

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Third
Legislature*

OF THE

STATE OF MAINE

Volume III

June 16 to July 8, 1967

Index

1st Special Session

October 2 and October 3, 1967

2nd Special Session

January 9 to January 26, 1968

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Tuesday, January 23, 1968

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

Prayer by Dr. David Van Strien of China.

The journal of yesterday was read and approved.

The SPEAKER: The Chair would request the Sergeant-at-Arms to escort the gentleman from Bath, Mr. Ross, to the rostrum to serve as Speaker pro tem.

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

**Paper from the Senate
Report of Committee
Ought to Pass in New Draft
Passed to Be Engrossed**

Report of the Committee on Judiciary on Bill "An Act relating to Loans on Fishing and Agricultural Projects under the Maine Industrial Building Act" (S. P. 783) (L. D. 1855) reporting same in a new draft (S. P. 811) (L. D. 1882) under same title and that it "Ought to pass"

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence and the New Draft read twice. Under suspension of the rules, the New Draft was read the third time, passed to be engrossed and sent to the Senate.

Orders

On motion of Mr. Hawes of Union, it was

ORDERED, that the use of the Hall of the House of Representatives be granted to the fire training service of the Department of Education for a Fire Chief Officers' Seminar to be held September 24, 25 and 26, 1968.

**House Report of Committee
Ought to Pass in New Draft
New Draft Printed
Tabled Until Later in Today's
Session**

Mr. Dennett from the Committee on State Government on Bill

"An Act Providing a Major Medical Insurance Program for State Employees" (H. P. 1296) (L. D. 1802) reported same in a new draft (H. P. 1342) (L. D. 1884) under title of "An Act Providing Accident and Health Insurance Program for State Employees" and that it "Ought to pass"

Report was read.

(On motion of Mr. Hanson of Gardiner, tabled pending acceptance of the Report and assigned for later in today's session.)

**Passed to Be Enacted
Emergency Measure**

An Act Amending the Maine Sanitary District Enabling Act (H. P. 1318) (L. D. 1861)

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. 121 voted in favor of same and 1 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

Bill "An Act to Allow Research in Irish Moss" (H. P. 1329) (L. D. 1874)

Tabled — January 19, by Mr. Martin of Eagle Lake.

Pending — Motion of Mr. Benson of Southwest Harbor to indefinitely postpone House Amendment "A" (H-528)

The SPEAKER pro tem: The Chair recognizes the gentleman from Southwest Harbor, Mr. Benson.

Mr. BENSON: Mr. Speaker and Members of the House: The amendment offered by the gentleman from West Bath, Mr. Hennessey, seeks to move the western boundary of the proposed leased area westward to include the Harpswell area. Now the subcommittee of the Legislative Research Committee which has had several public meetings, on this Irish Moss subject, found that most of the opposition to the leasing concept came from the Harps-

well area west, and it was for this reason that the redrafted bill, which you have before you now, Committee redraft, starts generally at the Kennebec and goes eastward. By doing this, we eliminate the area which generated most of the resistance to the leasing area, and therefore the proposed research area that we are considering now.

My motion to indefinitely postpone this amendment I feel keeps good faith with the people that we are trying to protect and to the best of my knowledge, and I think I'm right in saying this, the Kraft Food people, who resisted the leasing concept at this time, are in complete agreement with the Committee redraft which we are considering. I hope that you will support the motion for indefinite postponement of this amendment and that we will once again be considering the Committee redraft. Thank you.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bristol, Mr. Lewis.

Mr. LEWIS: Mr. Speaker, I wish to speak on the complete bill and not the amendment if I am in order. Undoubtedly, my remarks may fall on deaf ears, and I don't want to create the impression that I am opposed to the advancement of oceanography in any way, but coming from a seacoast area and representing a fairly large segment of the lobster fishing industry, I feel that my remarks should appear on the record in opposition to this bill.

I attended the hearing, sat through the hearing, and as I recall, the only two proponents were the two sponsors of similar bills. As the result of the bills being similar in regard to the gathering or the leasing of sea moss areas, the two bills were heard together. At that time it was brought out in the hearing, particularly in regard to the purchase of sea moss, that the two companies who are vitally interested in the gathering of sea moss in the State of Maine, Maine Colloids, for instance, stated that they were buying about 2% of their product in Maine, and Kraft Foods stated that they were

buying about 20% of their product in Maine.

Now it was brought out at the hearing that these companies are going into Canada and purchasing sea moss and on an average they are paying at least a cent or a cent and a half more to those individuals who gather the sea moss in Canada than they are paying to the men who are indulging in this gathering of sea moss in Maine. Now it would seem to me, I may be wrong, that in order to increase the product in Maine, if the price of sea moss paid to the sea moss rakers in Maine were advanced, that they undoubtedly would be able to get together more sea moss for their work in Maine here.

I go along with Jack Prince, Representative Prince, in his remarks at the beginning of this discussion last week, and I would like to go on record as being opposed to this bill.

Now it has been stated that if passage of this measure is not passed that it will be a great deterrent to our oceanography here in the State of Maine. Now by the wildest stretch of my imagination I can't see where the study of oceanography enters into this gathering of sea moss to any great extent. I visualize oceanography as a study of those products that may be buried in the sea that we know nothing about. We are fully aware of sea moss and have been aware of it for some time, so I can't see where it is going to deter our study of oceanography. Thank you, very much.

The SPEAKER pro tem: The Chair recognizes the gentleman from Harpswell, Mr. Prince.

Mr. PRINCE: Mr. Speaker, Ladies and Gentlemen of the House: I rise to concur with the remarks made by Representative Lewis of Bristol, and to reiterate some of the things that I have already said.

I am opposed to this bill as it suggests the attempt for some party or parties to get in the back door for future leasing. To be sure, the legislative bills for leasing our submerged islands and ocean bottom has been eliminated for the time being, and this so-called

research bill has been brought out to keep the infection of leasing in the background and a way to get in and around the back door. It is my thinking that Marine Colloids was the primary cause of a lease lobby at the regular and at this special session of the Legislature, and as far as I can figure out, that the kind of research that this company really wanted has already been made with several teams of skindivers and large boat equipment long before the regular session. These skindivers and boat equipment found big pastures of sea moss and big deep holes filled with tons of moss along the Maine coast. If a lease bill had been enacted it would have been just what they would want, as the other fellow who would soon learn of this rich pasture of moss could not have been able to get in, and it will take several years of similar research by others to gain this kind of information. Therefore, it isn't fair legislation as I see it when it benefits only one corporation. Kraft Foods, who are a large corporation with a large investment at South Portland, Maine, was opposed to this type of legislation, and they buy 20% of their raw material from Maine moss rakers.

On January 18 we gave two readings to this Legislative Document that never received public hearing, just minutes after the printed bill had reached our desks. Perhaps in a special session when conditions are not quite the same as they are in a regular session, it is in order and perfectly okay, but after all, we are dealing with what I consider a very important piece of legislation, and apparently the proponents of this bill think it is very important too, and therefore I feel this bill and the amendments deserve a great deal of respect.

This Legislative Document is of considerable importance to the people of our great State, and for those who make their living out of the sea. They depend on the members of the Legislature to protect their rights. They, in my opinion, on this issue have well demonstrated how they feel about a bill of this nature. How would

you feel if an issue affected your business or your pocketbook? I am sure you would try to protect your interests if it was a legislative issue like this that might be detrimental to you and set up a precedent.

I have much to say on this. Perhaps I had better delay somewhat, but I would like to remind the members of this House that the fishermen along the coast of Maine ask for very little in legislation. Their demands are for conservation and restrictions, and this certainly is no exception to the rule. I don't know of any other state along the Atlantic seaboard that has legislated to give business corporations special privileges. Oceanography programs are starting, and Maine will be engaged in such a program in the not too distant future. Don't be hasty with this legislation. Perhaps if our existing laws were handicapping what this bill is asking for, research, that would be one thing, but where any corporation who is engaged in the moss business and wants to use underwater machinery or do research work in any capacity have that right, this is not an oceanography program, and you know it. Also, don't forget, our Department of Sea and Shore Fisheries have good laboratory facilities at the Boothbay Harbor quarters, and that this department is constantly doing research work on every species of Maine marine life along with the Federal laboratories that are located in Boothbay Harbor.

This bill is an amendment to an old clam law which allows a clam farm under the direction of the Department of Sea and Shore Fisheries for a period of six years. The clams cannot be harvested for sale. This bill is an amendment to that law, adding sea moss and seaweed, and extending from within twenty-five feet of low water mark into the tidal and navigable waters of the Atlantic Ocean. It seems to me that any kind of mechanical equipment that is propelled in any form would have to be approved by the Federal Government and meet their regulations. The Government probably has cable and electronic equip-

ment resting on the bottom. I would not be surprised that the Air Base at Brunswick has already a military chartered area which would take in most of Casco Bay. We don't know of submarine activity, so therefore there are many complications that could result from this innocent looking little bill. So again it is important to make a study and find out about many of these situations that could be serious. When you legislate for underwater rights, we had better know what we are doing.

Our State Highway Department, for example, cannot let out a road project or a bridge project on contract regardless of how small the fill might be in tidal waters until they have consent from the Federal Government. In my way of thinking, this bill just clutters up our statutes.

And in conclusion, ladies and gentlemen, I would like to say that Marine Colloids knows where the moss is. There is nothing in our laws to prevent them from putting their harvest equipment to work. It has always been there for the taking, but let us make sure they all get some of it. If we, as a State, discover that this huge tonnage is there, and that only deep water equipment can get it, then the State is in a better position to make a more intelligent answer in legislation, but until that time, let nature take its course, let our Department of Fisheries continue its study and research as it has and is doing. Then in about three years look at this picture, you will be satisfied that it paid to wait. This legislation is not needed at this time. This is not emergency legislation. This legislation might involve the Navy and the Army Engineers. You will be doing a favor to all concerned to forget this legislation at this time. Mr. Speaker, I now move that this bill and all accompanying papers be indefinitely postponed.

The SPEAKER pro tem: The Chair would first remind the House that the pending question is on the indefinite postponement of House Amendment "A". When that is disposed of, then another motion will be in order.

The Chair recognizes the gentleman from Kittery, Mr. Dennett.

Mr. DENNETT: Mr. Speaker and Members of the House: I rise somewhat appalled this morning at the endeavors of the previous speakers to read into this bill something sinister and something evil. This bill is a far cry even from the original bill that arrived in this House. It is a rewrite, and as stated the other day it is actually a most innocuous document.

We here in this House have gone deep during the regular session and even at this session into appropriating money for oceanology and oceanography. Despite facts, despite statements that have been made that this has nothing to do with oceanology or oceanography, it is deeply involved. Anything to do with the ocean and its products or what is on the ocean floor or under it have a direct bearing on oceanology and oceanography.

Here we have concerns in the State of Maine, and I speak of both Marine Colloids and Kraft Foods, who have done much to exploit these natural resources that are on the ocean floor within the waters of the State of Maine. Now I have a pretty good idea that there were many, many people in this House that did not even know such concerns existed in the State of Maine, and that Carrageenin was manufactured within this State. As a matter of fact, until this study came before the Legislative Research Committee, I was unaware of it myself.

Now it is mentioned that Marine Colloids take but 2% of the sea moss from the waters of the State of Maine. This is true, they do, but they are willing to take all they can get. They would far rather have a source within the State of Maine than have to go afield to foreign countries. This product comes in from Nova Scotia, from Prince Edward Island, from Newfoundland, from Spain, from the West Coast of South America, the Philippine Islands, Indonesia, and yet it lies here available within our state. I, for one, believe that we should do our utmost to help these concerns exploit these which are our natural

resources. Kraft Foods objected to the original bill. This is no secret. Yesterday, they told members of the Committee, and I think they told others in the House, that this is a tolerable bill, that they can live with it, and they would be in favor of it, and they were the chief resistance.

I do believe that the fishermen, who are historically a very, very conservative group, would always like to have the status quo remain. I believe they are a little bit unreasonable. Frankly, I believe that they are fighting windmills. They are fighting problems that do not exist. As was told to you the other day these are really very very small areas in the State of Maine and would comprise only ten square miles within the thousands and thousands of square miles of ocean bottom that we have within the waters of the State of Maine.

This is an effort to help promote an industry in the State of Maine. We appropriate thousands and thousands of dollars for the DED to bring industry in the State of Maine and here we find ourselves opposing industry that not only is already here but trying to grow. If we persist in this we are not going to have a good image in the State of Maine. What will concerns that would like to locate here think? That immediately we're going to oppose them, to do everything we can to hurt them?

This that they seek to do is not a huge thing. I for one cannot be convinced that they want to drive the fishermen out of business; this is an absurdity in itself. We have got to live together in the State of Maine, we have got to work together; and what is prosperity for one is prosperity for all. Thanks you, ladies and gentlemen.

The SPEAKER pro tem: The Chair recognizes the gentleman from West Bath, Mr. Hennessey.

Mr. HENNESSEY: Mr. Speaker and Members of the House: Perhaps in rebuttal to the gentleman from Kittery, Mr. Dennett, but also to get a few more facts to go on the record, I would like to make a few more statements in regards this oceanography or moss bill or what have you.

