Passage to be en-
grossed.

On motion of Mr. Richardson
of Cumberland, retabled pending

passed to be engrossed and special-
ly assigned for Tuesday, April 4.

On motion of Mr. Richardson
of Cumberland,

Adjourned until ten o'clock to-
morrow morning.