We have been advised in hearings of the so-called "moss bill" that the foundation for such a development and our early steps into the field of Oceanography have already been facilitated by the so-called "mining bill" and activities under this bill. What are these so-called examples, and are they truly the method by which our State should undertake its oceanographic development?

1. They use the mining development at Brooksville or Harborside as a guide or example of a way to develop Maine.

2. In developing the mining activity, the state gave to Callahan mining the rights to this area for negligible income, the state is to be paid a per ton return of mined minerals. No regulations were made relative to pollution, or reclamation after mining is completed.

3. There are no miners in Maine, they will be imported as will be the equipment etc. to develop and harvest this resource. Therefore, there will be little real benefit from this.

4. Zinc and copper which is to be mined in this area are both toxic to shellfish. No money is set up for monitoring the possible pollutant effects. The limited return from this mine can be very small in comparison to the pollution or possible loss of the associated renewable resources, or even to possible loss of human life from copper and zinc poisoning.

5. This in truth was a great give-away from which the State of Maine will receive little.

6. If we are to develop our oceanography program on this basis, then we can foresee giving segments of our tidal and subtidal resources to industry in return for a small increase in low-wage jobs.

Q: Who is presently doing research in the algae area?

A: Sea & Shore Fisheries with some limited activity by Marine Colloids.

Q: What will be the relationship between vastly increased moss harvests and the other species such as lobsters, scallops, other shellfish and finfish?

A: These answers are not as yet available. No one knows

whether Irish moss acts as food for limited portions or all stages of fish and shellfish life. No one knows whether Irish moss acts as cover for certain stages of fish, shellfish and lobsters. In fact, there are no basic answers to these things at the moment and though these answers are being sought, it will take both time and money both of which are difficult to secure. It is suspected that moss acts as both food and cover for some or all of the major commercial fishery resources.

Q: What is actually known about the moss resources?

A: Very little. We are told that there are millions of pounds of unharvested moss, and that we need the development of cutter-harvesters to harvest this. It is very possible that the seasonal growth of moss is such that cutter-harvesting would be limited to a few days or weeks and that once the moss is headed it rapidly breaks loose and becomes "cast-moss" available to all. If such should be the case then the number of mechanical harvesters necessary to harvest this crop would be so great that the damage to other species would be increased many times.

Q: Will this bill secure the answers necessary to develop the best utilization of all the associated resources?

A: Only if it is so written and funded that the responsible agency or agencies are assured of the time and manpower and control to secure these answers.

The SPEAKER pro tem: The Chair recognizes the gentleman from Camden, Mr. Haynes.

Mr. HAYNES: Mr. Speaker and Members of the House: If this bill is defeated we should in all honesty do away with all spending for DED, for planning, for oceanography. This bill does provide for practical oceanography with the research being done at the expense of private firms. Now as for a matter of prices. I asked the Colloids company what the reason was for the difference in prices and they told me it was simply quality. Certain areas have bet-

ter quarries and therefore bring better prices.

I come from a district which is also on the coast, also has fishermen and lobstermen. I have heard no opposition to this bill in my area. Another point which was brought up, some allusion to pollution. This plant in Rockland pollutes neither the water nor the air. There is one group which will be pleased and grateful if this bill is defeated, and that is the foreign cartel which has \$6,000,000 at stake, dollars which Maine should have.

The SPEAKER pro tem: The Chair recognizes the gentleman from Auburn, Mr. Bernard.

Mr. BERNARD: Mr. Speaker and Members of the House: I would concur with Mr. Prince on the feelings of this bill. I am definitely opposed to its passage. I feel that any bill of this nature that concerns the Department of Sea and Shore Fisheries should have been sent to the Committee on Sea and Shore Fisheries. I feel it highly distasteful that attending a public hearing, copies of the bill are not passed out, until the hearing opens.

Back several months I too was wine and dined by Mr. Moss and he asked me a serious question. He says, how can we get this bill through the Legislature? May God forgive me, Mr. Prince, for I think I did give him a few little suggestions and apparently it worked out. It seems that you get the bill in the Governor's call, get the Majority Party to sponsor it, you get a few active legislators to lobby the idea that this is a necessity for the State of Maine.

The round figure of something like \$250,000 came out in one of the public statements, that this was their gross last year; yet they are talking of a potential of \$15,000,000. The figures don't jibe too well in my mind. It seems that here's a private company that came out with a bill that would practically give them a monopoly. It would appear that they would set up an advisory council that would determine who the fees for a certain lease would eventually end up with.

It seems now in this redraft version we have changed the word "lease" to "certificate." I have been to several of the department heads and asked them rather embarrassing questions and I have come to the conclusion that some of the department heads have been told not to take a stand one way or another. I know that when the Legislative Research Committee investigated potentials of Irish Moss they held several meetings. One such meeting was an executive meeting. Members of the Marine Colloids and Kraft Foods attended. However, I understand that no member from the Department of Sea and Shore Fisheries was invited to this executive meeting. Therefore I would challenge the final report from the Legislative Committee.

I know for a fact that this past year members of our own Department of Sea and Shore Fisheries, several divers that have been hired by Marine Colloids have been doing research on the quality and the quantity and the best locations in the State of Maine for locating Irish Moss. The company came out and said that, if we don't get this lease we may be forced out of business. I hardly think so.

It's been brought out that in Nova Scotia, Prince Edward Islands, the fee for raking Irish Moss there ranges up to five cents a pound. Yet here in Maine the average fee is six cents a pound. But one company in South Portland pays three and a quarter cents a pound. This may explain why they manage to get twenty percent a crop where Marine Colloids can only get two percent.

I asked an embarrassing question to some of the employees at Marine Colloids, — why is it you can only pay three cents a pound for our rakers? How can you afford to pay shipping from Peru, South America, Spain, Canada? Why couldn't you give the differential between the shipping costs and the costs you are now paying for our Maine rakers? There was no answer forthcoming.

Back about three years ago I came in contact with a gentleman from Rhode Island, who has a com-

mercial harvester. He's now making his home in Maine. He's working out of the South Harpswell area. I have been down there this past summer, I have seen his mechanical harvester, I have watched it work and taken photographs of it. I would say the man has about a \$10,000 investment. This coming year he has told me frankly that he estimates he will be able to bring in 10,000 pounds a day.

The gentleman is kind of worried because of this lease problem. He was at some of the public hearings and stated that he would make no comment at that time. I would simply add that I think everything has been said. When a motion is taken I would ask for a roll call.

The SPEAKER pro tem: The Chair recognizes the gentleman from Ellsworth, Mr. McNally.

Mr. McNALLY: Mr. Speaker, for the edification of my ignorance would it be in order to inquire through the Chair from anybody who may answer, how much land approximately is involved in this amendment? I've got to confess my ignorance, and I don't care whether it is given in square miles because I know that's 640 acres, whether it's in acres, this is the amendment before the House I understand.

The SPEAKER pro tem: The gentleman from Ellsworth, Mr. McNally, poses a question through the Chair to anyone who may choose to answer, and the Chair recognizes the gentleman from Rockland, Mr. Huber.

Mr. HUBER: Mr. Speaker and Members of the House: I am not a member of the committee. I do have a copy of the bill and I am going to take the opportunity to answer the gentleman's question and also for the third time remind the members of the House that we are talking about Legislative Document number 1874 and it does not deal with the harvesting of moss for commercial purposes in any way, shape or manner. It is not a so-called research bill — it is a research bill which has been on the books and has been on the Statutes of the State of Maine for several years. A committee has seen fit to add to it the harvesting, research for Irish Moss. Quote from

the bill, this is section 3 on page two: "The total area set aside for all applicants for experiments with seaweed shall not exceed, at any one time outstanding, 10 square miles."

Now if I may continue. The present motion on the Floor involves an amendment, I believe now it is House Amendment "A", and would change the designation from 69 degrees 45 minutes to 70 degrees. My way of thinking the amendment is irrelevant to the spirit and intent of the legislation and calls for a yes vote on the motion for indefinite postponement.

The SPEAKER pro tem: Does the gentleman from Ellsworth, Mr. McNally consider his question answered?

Mr. McNALLY: No, sir. I am interested to know how much land is involved in the changing of the degrees and minutes in the Amendment "A" which we are voting on.

The SPEAKER pro tem: The Chair recognizes the gentleman from Manchester. Mr. Rideout.

Mr. RIDEOUT: Mr. Speaker, in answer to Mr. McNally's question I can't tell him in square miles but I will say that it's 55 minutes, it changes it from 69 degrees 45 minutes which is approximately the east shore of the Kennebec River to an even 70 degrees, which is about the west shore of Harpswell. It might be right in Jack Prince's livingroom, I don't know.

The SPEAKER pro tem: The Chair recognizes the gentleman from West Bath, Mr. Hennessey.

Mr. HENNESSEY: Mr. Speaker, if the gentleman from Ellsworth has an automobile map with him it is very easy to look down and you will see Bailey's Island and go over to Georgetown. That would be the widest part of it, going back to the New Meadows River, the source of the river.

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

Mr. SCRIBNER: Mr. Speaker, it would be about a dozen miles give or take a mile, towards the westward.

The SPEAKER pro tem: The Chair recognizes the gentleman from Kittery, Mr. Dennett.

Mr. DENNETT: Mr. Speaker and Members of the House: I would rise briefly. I think in some of the previous remarks perhaps a seed of suspicion might have been planted in the minds of some of the members of this House. Mr. Bernard, the gentleman from Auburn, stated that he also was wined and dined by Mr. Moss who I believe is president of Marine Colloids. I would state here at this moment, to clear this matter up, that I have neither been wined or dined by Mr. Moss, that to the best of my knowledge no member of the Research Committee has been wined or dined, and I am certain and positive that no member of the State Government Committee has been wined and dined. I think when we enter into this as a committee we enter into something which we wholeheartedly feel is for the benefit of the State of Maine and not for any personal interest.

The SPEAKER pro tem: The question before the House is the motion for indefinite postponement and a roll call has been requested. In order for the Chair to entertain the motion for a roll call it must have the expressed desire of one fifth of the members present and voting. All those who desire a roll call will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER pro tem: The pending question is on the motion to indefinitely postpone House Amendment "A". All those in favor of the indefinite postponement of House Amendment "A" will vote yes; those opposed will vote no. The Chair opens the vote.

ROLL CALL

YEA—Allen, Baker, E. B.; Baker, R. E.; Bedard, Belanger, Beliveau, Benson, Berman, Binnette, Birt, Boudreau, Bourgoin, Bragdon, Brown, M. F.; Brown, R.; Bunker, Carey, Carroll, Clark, Conley, Cornell, Cote, Cottrell, Crockett, Crommett, Crosby, Cushing, D'Alfonso, Darey, Dennett, Dickinson,

Drummond, Dunn, Durgin, Edwards, Eustis, Evans, Ewer, Farington, Foster, Gaudreau, Gauthier, Gill, Giroux, Hall, Hanson, B. B.; Hanson, H. L.; Hanson, P. K.; Harnois, Hawes, Haynes, Healy, Henley, Hewes, Hichens, Hinds, Hodgkins, Hoover, Huber, Humphrey, Hunter, Immonen, Jalbert, Jameson, Jannelle, Jewell, Keyte, Kilroy, Keyes, Lebel, Levesque, Lewin, Lewis, Lincoln, Lycette, Maddox, Martin, Meisner, Miliano, Minkowsky, Morrell, Noyes, Payson, Pendergast, Pike, Porter, Prince, Quimby, Rackliff, Richardson, G. A.; Richardson, H. L.; Rideout, Robertson, Robinson, Rocheleau, Sahagian, Sawyer, Scott, C. F.; Scott, G. W.; Shaw, Shute, Snow, P. J.; Snowe, P.; Susi, Thompson, Townsend, Trask, Truman, Waltz, Watts, Wheeler, White, Wight, Williams, Wood.

NAY — Brennan, Carrier, Carswell, Champagne, Curran, Fecteau, Harvey, Hennessey, McMann, McNally, Nadeau, N. L.; Philbrook, Scribner, Starbird.

ABSENT — Bernard, Bradstreet, Buck, Burnham, Cookson, Couture, Danton, Drigotas, Dudley, Fortier, Fraser, Harriman, Kennedy, Littlefield, Mosher, Nadeau, J. F. R.; Quinn, Roy, Soulas, Sullivan, Tanquay.

Yes, 115; No, 14; Absent, 21.

The SPEAKER pro tem: One hundred and fifteen having voted in the affirmative and fourteen in the negative, House Amendment "A" is indefinitely postponed.

The question now before the House is on the engrossment of L. D. 1874.

Thereupon, Mr. Richardson of Stonington offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-530) was read by the Clerk.

The SPEAKER pro tem: The gentleman may proceed.

Mr. RICHARDSON: Mr. Speaker and Members of the House: I have consulted with the various proponents of this bill and this amendment apparently meets with their approval. I feel that perhaps it was an oversight on their part, not expressing a width limit as

well as a square mile limit. Thank you.

The SPEAKER pro tem: The Chair recognizes the gentleman from Southwest Harbor, Mr. Benson.

Mr. BENSON: Mr. Speaker and Members of the House: I would merely like to verify what the gentleman from Stonington, Mr. Richardson has told you. This is one more safeguard in the bill; we've almost safeguarded it right out of existence. I think that this is an area that was of some concern to many people and I hope that now it is even more palatable than it has been in the past.

There has been a great deal of editorial comment about the concepts of leasing the bottom of our ocean for the purpose of mechanical harvesting of sea moss. You have heard enough of it I am sure. I will not prolong it to any great extent. I would like to say, however, that I think probably one of the biggest problems facing the sea moss industry is the fact that it has carried on its business year after year very quietly and by itself, asking assistance from no one. They now feel very strongly that it is time for them to come to the State Legislature and ask that areas be set aside where they can do proper and adequate research in the harvesting of this moss.

I think that this is a most reasonable request. They are not asking for one cent; they are asking merely that an area be set aside so that they may invest their own funds in research. I don't see anything at all unusual about this. I think it's good, I think it's proper, and I sincerely hope that something real great comes from it — I'm sure it will. Thank you very much.

The SPEAKER pro tem: The question now before the House is on the adoption of House Amendment "B". Is it the pleasure of the House that House Amendment "B" be adopted?

The motion prevailed.

The SPEAKER pro tem: The question now before the House is on the engrossment of L. D. 1874 as amended by House Amendment "B", and the Chair recognizes the gentleman from Harpswell, Mr. Prince.

Mr. PRINCE: Mr. Speaker and Members of the House: I am suspicious of this bill just as much now as I have been in the beginning. It seems to be tremendously important to the proponents of this measure and the mere fact that it is tremendously important to them makes me wonder exactly what is behind the scene.

I would like to bring your attention on page two of Legislative Document 1874 and in the third paragraph where it says, — "The total area set aside for all applicants for experiments with seaweed shall not exceed, at any one time outstanding, 10 square miles." I am quite sure that the intent of this is good, but it doesn't spell it out distinctly. Does it mean 10 square miles today can be set aside, 10 square miles tomorrow can be set aside, and still not be more than 10 square miles at any one time? I feel that that should be cleared up and I do want to repeat that this bill is not necessary. Under our existing laws any moss company has the free right to use their harvesters or to do any kind of research work that they might want to do.

Another thing that we must take into consideration, that there are 500 rakers at least in this state that depend on moss raking. I am not opposed to the enlarging of our moss industry. I think the two major companies that are represented in the State of Maine, they are two fine companies. But this is a business proposition and sometimes a business proposition is detrimental to some of the people of our state. This is not a large industry, remember, 1967 the total business of both companies amounted to around \$55,000. I would suggest, ladies and gentlemen of this House, that to eliminate all troubles would be to postpone it, and so therefore I ask for indefinite postponement of the bill and its accompanying papers. Thank you.

The SPEAKER pro tem: The question now before the House is on the motion of the gentleman from Harpswell, Mr. Prince, that this bill be indefinitely postponed.

The Chair recognizes the gentleman from Lubec, Mr. Pike.

Mr. PIKE: Mr. Speaker and Members of the House: I can't help but feel that an indefinite postponement would be wrong, would be short-sighted and would not solve the problem. The bill as I read it now brings it down to a pretty small area, it's limited in time, it's subject to the inspection of the Commissioner of Sea and Shore Fisheries where if there was any violation he can cancel the lease. But, if anybody is going to do experiment work, in research, one of the first principles is that the area in which you do your research should not be interfered with so that you can be sure of your results.

Now it does seem to me that we are maybe passing up a resource that may be worth, instead of \$55,000 it may be worth several million dollars a year to the people along our coast, and I really hope that we will go along with this very limited, very much watered down bill and find out what's going on down there. It's been brought out several times that we don't know this and we don't know that, and it's true that we don't know this and we don't know that. One way to find out is a series of carefully controlled experiments under the conditions where the place will be free to the experimenter or researcher with no interference, and then we will know, we will find out and we may possibly have a great resource here. I hope that the motion to indefinitely postpone does not prevail.

The SPEAKER pro tem: The Chair recognizes the gentleman from Camden, Mr. Haynes.

Mr. HAYNES: Mr. Speaker and Members of this House: I hope that the gentleman who was deeply suspicious is not suspicious of me, and I hasten to assure you that I wasn't wined and dined. I must have missed out on it, and I am definitely for this bill. And I would like to correct another figure. The figure of raw weed purchased in total last year was \$6,000,000 of which 2% was purchased in Maine, unfortunately no more.

The SPEAKER pro tem: The Chair recognizes the gentleman from Kennebunk, Mr. Crosby.

Mr. CROSBY: Mr. Speaker and Ladies and Gentlemen of the House: When this original bill came out I was very much opposed to it because of the word lease. Apparently it was impossible to put that through the Committee so there was another bill brought out which was a little simplified, then it was brought down to this bill which we are considering now. The tag innocuous has been put on it and I think perhaps that fits it very well.

The reason that I am for this is because, as I understand it, any moss taken from these areas will be used for research and research only. They cannot go into these areas which they apparently have found and strip them, that is harvest the areas and sell the moss commercially. My only question, which I would pose at this time to anybody who would care to answer it, is this information which is to be gathered through this research to be made available to the State?

The SPEAKER pro tem: The gentleman from Kennebunk, Mr. Crosby, poses a question through the Chair to any member who may answer if they so desire. The Chair recognizes the gentleman from Southwest Harbor, Mr. Benson.

Mr. BENSON: Mr. Speaker and Members of the House: In answer to the question posed by the gentleman from Kennebunk, Mr. Crosby, this research in most cases will be carried on by private industry, and the information that they secure as the result of their research is certainly theirs. I would assume, however, that in the interest of the overall sea moss industry that they would make their findings available, and I think I am safe in saying that they would be working very closely with the Department of Sea and Shore Fisheries in this research effort, and therefore this information will be available to this department.

While I am standing, Mr. Speaker, I would like to say only one more thing, and that is that there has been concern for the lobster industry and the lobster fisherman expressed here. I have lived with lobster fishermen all my life, and

I know and respect them very highly. I think the lobster industry is in trouble, and I think that everyone will admit this, with a decrease of some five million pounds in the take of lobsters along the Maine coast during the past year. These many people who are involved in the lobster industry might find it very beneficial in future years to have some other industry to turn to, to supplement their income, and I hope that we will advance enough in our knowledge of the sea moss industry that this may be the very thing that these lobstermen will turn to during the summer months to supplement their income. The proper development of this natural resource which is wasting on the floor of our ocean I think is tremendously important. We are spending many, many dollars to entice new industries into our state. I think that we should be cognizant of the industry that we already have and give them every available effort on our part to assist them. And once again, thank you for your patience.

The SPEAKER pro tem: The Chair recognizes the gentleman from Norway, Mr. Henley.

Mr. HENLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to state first that I am neither a resident of the coastal waters, I know nothing about the fishing industry, I know nothing about the sea moss industry, but I have listened to debates and I have read both bills. I stated the other day in some little remark that it seems to me the State of Maine, and possibly a lot of other states, is a state of paradoxes. If this bill be defeated I will say that is certainly true.

Another thing I want to state is, again I will repeat what one of the other gentlemen stated, I certainly have not been dined relative to this, I have not been lobbied, I am not a member of the committee, I was not able to attend the committee hearing. The judgment which I have had on this bill, in fact I was for the first bill. Possibly it could have been amended a little bit, but I do not believe it is too strong, I think it had a lot of safeguards in it then. This bill now certainly is not dan-

gerous; I can't see anything dangerous in it. It looks to me as though we are trying to do several things. We are trying to advance research, we are trying to help a little bit one of our local Maine industries that have asked for an opportunity to investigate their progress; and as the gentleman from Southwest Harbor, Mr. Benson, stated, they have not asked for money, they have only asked for a chance to spend their own money in research. So that I feel that I should state these things because not being vitally concerned, I have made these decisions on my own and I hope that a lot of other members of this House have decided that this bill is a good bill and should be enacted. Thank you.

The SPEAKER pro tem: The question now before the House is the motion of the gentleman from Harpswell, Mr. Prince, that this bill and its accompanying papers be indefinitely postponed.

The Chair recognizes that gentleman.

Mr. PRINCE: Mr. Speaker, Ladies and Gentlemen of the House: What I have to say doesn't amount to a lot, but the other day we noted that this bill did not have any appropriation tag attached to it, and a question was asked how the financing would take place, and as I recall it, the answer that we got was that the financing, policing and so forth would be done by the Department of Sea and Shore Fisheries under the supervision of the Commissioner of Fisheries and the moneys would come out of the Federal Research funds. Now this morning I'm a little bit confused where it has been said that the firms concerned would do their own financing.

This bill as I interpret it is not confined just to moss manufacturers. As I understand it, in this ten square miles that there will not be more than three areas to any one person or corporation granted and that each area will not consist of more than one square mile. Now there are individuals that perhaps who would be interested in research so to speak, and might not be able to finance their own research work. Is it true, my question is, that if this

case should present itself, that moneys could be obtained from the Department of Sea and Shore Fisheries out of the Federal Research funds?

The SPEAKER pro tem: The Chair recognizes the gentleman from Woolwich, Mr. Harvey.

Mr. HARVEY: Mr. Speaker, I can't entirely answer Mr. Prince's question, but I can answer this much of it. All of the research along these lines at the present time have been carried on by the Sea and Shore Fisheries at our expense from the Marine Colloids boats. Now whether they can get Federal monies and appropriations, I don't know, but the two mornings that I was late I was talking to the divers from the Marine Colloids boats who are an employee to the State of Maine and paid by us. They have been doing all of the scientific research surrounding Irish Moss and, while I'm on my feet, we should be suspicious, because these thousands and thousands and thousands of square miles we have off our coast is not totally taken up by Irish Moss, only a narrow belt the entire length of our coast has Irish Moss and we should be suspicious when the original bill would have tied up the entire import and export of Irish Moss on the entire coast of Maine. Now don't you think we should get a little suspicious about something like that?

Even the watered down version with the amendment of one-quarter mile can take up as much as forty miles of our coastline. Now on the Floor the other day I was told that what I have said about 100 miles long and a tenth of a mile long—a tenth of a mile wide and 100 miles long was pure hogwash. Ladies and gentlemen. It not only was common sense, but it is the only thing to do if you want to experiment in research with Irish Moss, because it does extend that narrow belt as so ably explained to you by Mr. Prince. The bill as it now stands can tie up forty miles of our coastline.

The Sea and Shore Fisheries don't know at this time, they have taken samples of algae, lobster larvae and so on and so forth that is found among the Irish

Moss, they don't know to what extent, to what damage it will do not only to the lobsters, but to the entire chain of sea life. God and nature put that in the sea for a purpose. No one knows what's going to happen until research is completed when it is harvested, cut; so far the moss has been harvested by natural means. Nature has harvested a ripe crop, it leaves the ledges and rolls along the potholes in the bottom and is harvested just like a ripe apple on the ground. That's nature's way of getting rid of the moss. Who knows what large mechanical harvesting of cutters will do to the Irish Moss, it might kill it entirely, so this envisionment of millions and millions of dollars of harvest could turn into nothing but a sore spot on the ocean's bottom. I think we should go a little bit slower. I don't think we should tie up forty miles of our coast at this time.

One other thing while I was doing my homework, not from people that don't know what they're talking about, but people that do know what they are talking about, Strontium, a new discovery, 90% of this is found in Irish Moss only on the Maine coast. Strontium is an antidote for radiation. This has just been discovered. Now from a bill watered down from two fifty mile squares to now a ten mile square and a company that is anxious to get anything they can get to tie it up, and the greatest part of the research will be done by our biologists in the State who are doing it now anyway at no expense of their own, I think we should go a little slow, I don't think this is necessary at this session. I think more research should be done on it and come back in the next session of the Legislature and maybe come up with something that will benefit us a little bit more at this time.

The SPEAKER pro tem: The Chair recognizes that gentleman from Madawaska, Mr. Levesque.

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: As an individual member of this House this morning, I would like to pose this question to the members of the House. Being a landlocked individual some 300

mile inland, I find myself in quite a quandry this morning that the members of this House that have been along the coast all their lives seem to be in complete disagreement as to what we should be doing, although we have been able to find out that the two companies presently involved in the harvesting of sea moss have been able to agree that this will be a good thing for the entire State of Maine. Somehow or other I think probably that the people along the coast that would be readily involved could reach some agreement as to what is going to be the best solution for all the people along the coast where there seems to be a great amount of dissension between the members of the coast and finding myself again 300 miles inland, know very little of how this is going to affect the coastal members.

The SPEAKER pro tem: The Chair recognizes the gentleman from Southwest Harbor, Mr. Benson.

Mr. BENSON: Mr. Speaker, construing the remarks of the gentleman from Madawaska, Mr. Levesque, to be a question, I would like to say to him and to the members of the House that when all of the Coastal representatives are in agreement, look out, because we're probably after the area that you live in, Mr. Levesque.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Orono, Mrs. Cornell.

Mrs. CORNELL: Ladies and Gentlemen of the House: I have looked at this from a little different viewpoint I think perhaps than many others, due to the fact that my degree many years ago was granted in biology. Therefore, from the very beginning I checked each bill as it came before State Government with interest, many reservations, and I assure you most thoroughly. I have asked the opinion of almost every PhD doing research at the University of Maine, their opinion of the various bills. They are doing this research in various fields of agriculture, the poultry industry, seafoods, at the taxpayers' expense, and this new redraft I checked with four of them over the weekend, and in

all cases it has received a recommendation, and also this is the first one I have voted for.

Concerning the wining and dining, I am very glad to know that I wasn't being discriminated against because I'm a lady, because I wasn't invited either; I don't know anything about it. I urge a 'no' vote against indefinite postponement.

The SPEAKER pro tem: The question before the House is the motion of the gentleman from Harpswell, Mr. Prince, that this Bill "An Act to Allow Research in Irish Moss," H. P. 1329, L. D. 1874 be indefinitely postponed. Is the House ready for the question?

All those persons favoring indefinite postponement of this bill and all the accompanying papers will vote yes, those opposed will vote no, and the Chair will open the vote.

A vote of the House was taken.

28 having voted in the affirmative and 101 having voted in the negative, the motion did not prevail.

The SPEAKER pro tem: The Chair recognizes the gentleman from Woolwich, Mr. Harvey.

Mr. HARVEY: Mr. Speaker, is it proper at this time for a roll call, to ask for a roll call for posterity?

The SPEAKER pro tem: I declared the vote, Mr. Harvey. Whenever you desire a roll call after a vote has been recorded, you should put your request in before the vote is announced. If it were the unanimous desire of this House to have a roll call, a roll call would be ordered.

Does anyone object to a roll call being ordered at this time?

(Cries of "yes")

The Chair hears objection. The Chair recognizes the gentleman from Solon, Mr. Hanson.

Mr. HANSON: Mr. Speaker, I may be in error, but I have a distinct impression that a roll call was voted on in the middle of debate. I am perhaps in error.

(Off Record Remarks)

Mr. HANSON: Mr. Speaker, my memory stirs now and the roll

call was asked on the prior amendment, I'm sorry.

The SPEAKER pro tem: That is correct.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "B" and sent to the Senate.

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

HOUSE REPORT — "Ought Not to pass" — Committee on Appropriations and Financial Affairs on Bill "An Act to Authorize Bond Issue in the Amount of \$384,000 for Development of Education, Sewage and Water Facilities at Indian Reservations" (H. P. 1315) (L. D. 1858)

(In House, "Ought not to pass" reported accepted) (In Senate, Bill substituted for Report and Passed to be Engrossed in non-concurrence)

Tabled — January 22, by Mr. Richardson of Cumberland.

Pending — Further consideration.

The SPEAKER pro tem: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, I move we recede and concur with the Senate.

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

Mr. RICHARDSON: Mr. Speaker, I would ask every member of the House to vote in favor of the pending motion which is to recede and concur with the Senate in the passage of this bond issue.

In its initial debate here in the House, the full factual bases for the presentation of this bond issue were not known. They are now known, and I feel that this bond issue deserves our vote and it deserves our effort. When the vote is taken I request it be taken by the yeas and nays.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Portland, Mrs. Carswell.

Mrs. CARSWELL: Mr. Speaker, I too would like to support the motion to recede and concur and my reason last week for asking to have the matter tabled until we

could find out more information as to why the Appropriations Committee report turned out the way it did, my reason was so that we could find out more information as I said; so now I hope that we do recede and concur because the needs certainly are known to all people.

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: I also concur with the gentleman from Cumberland, Mr. Richardson on a unanimous vote of approval of this bond issue in support of the Indians and their further progress in the State.

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

Mr. STARBIRD: Mr. Speaker, I suppose any comment of mine would be superfluous, but I wish to thank the previous speakers on behalf of the members of our Indian tribes and I too of course hope for the unanimous support of this measure.

The SPEAKER pro tem: The question now before the House is on the motion of the gentleman from East Millinocket, Mr. Birt, that the House recede from its former action and concur with the Senate on Bill "An Act to Authorize Bond Issue in the Amount of \$384,000 for Development of Education, Sewage and Water Facilities at Indian Reservations," H. P. 1315, L. D. 1858.

A roll call has been requested. In order for the Chair to entertain a motion for a roll call it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call will vote yes, those opposed will vote no, and the Chair will open the vote.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from East Millinocket, Mr. Birt, that the House recede and concur with the Senate.

All those in favor of receding and concurring will vote yes, those opposed will vote no, and the Chair opens the vote.

ROLL CALL

YEA — Allen, Baker, E. B.; Baker, R. E.; Bedard, Belanger, Beliveau, Benson, Binnette, Birt, Boudreau, Bourgoin, Bragdon, Brennan, Brown, M. F.; Bunker, Burnham, Carey, Carrier, Carroll, Carswell, Champagne, Clark, Conley, Cornell, Cote, Cottrell, Couture, Crockett, Crommett, Crosby, Curran, Cushing, D'Alfonso, Darey, Dennett, Dickinson, Drigotas, Edwards, Eustis, Evans, Ewer, Farrington, Fecteau, Foster, Gaudreau, Gill, Giroux, Hall, Hanson, B. B.; Hanson, H. L.; Hanson, P. K.; Harnois, Harriman, Harvey, Hawes, Haynes, Healy, Henley, Hennessey, Hewes, Hichens, Hinds, Hodgkins, Hoover, Huber, Humphrey, Hunter, Immonen, Jalbert, Jameson, Jannelle, Keyte, Kilroy, Kyes, Lebel, Levesque, Lewin, Lewis, Maddox, Martin, McMann, McNally, Meisner, Miliano, Minkowsky, Morrell, Mosher, Nadeau, N. L.; Noyes, Pendergast, Philbrook, Pike, Prince, Quimby, Rackliff, Richardson, G. A.; Richardson, H. L.; Rideout, Robertson, Robinson, Rocheleau, Roy, Sawyer, Scott, C. F.; Scott, G. W.; Scribner, Shaw, Shute, Snow, P. J.; Soulas, Starbird, Susi, Tanguay, Thompson, Townsend, Trask, Waltz, Watts, Wheeler, White, Wood, The Speaker pro tem.

NAY — Brown, R.; Drummond, Dudley, Jewell, Nadeau, J. F. R.; Porter, Snowe, P.

ABSENT — Berman, Bernard, Bradstreet, Buck, Cookson, Danton, Dunn, Durgin, Fortier, Fraser, Gauthier, Kennedy, Lincoln, Littlefield, Lycette, Payson, Quinn, Sahagian, Sullivan, Truman, Wight, Williams.

Yes, 122; No, 7; Absent, 22.

The SPEAKER pro tem: The Chair will announce the vote. 122 having voted in the affirmative and 7 having voted in the negative, the motion to recede and concur does prevail.

Thereupon, the Bill was read twice. Under suspension of the

rules the Bill was given its third reading, passed to be engrossed and sent forthwith to the Senate.

Order out of Order

On motion of Mr. Noyes of Limestone, it was

ORDERED, that Mike Collins of Caribou and Mike Bouchard of Lewiston be appointed to serve as Honorary Pages for today.

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

Bill "An Act Establishing a State Planning Office" (S. P. 772) (L. D. 1844)

(In Senate, Passed to be Engrossed)

Tabled—January 22, by Mr. Benson of Southwest Harbor.

Pending — Passage to be Engrossed.

Mr. Rideout of Manchester offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-532) was read by the Clerk.

The SPEAKER pro tem: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker and Members of the House: Last week I spent a great deal of time on this bill. I find myself this morning rising in support of the amendment and the entire bill as it is amended, if the amendment goes through. Obviously, the bill is not as I would have wanted it, but the amendment, as I understand it, and as we have agreed, reaches a compromise with some of the basic problems that I thought the bill had. Obviously, it does not go as far as I would have wanted it to go, but I realize that some of this is not politically possible.

At the present time, the State of Maine is the only New England state that has no formal planning program and it is important that we get one under way, and for that reason, I am more than happy to approve of the amendment presented by the gentleman from Manchester, Mr. Rideout, and I hope that the House will go along with it, and that we at last will have at least to some degree a

planning office within the State of Maine.

Thereupon, House Amendment "A" was adopted, the Bill passed to be engrossed as amended in non-concurrence and sent up for concurrence.

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

JOINT ORDER proposing amendment to Joint Rule 11 eliminating co-sponsorship of bills and resolves. (H. P. 1343)

Tabled — January 22, by Mr. Richardson of Cumberland.

Pending—Passage.

Thereupon, the Joint Order received passage and was sent up for concurrence.

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

JOINT ORDER proposing amendment to Joint Rule 17-B re "Ought Not to Pass" bills and resolves.

Tabled—January 22, by Mr. Susi of Pittsfield.

Pending—Passage.

The SPEAKER pro tem: The Chair recognizes the gentleman from Manchester, Mr. Rideout.

Mr. RIDEOUT: Mr. Speaker and Members of the House: I rise to kill my own dog. I am beaten, bloody but unbowed; however, remembering he who fights and runs away lives to fight another day, so I now move for indefinite postponement of this Joint Order.

The SPEAKER pro tem: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker and Members of the House: The sponsor of this bill has indicated that he would like to kill his own dog. In a spirit of utmost cooperation and friendship I would like to offer the gentleman from Manchester the loan of my hand gun.

The SPEAKER pro tem: The Chair recognizes the gentleman from Brewer, Mr. Robertson.

Mr. ROBERTSON: Mr. Speaker and Members of the House: I want to concur with the gentleman from Pittsfield in his statements. I, too,

want to commend the committee and especially Ray Rideout for the tremendous job they have done in trying to bring about these revised procedures that will expedite the action of the Legislature. This one I am a hundred per cent in disagreement with but the others I think are going to accomplish a lot. Thank you.

Thereupon, the Joint Order was indefinitely postponed.

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

HOUSE REPORT "A" (5) — "Ought to pass" as amended by Committee Amendment "A" (H-526)—Committee on Judiciary on Bill "An Act relating to Highway Safety" (H. P. 1306) (L. D. 1835) —Report "B" (4)—"Ought to pass" in New Draft (H. P. 1330) (L. D. 1875) under title of "An Act relating to Speed of Motor Vehicles Measured Electronically"

Tabled — January 22, by Mr. Snowe of Auburn.

Pending—Motion of Mr. Birt of East Millinocket to accept Report "A".

The SPEAKER pro tem: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, I would like to have this tabled until after lunch please.

Thereupon, the matter was tabled until later in today's session.

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

Mr. RICHARDSON: Mr. Speaker, may we take a one minute recess?

The SPEAKER pro tem: The House is in recess for one minute.

After Recess

Called to order by the Speaker pro tem.

The Chair laid before the House a matter tabled earlier in the day and later today assigned:

Mr. Dennett from the Committee on State Government on Bill "An Act Providing a Major Medical In-

urance Program for State Employees" (H. P. 1296) (L. D. 1802) reporting same in a new draft (H. P. 1342) (L. D. 1884) under title of "An Act Providing Accident and Health Insurance Program for State Employees" and that it "Ought to pass"

Thereupon, the Committee Report was accepted and the New Draft read twice.

Under suspension of the rules, the New Draft was read the third time and passed to be engrossed and sent to the Senate.

The SPEAKER pro tem: Is there objection to sending these bills forthwith to the Senate? The Chair hears none, it is so voted.

Thereupon, on motion of Mr. Richardson of Cumberland,

Recessed until two o'clock in the afternoon.

After Recess 2:00 P. M.

The House was called to order by the Speaker.

The SPEAKER: The Chair acknowledges the excellent services of the gentleman from Bath, Mr. Ross, who was serving as Speaker pro tem this morning. This was a great help to your Speaker and I deeply appreciate his services. (Applause)

The SPEAKER: The Chair would call your attention to Supplement No. 1, Enactors.

Passed to Be Enacted Emergency Measure

An Act to Provide Funds for Blind Children's Education, Inc. (H. P. 1299) (L. D. 1828)

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. 107 voted in favor of same and 3 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**Enactor
Tabled and Assigned**

An Act relating to Appeals on Questions of Law in Criminal Cases (H. P. 1331) (L. D. 1876)

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

(On motion of Mr. Richardson of Cumberland, tabled pending passage to be enacted and specially assigned for tomorrow.)

Finally Passed

Resolve Providing Moneys for Cerebral Palsy Clinics for Home Care Programs (H. P. 1251) (L. D. 1757)

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

**Order Out of Order
Tabled and Assigned**

Mrs. Carswell of Portland presented the following Joint Order out of order and moved its passage:

ORDERED, the Senate concurring, that there is appropriated from the Legislative Appropriation a sum sufficient to pay each of the Indian representatives mileage for 3 round trips and compensation for meals, lodging and attendance commensurate with other members of the Legislature for attendance at the Second Special Session of the 103rd Legislature.

(On motion of Mr. Richardson of Cumberland, tabled pending passage and tomorrow assigned.)

**Divided Report
Tabled and Assigned**

Report "A" of the Committee on Judiciary on Bill "An Act relating to Percentage by Weight of Alcohol in Blood of Operators of Motor Vehicles" (S. P. 766) (L. D. 1823) reporting same in a new draft (S. P. 813) (L. D. 1883) under title of "An Act relating to Driving a Motor Vehicle while Impaired by Consumption of Intoxicating Liquor" and that it "Ought to pass"

Report was signed by the following members:

Messrs. HARDING of Aroostook
MILLS of Franklin
HILDRETH

of Cumberland
—of the Senate.

Mr. HEWES of Cape Elizabeth
— of the House.

Report "B" of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Messrs. FOSTER
of Mechanic Falls
BERMAN of Houlton
BRENNAN of Portland
DANTON
of Old Orchard Beach
DAREY

of Livermore Falls
—of the House.

Came from the Senate with Report "A" accepted and the New Draft passed to be engrossed.

In the House: Reports were read.

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

Mr. BERMAN: Mr. Speaker, I move that this item lie upon the table until the next legislative day.

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

Mr. RICHARDSON: Mr. Speaker, would a motion to lay on the table for a shorter time prevail?

The SPEAKER: The Chair would advise the gentleman that the longest time has priority over the shorter.

The same gentleman then requested a division on the tabling motion.

The SPEAKER: the gentleman from Cumberland, Mr. Richardson requests a vote on the tabling motion and the pending question is on the motion of the gentleman from Houlton, Mr. Berman that this matter be tabled until the next legislative day pending the acceptance of either Report.

If you are in favor of tabling you will vote yes; if you are opposed you will vote no. The Chair opens the vote.

A vote of the House was taken. 67 having voted in the affirmative and 56 having voted in the

negative, the tabling motion did prevail.

Non-Concurrent Matters

An Act Establishing Procedures for State Medical Examiners and Creating the Office of Chief Medical Examiner for the State of Maine (S. P. 759) (L. D. 1816) which was passed to be enacted in the House on January 22 and passed to be engrossed as amended by Committee Amendment "A" on January 18.

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

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

Bill "An Act to Authorize Bond Issue in the Amount of \$850,000 for Dormitory Facilities at Maine Maritime Academy and Bond Issue in the Amount of \$955,000 for Self-liquidating Dormitory Facilities at Farmington State College" (H. P. 1314) (L. D. 1857) which was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "A" in the House on January 19.

Came from the Senate with Committee Amendment "A" indefinitely postponed and the Bill passed to be engrossed as amended by House Amendment "A" in non-concurrence.

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

The Chair laid before the House a matter tabled earlier in the day and later today assigned:

HOUSE REPORT "A" (5) — "Ought to pass" as amended by Committee Amendment "A" (H-526) — Committee on Judiciary on Bill "An Act relating to Highway Safety" (H. P. 1306) L. D. 1835) — REPORT "B" (4) — "Ought to pass" in New Draft (H. P. 1330) (L. D. 1875) under title of "An Act relating to Speed of Motor Vehicles Measured Electronically."

Tabled—Earlier in the day by Mr. Dudley of Enfield.

Pending—Motion of Mr. Birt of Millinocket to accept Report "A".

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

Mr. BRENNAN: Mr. Speaker and Members of the House: Report "A" is the controversial implied consent bill plus a section which would provide for the elimination of signs in cases where electronic devices are used to catch speeders. I do not oppose this section of the bill but because of the implied consent part of the bill I oppose the acceptance of Report "A" and for several reasons.

First, under Article I of Section 6 of the Maine Constitution the last sentence states and I quote, — "He shall not be compelled to furnish or give evidence against himself." This means in all criminal prosecutions, and a drunken driving charge is certainly a criminal prosecution. He gets no immunity for giving evidence against himself under this proposed law, and under the suggested measure if the individual who is arrested and charged with drunken driving refuses to take the breathometer test his license would be suspended. But if he does take the breathometer test he is furnishing evidence against himself, which our Constitution says he does not have to do.

In effect, he will be penalized for refusing to give evidence against himself, or standing on his basic Constitutional rights to remain silent. I submit that there is a conflict between our Constitution and the proposed law and it is basic law that when a statute cannot be reconciled with the Constitution then the statute is unconstitutional.

Furthermore, under the Miranda Rule as promulgated by the United States Supreme Court, the arrested person has a right to remain silent and when he is asked by the officer to take a test for alcohol he may exercise that right to silence. If he is going to be penalized by loss of his driver's license because he exercised his basic constitutional right, then I submit that right to silence becomes meaningless and a farce in a criminal charge of this nature. I don't think that the right to silence was ever intended to be meaningless.

I appreciate the fact that drinking drivers are a serious problem, but I submit that we have ample law on the books to take care of this problem. What we need is stronger enforcement of our present laws.

To give an example of how strong our present law is on drunken driving in Maine I will cite the case of the State vs. Mann, a 1948 Maine Supreme Court decision in which the Court said, "A motorist is guilty of drunken driving if he operates or attempts to operate a motor vehicle while at all under the influence of intoxicating liquor." It further states that "this means to the least extent or degree under the influence." If that isn't a strong drunken driving law I do not know what is.

Furthermore, I oppose this bill because the concept of being required or forced to prove your innocence is inconsistent with our traditional views of criminal law. Traditionally I think, and rightly so, it has been incumbent on the state and probably because of the vast resources at its disposal, to prove the guilt of an individual, and I do not like to see this concept violated.

I urge the House to oppose the motion to accept Report "A" and I ask that the vote be taken by a roll call.

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

Mr. HEWES: Mr. Speaker and Members of the House: I support the motion of Mr. Birt that Committee Report "A" be adopted. I disagree with the distinguished gentleman from Portland, Mr. Brennan. This is in fact the implied consent bill, but according to the testimony that we heard at a lengthy hearing last year set all time records for accidents, injuries and deaths on the highways of Maine. Last year there were over 22,000 reported accidents on the highways in Maine, the year before 21,000. Last year over 10,000 reported personal injuries, the year before 9,324. And last year there were 261 deaths as a result of the highway accidents, the year before 234—an increase of 27 deaths or ten percent.

Also there was \$42 million in economic loss as a result of automobile accidents on the highways. We all know that each year more cars, more powerful cars and more drivers are on the highway, and it's going to continue that way into the future. What are we going to do about this? Are we going to just sit back and say, gee, it's too bad that there were 10,000 people hurt last year in auto accidents? Are we going to do something about it? Are we going to close our eyes to this?

I submit to you that nothing in the way of highway safety was promulgated in our regular session last January to July. Nothing was done in October, and here it is in January a year later than the session began and the Governor in his special call included this bill as one of his bills. I submit that it's time we did something about highway safety. Specialists or experts on highway safety have indicated that this is one way in which they can help or prevent future accidents, future injuries and future economic loss. I ask if we are so unconcerned about the welfare of others that we're going to accept these accidents without blinking an eye, that we're just going to say—it's unfortunate. I submit that we should not.

In response to my brother's, the Minority Floor leader's comments about the Constitutionality of this bill, I don't agree that it is unconstitutional. We attempted in the regular session to draft a bill that would not be unconstitutional. First, a person does not have to take this test if he doesn't want to. Two, if he refuses to he loses his operator's license or right to an operator's license. But that is as far as it goes. There is no penalty, no fine, no jail sentence involved.

Secondly, I don't agree that testing a person's breath is similar to testing his blood or his urine. It seems to me that this is not an invasion of his constitutional rights. In short, this was a bill that was endorsed according to a committee hearing by Governor Kenneth M. Curtis. I say, let's do something about this, and I support the request for a roll call.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Robertson.

Mr. ROBERTSON: Mr. Speaker and Members of the House: I would feel a little remiss this afternoon if I didn't stand and speak against this measure which is before us now. The distinguished gentleman from Bangor, Judge Quinn, as you know vigorously opposed this measure the last time it was before this House. Judge Quinn at the present time is hospitalized and I am sure he would wish very much to be here this afternoon. I talked with him last night and he asked that I express an opinion that he wishes to get across to you folks here this afternoon to tell you that he reiterates the statements that he made previously regarding this bill when it came before the regular session; he feels very strongly and would like to voice his opposition to this implied consent law.

Now certainly I am going along with his feelings. I am not an attorney, but Judge Quinn was a municipal court judge, a county attorney for many many years. He has had much experience in having these cases come before him and I respect his opinion when he does not feel that this particular implied consent bill is necessary, he feels as I do that it is an infringement upon the rights of individuals.

Now that I have expressed his opinion, maybe I will express my own opinion. I heard an attorney say just before I came into this session this afternoon, that ninety five percent of all the people who are brought into the police station there was no question about whether or not they were intoxicated. Most of them couldn't stand up, they couldn't — when asked to rise they couldn't stand by themselves. It was very obvious that they were intoxicated. And someone asked this gentleman, well if that is the case why do we need an implied consent law? Isn't it quite obvious?

So what are we talking about? Are we talking about five percent of the people that are stopped? And yet in the same token these people are going to be stopped and inconvenienced if their car

may be going in erratic manner because of mechanical difficulty. It may be because they have taken too many bufferin or some other pills that have caused them to doze temporarily. They are going to be inconvenienced and brought to the station and forced to take a test. Now this is going to arouse the individual considerably and I think his opinion of state law enforcement is going to be lowered and in his eye the enforcement division is going to be degraded.

I don't think that this — although I appreciate the reason for this bill and what the folks who are trying to promote it have in mind. It certainly is in that respect beneficial if it could accomplish what they hope to accomplish. But a law as we read it on the books is one thing — the enforcement of it is something else. I think that you realize as well as I do that perhaps if this law was limited to the state police, that would be one thing, trained individuals who are quite aware of the operation of the machine, who are going to be well versed in law enforcement.

But this law goes further than that, it takes it down to the local level, to the county level, and down to the constables and people who you know in your own community and I ask you to ask yourselves, are they the people that you want to appear before a court and have hauled into the police station and have to go through this test? Now some of these fellows have personal friends and some of them don't. I think if you do not happen to be a friend they could inconvenience you considerably by bringing you into court to take this test.

I am not going to ramble on this afternoon, and first I thought I would take the time that Judge Quinn might take, but I guess I won't do that this afternoon but I did want to express his opinion, I did want to express my opinion. I am sure that he feels very strongly about this measure and I hope that you folks recognize and respect his opinion as the number of years experience he had in this field. And thank you very much.

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

Mr. RICHARDSON: Mr. Speaker and Members of the House: Out of deference to my friend from Stonington, Mr. Richardson I will tell you that I am speaking in my individual capacity; we have not at this point made a party issue out of this piece of legislation, although I would hope that we might have. My little niche in life involves defending those people who have the good judgment to secure policies of insurance with insurance companies that I represent. And my little niche in life involves literally hundreds of cases of people who have sustained the most horrifying kinds of personal injuries.

My whole connection with this thing has led me to the absolutely inescapable conclusion that the greatest single cause of the horror on our highways is alcohol, and I subscribe completely to the views expressed by Brother Hewes. It is a privilege to use Maine highways, not a right. This law is constitutional, and if we had a really good basic constitutional objection to this the matter would have been sent to the Court.

Now there is one part of Representative Brennan of Portland's remarks that I just can't subscribe to. Under our present law I would agree that the penalty is a rather stiff one — you're either in or you're out, and under implied consent if we leave our present law the way it is you're really in. That is the reason why I favor the bill which you permitted to be tabled, a Report "A" of the Committee on Judiciary which would include a lesser species of offense; in other words, the major offense of drunk driving and under that an offense impaired, driving by impair, with lesser penalties.

These two bills together, Report "A" of the Judiciary that was tabled and Report "A" of the Judiciary that we are talking about today, working as companions, I think would be a significant step for us to take as a Legislature, a significant step for us to take as people who are concerned and have the fundamental moral responsi-

bility to take action. I say that I regret that it wasn't made a party issue; it should be. Every person in this room, regardless of whether he himself drinks and drives or whether he thinks that some constable might give him a hard time, every person here should have the courage to vote in favor of this legislation, and let the lawyers who suggest that it's some kind of a horrible trap for the innocent let them establish that on the basis of the facts two years hence, because I don't think it's going to happen.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. D'Alfonso.

Mr. D'ALFONSO: Mr. Speaker, Ladies and Gentlemen of the House: I am sure that many of you in this House are between and betwixt as it concerns this particular piece of legislation that is before us. I have examined a wealth of material from the law books and I am somewhat between and betwixt. I realize how easy it is for someone to become very subjective about this and to argue very successfully for the passage of this legislation. Having considered it very seriously and having relied upon my conscience to be as objective as I possibly can, without trying to indulge in some kind of fulmination or an outburst of emotion, I in reading through these various journals have decided that it would be much better for me to perhaps take a transcendental viewpoint towards all of this and to meditate on it with pure conscience if I possibly could.

I could quote from the number of books that I have here, and these are all various law journals from Massachusetts, Connecticut, Virginia and Rhode Island, and in many of these law journals there are quoted cases from all over the country. But after having read so much there is one statement in one of the law books that impressed me more than any of the other statements. And I think you might be interested in this statement:

"In a case involving in-custody confessions to the police, Mr. Chief Justice Warren, speaking for the Court in holding the confessions involuntary and therefore inadmis-

able, pointed out that the history of the privilege against self-incrimination is one of a constant groping for the proper scope of governmental power. The privilege is founded on a complex of values and all these policies point to one overriding thought: the constitutional foundation underlying the privilege is the respect a government—state or federal—must accord to the dignity and integrity of its citizens,' and furthermore, justice demands that a government seeking to punish an individual produce the evidence against him by its own independent labors, rather than by the cruel, simple expedient of compelling it from his own mouth."

This actually gives some indication that the Supreme Court has not limited itself to the historical origins of the privilege when applying the fifth amendment. This is what I'm concerned with. The tremendous power that the Federal Government has and in particular our state government has in prosecuting an individual. We are actually at the mercy of state machinery, and I do think it is the burden of state government to prove that we are guilty and not to force upon the individual this awesome task to pit himself against the machinery of the state.

These implied consent laws are not altogether the laws that you might think they are. There are many on the books today and many of them have been challenged and every one has received very critical analysis. And there is the Connecticut implied consent law which interested me very much as I read the critique of it by a Joseph A. LaPlante as he spoke concerning an act concerning implied consent through tests for intoxication on Connecticut's implied consent statute and this is how he concluded:

"The above discussion," in relation to the Connecticut implied consent law, "although presenting only some of the questions posed by the new implied consent statute, indicates that the statute as presently worded leaves much to be desired. Even before it went into effect on January 1 of this year, the statute was the subject of debate and controversy among law-

yers, prosecutors, legislators, newspaper commentators, and police officials. There is no question but that the statute's deficiencies and ambiguities will present problems and difficulties to all those who are connected in some way with its operation. It will be an awkward tool for police officials in their assigned task of improving the safety of our highways; for doctors, whose cooperation is required under the statute, it apparently creates uncertainties as to possible legal liabilities if such cooperation is given; and for the motorist it presents threats of sanctions without a clear expression of procedural requirements and due protection of rights."

I think those two statements somewhat sum up my feelings on this particular piece of legislation. I am going to be as diplomatic as I possibly can and I'm not even going to suggest how you should vote. I only ask that you objectively think about the quotations that I read from these law reviews. But in the final analysis of any piece of legislation that would put you as an individual against the machinery of the state in which not only the Fifth Amendment can be questioned but as these law reviews point out it is very possible that the Fourth Amendment is in question, the Sixth Amendment is in question, and the Fourteenth Amendment is in question.

I don't even know if the law as it is written on this particular L. D. is as good as it should be and having looked at the Connecticut implied consent law I am quite sure that it is much more comprehensive and much broader than the Maine implied consent bill before you, and as you have heard me quote about the ambiguities of this law and the uncertainties of that law.

So think about it carefully, think about it very carefully. Allow your conscience to be as pure as it possibly can be as you think about individual rights, about the Constitution of the United States, about the Constitution of the State of Maine, and what those two historical documents intended to do for you in preserving your individ-

ual rights, and once you have done that and you are satisfied then by all means cast your vote and let your conscience be your future guide.

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

Mr. LEVESQUE: Mr. Speaker and Members of the House: I think probably the gentleman from Cumberland, Mr. Richardson has indicated that certainly this is not an area that should be made a party issue, and I wholeheartedly agree that such measures as this should not be made a party issue. So I arise only to bring to the members of this Legislature my own personal views and also those indicated to me by the Chief Executive, the Governor of the State. Now the Governor of the State has recognized, as Mr. Hewes has pointed out, that there is an area in this state that has caused much grief and much slaughter on our highways. Now the grief goes down to the individual families of the people that by right or by privilege have been issued a driver's license.

It is the feeling of the Chief Executive that in some areas maybe some of these rights or privileges are being abused to some extent. However, the Chief Executive also feels that each member of this House should vote as was indicated earlier by the gentleman from South Portland, Mr. D'Alfonso, that the conscience of the members of this House should be a guiding matter, and that by using the individual's conscience he should also recognize the fact that there are constitutional provisions that he must also look after.

So I will certainly go along with the feeling of the gentleman from Cumberland, Mr. Richardson; as the Governor has indicated there is an area that needs to be looked into. Whether this document is the answer to that problem or whether the better enforcement of our present laws is the answer to trying to alleviate some of these problems, we feel that your judgment on the merits or demerits of this measure this afternoon should be your one and only guideline. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Beliveau.

Mr. BELIVEAU: Mr. Speaker and Members of the House: It appears to me that the proponents of this bill seem to be avoiding the issue. It also further appears to me that they are attempting to equate opposition to this particular measure as being opposition to highway safety. Now I think it is very important for us to review the language contained in this bill so that we will know exactly what we are passing upon. At this point, I would like to state that on June 13 of last year this measure was debated at great length. It was defeated by a two to one vote, and again it appears in its same form before us today.

Now I, for one, and particularly being a member of the Highway Safety Committee, I have consistently supported practically every measure promoting highway safety with the exception of the implied consent bill. I would also state at this time that the first meeting following the defeat of this measure last June, I asked the members of the Highway Safety Committee how many of them had reviewed or even read this particular bill. To my surprise, I believe four or five of the fifteen present had read the bill and were fully aware of its import.

Now I am going to review once again the objections I outlined on June 13 of last year, because they apply equally and as strongly today as they did then. I am speaking to you not as a legal scholar, but as a person who has been exposed to the drinking driver, to the prosecution of the drunken driving statute that is presently on our books, and a person who is in a position to make judgments as far as the enforcement of any one of our criminal laws is concerned.

Now under our present law, under Title 29, Section 1312 which provides for operating under the influence of drugs or liquor, a police officer must have the evidence before him before he can arrest a person for operating a motor vehicle while under the influence of intoxicating liquor, and as Mr.

Brennan indicated earlier, the standards for under the influence of liquor is a very very stringent one. Our courts have been very very liberal in interpreting it to mean that 'at all' means at all, no matter how slight as long as it affects your mental and physical faculties in any way, you will be considered to be under the influence of intoxicating liquor. Under our present law a police officer who stops a motorist first of all must be practically convinced beyond a reasonable doubt at the time of arrest that the person is under the influence of intoxicating liquor. Now this can be accomplished by first of all by his observations, and those of you who have been present in District or Superior Court and listened to a trained police officer testify, you will agree with me that a good police officer never loses a drunken driving case. The problem arises with your untrained, unqualified, incompetent police officers, and I am not directing my finger at any particular department or agency, but in any event he will testify as to the man's condition, his appearance, his demeanor, strong odor of alcohol and the Judge will ask him for his opinion, and the officer will say in my opinion he is under the influence of intoxicating liquor, and a great majority, I would say 99 out of 100 cases that come before the District Court in which the officer is trained and prepared, there is a conviction. The problem arises, ladies and gentlemen, not in the law itself but in the enforcement of the law. How frequently have we—do we know of instances where a person who has been accused and charged with operating under the influence for the second, third and fourth time has been freed after a relatively light sentence? Now this is contrary to our existing law. Today, a person convicted of a second or subsequent offense of the same gravity shall be punished by imprisonment for not less than three months nor more than three years, which jail sentence shall not be suspended.

Now I was County Attorney for two years and on the defense I have been on the other side for a year now and I have yet to see a person go to jail after being con-

victed of operating under the influence. Now the problem, you can't blame the police officers for this, you can't blame the law for this, but we know where to put the finger in many instances. So in any event after conferring with police officers, not police chiefs, the police officers, who have told me, many, many of them, who have told me that they would prefer to see some type of a training course so that they would be better prepared and in a better position to testify and present their cases.

Now my most serious objection, and probably the greatest objection to this bill is in section 1 of—sub-section 1 of section 1312A, which requires an arrest before a person is given a breathometer test. This is what's going to happen. A police officer will stop the motorist, will stop a motor vehicle, he may smell an odor of alcohol on his breath, he may smell beer, or he may suspect because of the manner in which the car is being driven that the person is under the influence. At that time, he will place him under arrest, take him to the police station, the nearest police station; he is in custody, he can't release him, he can't discharge him, and in certain areas of this state this would create a very real hardship, take him to a police station or before a bail commissioner, but when they arrest him, it is a practice in a great majority of police stations and agencies of this state that the person must be booked. There isn't a drunken driver that I know of who has ever been arrested who has not been booked. This means fingerprinted and photographed, and there is an arrest record made at that time. Then he submits to the breathometer test, which is being administered by a police officer whose sympathies are with no one but the arresting officer. And then let us assume that the results are below the presumption of under the influence, less than 15% by weight of alcohol in the blood. The man is released, certainly he is released, but he must appear in court.

The police officer must then go to court and get a complaint, sign a complaint and the individual must appear in court and because

of the seriousness of this charge in ninety-nine out of a hundred times he will retain an attorney to make certain that the complaint is dismissed. And then we go one step further, the complaint is dismissed, that's not the end of it. Under our record system in this state and in a great majority of states in this country, the State Bureau of Identification will receive a record of arrest which reads as follows, it says nature of arrest: operating under the influence; the officer will say Sheriff's Department or State Police; disposition: complaint dismissed, but that is on record here, and you and I all know today that a person seeking employment either with the Federal Government or the State Government or various corporations or to seek a passport, frequently they have a record check, and they will see this man has been picked up for operating under the influence and they'll conclude that it was dismissed because he hired some smart attorney and probably had it dismissed on a technicality. But as I say again, the greatest failing of this bill is the fact that it requires an arrest by the police officer, an absolute curtailment and restriction of a person's freedom, you must go with them, and then if you refuse to take the test, as you all know, your license will be suspended for a period of time.

Now it is also very important to know that if the results of the breathometer test are favorable to the driver of a car, the state is not compelled to use the results of that test in a court of law. They must give you the results, but in order for the judge to know the results of this test if the county attorney or the officer does not advise him, you must take the stand and tell them I took this test but the results are lower than 15%. In other words, it shifts the burden to the defendant to take the stand and prove his innocence.

Now yesterday reference was made to the success that the police are experiencing in England with their so-called implied consent law, and that their implied consent law is very similar to the

bill before us today. My research reveals that the English law is far different from our law. The English law the breathometer test in itself is inadmissible in a court of law. It is simply a screening test that must be supported by either a blood or urine test. In a recent survey, study or test conducted by the Royal College of Surgeons under ideal scientific conditions they concluded that the test results were violently erratic, thus the requirement for corroboration by a blood or a urine test. So we can't look to England for support in this bill and this bill would permit the results of a breathometer test in itself to be admitted in a court of law against a defendant.

Now last spring we had an opportunity, some of us, the members of the Judiciary and myself and a few others, to observe the operation of a breathometer. This is a very complicated and expensive piece of machinery. It is only as good as the operator. This bill assumes that every police department in this State, every Sheriff's office, will purchase one. What good is this test if every municipality and Sheriff's Department and State Police station in the State is not equipped with this expensive piece of equipment which sells for no less than \$800 as I understand it, and probably for a great deal more? But in any event, there are a number of check procedures which must be followed to ensure the accuracy of this machine, and if the operators are unable to show that they followed these, the results of that test would never be admitted in a court of law. It's a very technical piece of machinery and the only test conducted by the Royal College of Surgeons completely disproved its accuracy.

I will not comment on the Constitutional issues raised here. I don't believe that the people, those of us who are against this bill, are against highway safety. I don't believe that in voting against this bill that we are condoning in any way the slaughter or carnage on the highway. This is a very poor bill, it's a very dangerous bill. The potential abuse here by far out-

weighs any benefits that could accrue from the passage of this bill. This bill as was mentioned earlier by another speaker, will not be enforceable or this law will not be enforced solely by trained police officers, it will be enforced by every police officer in this state who will have access to this, and if a constable, deputy sheriff, municipal police officer, city police officer or state trooper after arresting a person and finding that it is below the presumption of under the influence fails to acquire a complaint; in other words, if the defendant does not appear in court, it exposes the police officer to civil liability for false arrest and false imprisonment, and don't you think, ladies and gentlemen, that if a person who has been arrested and whose test results in his favor will not hesitate to sue a police officer.

As you know, the police officers today are exposed to a great many hardships. Let's not give them a bill or a law that they don't need, a law that is unworkable, that is practically unenforceable as a practical matter. Let us give them the training, the money for training, the number of troopers that they require, the number of police officers to enforce our existing law. We have as stringent a drunken driving statute today as there is in the United States, but the problem is in enforcement. The problem is to a certain degree with our courts. The problem is again with the prosecution, not with the law.

I won't take any more of your time, but again I would like you to review the language in the bill, and do not permit the fact that — do not equate opposition to this bill to opposition to highway safety, because we have an additional responsibility to the citizens of this state and that is to make certain that we do not pass unenforceable and unconstitutional laws, so I trust and I strongly urge you all to vote against the pending motion to adopt Committee Report "A."

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Pendergast.

Mr. PENDERGAST: Mr. Speaker, Ladies and Gentlemen of the House: On January 13th, just ten short days ago there was a terrible accident on route 111 in the Town of Arundel. Two innocent people were killed instantly and one died later in the hospital, making a total of three fatalities. According to the investigating officers the car at fault was driven by a man driving under the influence. Now this car crossed the highway to the wrong side and hit the family car head-on. To me, this is needless slaughter, and if he perhaps had been stopped by an officer just before the accident these people could be alive today. I urge you to vote for the passage of this measure. Thank you.

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

Mr. FOSTER: Mr. Speaker, I'd like to take a moment to discuss perhaps and make observations in an area that has not been discussed and I think perhaps has been neglected. As you all know under the laws of our land, every person is presumed innocent until he is proven guilty beyond a reasonable doubt. Proven guilty now beyond a reasonable doubt, by whom or by what? Proven guilty by his fellow men or by a machine? Now if he has an accuser, if one of his fellow men has accused him of a crime, he has his day in court, he is confronted by his accuser, his accuser is put under oath to tell the truth, the whole truth and nothing but the truth, and if he or his supporting witnesses commit perjury, lies, then of course he is committing a crime perhaps more serious than what he is charging. He could be punished for it, but the most important thing is that the court repeatedly holds and we have a Law Court sitting in the State of Maine that says if a man or a witness, if he lies a little, the court or the jury can discredit other testimony that he gives even though it might seem sound and probable and so forth.

Now if the witnesses on cross examination those things are brought out if he is lying and you try to show it, defense counsel

try to show it and often times they do, and if ultimately the court should find him guilty, the respondent has the right of appeal to a higher tribunal. Now on the other hand, if he is to be convicted beyond a reasonable doubt by a machine as an accuser, mechanical genius as some people think of them, why this is what he is confronted with. He goes and takes the test and I don't believe anybody is sure now how accurate that machine is. I think it has been demonstrated that it is inaccurate, that it lies, it is not under oath, there is no appeal from it, there isn't anything you can do about it, and it can if it registers up to a certain point mean that it has convicted somebody.

Now as to the reliability of this particular machine, as has been said previously, I as a Judiciary member of the Committee and others observed a demonstration. Now as to the machine lying a little bit, let me tell you what we have found out for ourselves. You understand we did have to find this out, nobody told us this. The police that want the machine didn't tell us this, the doctor that gave a demonstration did not tell us this, and certainly the manufacturer has no idea of telling you that the machine does lie a little bit.

Now one member that took the test was a man that never took a drop of liquor in his lifetime. What happened? The machine lied just a little bit, it said that he had some alcoholic contents in his blood, that he had consumed some. It was very small to be sure. Perhaps it was a .1 or less or more, but the fact is that the machine does lie a little bit and if it comes to a crucial point of .15 it might mean the difference between innocence and guilt.

Now the explanation of the good doctor at this demonstration, said, well oftentimes if a person has eaten a highly spiced pickle that will show up on this breathometer. Well, let us take the case of two men of the same weight, consumed the same amount of alcohol, arrested at the same time, given the test at the same time, and it was near the borderlines, or it was

.14½ and one of the men had a pickle and the other one didn't — we've got one innocent man and we've got a guilty man because he had a pickle.

Now are you going to rely upon that sort of thing to convict people? I don't know what the machine would do if somebody breathed into it that had bad breath. I don't know; I would like to know, but nobody at this particular demonstration had bad breath or at least we didn't know that they had. And that is my biggest objection to the use of these machines.

Another thing that disturbs me greatly is the manner in which these tests are conducted. The doctor that conducted it as some of them took the test, he said now you must breathe very — you must get the breath from the bottom of your lungs, the top of your lungs the breath will not register, it has to come from the bottom. Well now I would like to know how any tester is going to tell whether a person taking this test is breathing from the bottom of his lungs or the top of his lungs. You could take the same two individuals that I have given you as an illustration, I think that either one could fake breathing from the top of his lungs, the machine would say that he was innocent, and the fellow that got real down serious about the thing, carried away with cooperation, was breathing from the bottom of his lungs, why then he's guilty, the machine said so.

And there's no appeal from that machine, you can't appeal to a bigger and a better and a more polished machine; because you get the same results, the whole theory is there. It's the inaccuracy, the unreliability of the thing, and I think it would be a dangerous thing, it would be an awful thing to ask our people to resort to, to be compelled to subject themselves to or to lose their license. I could go on, oh, indefinitely, but that's just a little area that apparently has been overlooked. I think it's an important area, and I think that it's something that you should give serious thought to when you are called upon to vote on this measure. Thank you.

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

Mr. RICHARDSON: Mr. Speaker and Members of the House: As one of those who dearly loves pickles, I want to say that these ingenious and entertaining arguments that you have heard from the members of the Bar are going to be repeated if you pass this legislation, which I say is good legislation, and they will make the same attack on the veracity of the machine's findings and the whole thing will be repeated in Court before juries, and I am sure that some of these cases they're going to convince juries that there is failure to follow proper procedures, or if they are using machines that haven't been adequately tested or if they can find a doctor who took a blood test after the breath test was taken and said no, there was not that much alcohol in this man's system. I am sure you're going to hear all of these things.

And in somewhat less emotional tone than my last attempt to describe this problem for you, I want to say that everyone of us operates a motor vehicle on the highways of this state as a privilege and I think the hundreds and thousands of people who have sustained serious bodily injury have a right to insist that when somebody is drunk they not drive an automobile, and this legislation would bring about that kind of a reappraisal by the guy who is going to take that chance and jeopardize your lives and those of the people we are here to represent.

And that's the reason I think it's good legislation. I will abide by your judgment, at least until the 104th.

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

Mr. DAREY: Mr. Speaker and Members of the House: As a member of the Judiciary Committee and one of the five members that supported Amendment "B" I wish to state my position. First of all I would like to briefly analyze L. D. 1835. In the first place it is limited to the breath test by a breathometer or other instrument known as a Breath Analyzer—different com-

panies have different names for the various machines. It is limited to this one test, not to a blood test, and I might say that at a demonstration in which the ten members of the committee were present when that test was made I was very favorably impressed and I am sure that the other five members who went along were of the same opinion.

Now following down the amendment, a person must not necessarily submit to the test, he may refuse; but if he does refuse then his right to operate is suspended for thirty days. Now, it doesn't end there, we have safeguards built into this bill. If his license is suspended first he has a right to hearing and then if his license is suspended he has a right of appeal and have it taken before an appropriate court to review the order and his right to operate shall not be suspended or revoked during that period.

Now for the essence of the bill. You have heard this implied consent. Implied consent is no stranger to the laws of the State of Maine. Indeed implied consent is a friend of the citizens of the State of Maine. Just as I hope this feature of implied consent will prove to be a friend of the State of Maine, the people of the State of Maine. In making this statement, I refer you to Section 1911 of Title 29, the same title, known as the motor vehicle statute to which the present bill, the proposed bill has to be an amendment, and that provides for this, that the acceptance by a person who is a resident of any other state or country of the rights and privileges accorded to him under this chapter, meaning the Motor Vehicles chapter, and by the acceptance of these privileges by the operation of a motor vehicle, he shall by implied consent appoint the Secretary of State as his agent or attorney for the purpose of accepting service in the event he is involved in an accident and a suit ensues thereunder.

Now that implied consent affects all of you. You not only when you drove to work this morning you consented to that implied consent, because if you have ap-

pointed, the Secretary of State applies not only to citizens of the State of Maine but if you move away, if you become a citizen of another state, you still are subject to service by the Secretary of State.

Now only yesterday I gave implied consent in three instances. I drove up from Massachusetts to get here for the two o'clock session. I gave implied consent to the Registrar of Motor Vehicles in the State of Massachusetts. I gave implied consent to the Commissioner of Motor Vehicles in the State of New Hampshire, and when I entered the State of Maine I again gave consent to the Secretary of the State of Maine, implied consent should I be involved in an accident I appointed him as my agent for this service. To be sure, this involves the civil side but it also has been declared constitutional, which I will point out presently, and should apply to the criminal side. I am injecting that in here now in the event some of the opposition may say, well this will not apply to the criminal side.

You also benefit by this feature of implied consent, because if a non-resident hit you with his car and you are involved in an accident, and then he moves on, moves out of the state before you have started your suit, there is no way you can get him back, no way that you can get service that's valid. But then you sue by implied consent, he having used the highways, you sue the Secretary of State, he is your agent for the purpose of service. So that you have benefited by this statute 1911.

About twelve years ago, the president of the American Surety and Casualty Company made the report that one out of every three persons sometime during their lifetime would be involved in an automobile accident resulting in personal injury. So you take that, apply it to this group here, assuming we have a full house, that would mean that fifty people in this group, at that time twelve years ago would be involved in an accident involving personal injuries sometime during their lifetime. Now you bring that down to the present day, the reports

now indicate that every other person sometime during their lifetime will be involved in an accident involving personal injuries.

For that reason, Mr. Speaker and ladies and gentlemen, I'm sure liquor was not involved in all of these instances, no, but it does play a part. Now as to the constitutionality of this feature of implied consent, in the case of *White vs. March*, 147 Maine 63, with reference to the implied consent on service on the Secretary of State, this is what the Supreme Court of the State of Maine has to say: "This section is a valid exercise of the police power of the state. Its policy is but a recognition that the law must keep abreast of the demands of modern science insofar as they apply to travel by automobile. There is thus provided by the exercise of the police power an efficacious remedy to promote the public safety and preserve the public health on behalf of those injured in their person or property by the negligent use of our highway by others."

Therefore, Mr. Speaker, ladies and gentlemen, I urge you to support the motion of Mr. Birt and pass this bill. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. McNally.

Mr. McNALLY: Mr. Speaker and Members of the Legislature: I, as you recall last year, had the opportunity to go through implied consent in a strange city 2,500 or 3,000 miles from here at 9:00 o'clock at night caused by an eager employee of the City of San Diego, and my mind has not changed in any way. I most certainly after that experience have no intention of voting to take away what little right I have that I am innocent until I am proven guilty, and you folks have a right to your opinion, and I've been asked many times, well what would you do if you didn't have something like this? Well, when we came down here there was a piece in the paper that said: low Maine consumption of table wines termed reason to put on the grocers shelves. I would try to hold down the sale of liquor somewhat from especially to young people, and have an education pro-

gram instead of asking for people to give away their right of being innocent until proven guilty.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Binnette.

Mr. BINNETTE: Mr. Speaker and Members of this House: I shall be brief as I am not a member of the Bar, but after sitting here and listening to these lawyers pro and con, I must say that I'm somewhat like a juror in a box, I'm going to listen to the good points and the bad points.

First of all, I want to commend the Majority Leader for not bringing this in as a Party issue because he would have absolute control, I would agree with him on that, but on the other hand, some of these distinguished men who have got up here and spoken this afternoon have enlightened me to such an extent that I must commend the former County Attorney from Oxford County, Mr. Beliveau, for the splendid manner in which he brought this matter out.

I think that perhaps if this machine was put in the hands of very well qualified people we would get good results, but I still feel as though if some of these local police officers who do not always know their business, but they have a dislike for certain people, they would use that means and method to punish them, so I don't think this is needed. We say this is a privilege to be on the highway. It is true, but we have to buy that privilege, we've got to pay for our licenses, although some people abuse it. My thoughts in this direction, either you stop the sale of liquor completely or else have some way of stopping a driver from driving a car. After he has hit somebody and given them an accident, this implied consent only helps to prosecute them and that's all, it doesn't prevent the accident. If we want to correct it, we have got to prevent them from taking liquor, so the only alternative I can see is to stop the sale of alcoholic beverages.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, I made several comments on this yester-

day, and unfortunately the bill was tabled at that time. I would review a few of them.

First off, there has been a good deal of discussion about the competency of the people who might administer this test, or the people who would be using this equipment. It very clearly specifies or points out in the bill that the breath test shall be administered by a person certified by the Commissioner of Health and Welfare at the request of a police officer having reasonable grounds to believe the person to have been operating or attempting to operate a motor vehicle upon the public ways while under the influence of intoxicating liquors. I have been reliably informed that the Commissioner of Health and Welfare has the equipment to calibrate and test this equipment at any time and he also has trained people over there who will help and will conduct classes and certify people to properly operate this equipment.

Now there seems to be some question as to the reliability of the equipment. I have talked with people who have operated and seen it operate, I had dinner with one of them today, and they seem to be completely satisfied and convinced that this equipment is adequate, that it will do the job. As I understand the test that was done with the Judiciary and several other people that there were people there who did not drink, there were people who—it was tried in all different ways, and they felt that they got a very satisfactory test. There seems to be a great division of opinion among attorneys, and this is a rather interesting thing in the Report of the Committee on this particular piece of legislation, because several attorneys have indicated that they feel that this is unconstitutional; others indicate that it is constitutional. Personally, I feel that every one of these attorneys are honest people, that they have had a very thorough education in both the Constitution of this State and the Federal Constitution, and it seems that there is this wide division of opinion on the question of constitutionality, that there is a good possibility that it may be unconstitutional, but there is also an

equally good question that it may be constitutional.

Now it has been tried in several states. The State of California has tried this before their Supreme Court and it has been found to be constitutional. If there is a serious question of constitutionality, it does not seem that this question can be settled on the Floor of this House. The Law Courts of this state as the Law Courts of every other state in this country and the Supreme Law Court of the land are the ones who make the final decision on the question of constitutionality. If this bill is unconstitutional, this is a group of people, the six men in this state who have been appointed to that supreme body who will make the final decision on it. I do not believe that it can be made on the Floor of this House. I think that it can be pointed out and that it is or that it isn't and I don't think that anybody can prove this point, I think it is a decision that they will have to make. In watching the many cases that have been sent to the Federal Supreme Court, there have been many of them come out with varied opinions, very equally divided opinions. There have been many cases that have gone before the Federal Supreme Court and in time in years gone by they were found to be constitutional and today they are found to be unconstitutional. The whole direction of thinking in this country has been changed a great deal by some of the decisions that have come out of the Federal Supreme Court, and I think if any test of this is to be made as to its constitutionality it shouldn't be tested on the Floor of this House, it should be tested by the Supreme Court of this State.

I frankly do believe that there is an area of human right that has not been given serious consideration. The good gentleman from Kennebunkport, Mr. Pendergast, pointed out one right, and I think we could find many cases. I think that the one that probably the most quickly comes to my mind at the present time is the situation that happened in a northern Aroostook town this last fall when two young girls were standing on

their front lawn picking apples and a person who was under the influence of intoxicating liquor came along and hit and killed both of these girls. Now these girls certainly had a right, they had a right to life, and this was taken away from them. Probably the major killer on the highways of this country today, and I think this has been adequately proved in many articles, is the drinking or use of alcohol. Many attorneys, and I will close with this one last piece from an article that was taken from the Portland Evening Express the 30th of January in which two local attorneys, active in the American and Maine Trial Lawyers Associations, will put their strength behind a bill designed to curb drunken driving in Maine. Herbert H. Bennett and Norman S. Reef, representing both groups, will testify in support of the so-called implied consent law at 1:00 p.m. tomorrow in the Judiciary Hearing Room in Augusta.

Now certainly these gentlemen I am sure, as have all of the members of the Judiciary Committee, gone over this piece of legislation very extensively and they apparently didn't have any serious qualms about the fact it was constitutional or not; if they felt that it was unconstitutional, I don't believe that these two gentlemen, representing the groups that they head or being active in these particular groups, would have been before the Judiciary Committee recommending the passage of this bill.

I do believe that this Legislature as has been pointed out, hasn't done anything in the area of highway safety during the regular session and during the special sessions, and with the continually mounting death rate and accident rate on these highways, we have a responsibility to do it. The newspapers in the State have pointed out continually the need in this area, and I would certainly hope you would support my motion.

The SPEAKER: The Chair recognizes the gentleman from Eliot, Mr. Hichens.

Mr. HICHENS: Mr. Speaker, Ladies and Gentlemen of the House: I am not up on all of the

technicalities as described by the learned lawyers in our group, but I am aware that it was reported that 30 per cent of all the fatalities in the State of Maine last year were caused by drunken driving. Our state police, our Highway Safety Commission and our Governor in his Call have endorsed this implied consent bill, and so I will go along with Report "A". I am a little bit disturbed over the remarks of Brother Foster regarding the eating of pickles. I gain some of my income from the sale of pickling cucumbers and I am afraid that if this gets around that I may be accused of having aided and abetted if someone is caught pickled or accused of being pickled because they ate my pickles.

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

Mr. CONLEY: Mr. Speaker and Ladies and Gentlemen of the House: I wish to stand very briefly to go on record as being strongly opposed to acceptance of Report "A". I would just like to clear something in my mind. Apparently this L. D. is being waved around that in some manner it is going to be a strong deterrent in aiding or prohibiting the driver from operating his motor vehicle under the influence.

Now I've been a dry for a number of years and at one time in my very happy life I don't mind saying that I was very active with the boys in having Saturday night beers; but never in my life can I ever remember where anything was ever said to me relative to controlled drinking, whether it was the laws of the Court or whether it was the good word of advice from a parent or from some loved one that was able to change anyone's drinking habits or change any type of accident from happening. I wonder if perhaps we're not getting a little bit over emotional when we start speaking about people being killed because of the fact of somebody operating a motor vehicle under the influence. I think what we are chiefly concerned here today with is whether or not we want the constitutional rights of our sons and our daughters and ourselves to be in-

fringed upon by some town cop who doesn't know whether his pistol is in his holster or is in his top drawer at home. I think the gentleman from Rumford, Mr. Beliveau has clearly pointed out that what is needed mostly in the state is the training of police officers.

I am really disturbed when I hear statements like the ones made by the gentleman from East Millinocket, Mr. Birt, although I do not question his judgment or question his seriousness of adopting Report "A", but I can't for the love of me understand how this bill, if passed, would have saved the lives of those two girls up in Caribou. Naturally, we all hate to see what happens when someone who is drinking gets behind the wheel, but I think we have to look down different avenues than the one that we are looking down today. I don't have the answer to it, I'm sure, the Highway Safety Committee doesn't have it, and I'm sure our Chief Executive doesn't have it. There are three branches of Government as we are certainly aware of, the Chief Executive, the Legislative and the Judicial, and I think it is up to every one of us here today to make up our own mind as to whether or not we think the bill before us is something that we want on the books. I personally don't want it.

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

Mr. McMANN: Mr. Speaker and Members of the House: I have neither smoked or I have neither drank in my lifetime, and I am not too fussy about pickles; but I have seen police officers abuse the privilege of which they have and I agree with some of the previous speakers that police officers do have friends, they do have those who are not friends. And I am not positive whether we passed a law here or not that they get a little extra money if they went to court, but if they do those who are not their friends might go up there with this implied consent law and it would be just too bad.

I, as I say, we had a fatality, and I haven't any use for drunken

drivers. We had a fatality in our city last year where a man was drunk — not under the influence of intoxicating liquors, he was drunk, and he ran on the opposite side and killed two old people who were friends of mine. But what did they do to him? They fined him \$375. If he had gone out and caught short lobsters it wouldn't cost him that much. But seriously, I can't see taking the privileges away, I don't see how it's going to stop these drunken drivers from driving.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Robertson.

Mr. ROBERTSON: Mr. Speaker and Members of the House: Just three short points I would like to make and I am going to sit down. I would like to say this, this law if passed is not going to stop drinking, that's been tried by several measures and failed. I can cite a case in Bangor when a fellow who was intoxicated with driving a vehicle. An officer arresting did not choose to bring a charge of intoxication against him; that isn't going to correct that situation either. So I want to ask you this question.

When your neighbor is booked, brought into court, fingerprinted and is in Court, and asks you how you voted on the implied consent bill, and your neighbor never drank in his life, how are you going to answer him?

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Shute.

Mr. SHUTE: Mr. Speaker, Ladies and Gentlemen of the House: On June 13 I voted against this bill. Since that time I have had the opportunity to investigate it more carefully and I don't believe that our individual basic constitutional rights are violated in this bill, as a result of some of the research I have done. Because indeed I have a whole page of United States Supreme Court decisions where it has been ruled that a chemical test is indeed no violation of any constitutional rights.

I believe that we have a right to choose whether or not we wish to live. You recall last Sunday there was an article in the Maine

Sunday Telegram about the right to choose to die. Well I think this is a deterrent, a deterrent to those who would go on the highways and gamble the lives of our loved ones, our neighbors, people who visit us in our state. Yes, I have seen the light to which the gentleman from Madawaska has frequently referred during this special session and today I am voting for this bill because I believe we do have the right to live.

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

Mr. STARBIRD: Mr. Speaker and Members of the House: I would like to concur with the gentleman from Farmington because the same thing has occurred to me. I voted against this bill in the regular session; I am voting for it today. Not perhaps that it makes too much difference, I have not always agreed with what the Chief Executive said, but I think most of us can concur with some of the sentiments that he expressed in this hall about two weeks ago.

We should all be concerned about the increased number of fatalities on our highways. Human error and mechanical failures cannot be eliminated from our life, but we should do what we can to curtail the increasing number of accidents. Highway safety bill is presented for your evaluation, which would establish two instruments to combat this spectre of death and injury on the highway. And, gentlemen, this instrument as before you right now is Report "A" from the Judiciary Committee. We have listened to the attorneys' debate, constitutional law, the rights and privileges, the immunities granted by the Constitution, are not granted by them, how much they would be affected by this, and we have found that there is a wide disagreement among them. There is often disagreement on the Supreme Court bench, even that high; in the highest tribunal in our land decisions of constitutional law have been decided by one vote, one man's opinion, five to four opinions.

And I as a person will have to do anything that I can do in my

judgment to stop the spectre of death which the Governor mentioned. The accident that I was involved in last Saturday is probably a case of error in human judgment on the part of several people. That is one thing we cannot entirely control, although we can search our minds and our hearts afterwards and think of things that we could have done or should have done in the quickness of the event we didn't have time to think of. But in our leisure we can think of things that do cause accidents. We know of things that contribute more to accidents than any other item, and in this manner we can take the ounce of prevention that will cure some of these accidents. This is one of those ounces of prevention and I hope it will pass.

A little in a lighter vein, I would inquire perhaps if the gentleman from Old Town, I see he is not in his seat right now, I would inquire if he is interested in bringing back prohibition. He seemed to indicate that he was.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Binnette.

Mr. BINNETTE: Mr. Speaker and Members of the House: I would like to answer this gentleman's question. No, I would not want to bring back prohibition because I have seen the ill effects of it in the last fifty years or more. I think you would have more law violaters and I don't think you would have enough machines here to be able to control any traffic, and it would be a great detriment to our citizens. Again, I want to state this while I am up. I believe in highway safety as much as any person in this room and I will do everything I can to promote that. But I don't think that this implied consent is a solution to it.

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

Mr. FARRINGTON: Mr. Speaker and Members of the House: I certainly don't want to stand here today and be opposed to any measure that would help safety on our highways. I would pose one question to each one who will be required shortly to vote on this measure, or against. We are vitally

concerned with whether one is guilty beyond a reasonable doubt. If the question in your mind is as it is in mine, that I haven't been convinced that this machine will tell the truth, this certainly leaves a reasonable doubt and I certainly would hate to be one who convicted a person on this reasonable doubt. Therefore I shall vote against this measure.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Harvey.

Mr. HARVEY: Mr. Speaker and Members of the House: Just one thing. This measure, we're not voting away land, forests, trees or streams, we're voting on people's personal liberties. I don't think this is the place for this question to be settled. I think that anything of this magnitude, that deals with people's personal liberties, should be voted upon at referendum by the people of the state. Let them decide whether they want to give up their personal liberties. I haven't got guts enough to vote to take away personal liberties of the people who elected me. That's for them to decide; if they want to give it up, true, but I am not going to vote for any bill that will take away that liberty. Thank you.

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

Mr. LYCETTE: Mr. Speaker and Members of the House: I don't want to be presumptuous and bring in my past experiences, but there's a couple of misconceptions here that's been brought out and I would like to correct them, and I think I'm justified and as a member of two distinctive police departments, one of eleven years and another thirty. One of those misconceptions is the infallibility of certain segments of the police departments. I think that's one of the misconceptions. You know there's an old saw that says, and it's quite practical in police circles, that the effectiveness of a policeman is predicated on ninety-five per cent — well ninety per cent, or ten per cent law and ninety per cent horse sense, I guess I've got my arithmetic right. And I don't care what kind of a uniform you put on a

man, the whole thing is how much judgment he's got.

So I wanted to correct that thing, it's been brought out quite a few times and I think that a man's effectiveness I say is how he can present a case in court and I don't think that if he hasn't got the judgment, whether he's had years of training or whether he hasn't, it doesn't make too much difference.

It was also brought up that a subject when he is brought into jail it is obvious that he is drunk. Well I want you to know, ladies and gentlemen, that's quite a far cry from the time he's brought into jail until the time that he comes into court. And I've seen many cases that the fellow, while the victim's staggered all over the place, but when he got into court and he got a good defense and a good smart lawyer he got clear.

Now I'm all through but just one thing. I'm probably sticking my neck out a mile and will get it chopped off sometime, but we've spent an hour or so here on this matter debating this issue and nobody's touched on the angle of what they get after they get convicted. I know of a case that I worked on, it was one of the most horrible things that ever happened. A man with seven children, he was walking along and guiding his team of horses with a load of potatoes and this drunk come up and hit him and carried him 275 feet. What did he get? He got eleven months in the county jail under my regime. And I think if you will check on it, on this case that somebody mentioned — over there, Mr. Birt, you follow up and see what this man that killed the two children up in our county got. I just want to say you spend an hour and a half on this phase of the thing and you haven't touched on the key to it. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. Danton.

Mr. DANTON: Mr. Speaker and Ladies and Gentlemen of the House: As a member of the Judiciary who signed the "ought not to pass" report I would like to explain to this House the reasons that compelled me to so sign.

First, I will not go into the taking away of the constitutional guarantees of the individual because I think it has been well covered. I will go into the accuracy of the machine. That eventful night when the members of the Judiciary and others including the sponsor of the bill were invited to observe the machine, I entered the room and I asked one of my colleagues of the Judiciary Committee to pour me a mild Scotch and water for I was to take the test. And after sipping this Scotch and water, and it was a mild one, I took the test. And the reading of that machine was that I had .25 alcohol in my blood stream. In other words, in effect it said that I was plastered.

The operator of this machine was the outstanding authority of the machine in the State of Maine, a man who has more training in the operation of the machine than any other individual in the State of Maine. He expressed surprise. He went on and changed the chemical, saying that it may be the chemical. And after changing the chemical the reading was somewhat lower, but I was still considered to be drunk. About an hour or so later, and after having a dinner, I took the test again, because now it became a challenge to the good doctor that was operating the machine. At this time the reading was that I was sober.

Now are we going to allow a gadget — and I don't call it a machine, I call it a gadget, to determine whether a man or a person answer the charges of operating a motor vehicle while under the influence of. I don't think that this is the intent of this Legislature. I think that it is the intent of this Legislature to do something about curbing the fatalities on the highway, and I would submit to you that the present law that we have today is one of the most stringent laws known insofar as operating a motor vehicle under the influence of intoxicating liquors at all. What is lacking? I submit to you that we are lacking properly trained police officers.

If we are sincere about cutting down highway fatalities let us all act in concert right now this minute, we have the power, we

have the authority. Let us subsidize a school which will provide training for our police officers. We have been subsidizing Maine industrial buildings, recreational developments, schools and school loans; let us subsidize a school, a training program for our police officers, and I assure you that highway fatalities will go down.

Further, I would like to make this remark that to my knowledge, and I have gone through the hearings and I have listened to the debate, there is no evidence of any kind that has been submitted at any time that the enactment of this law in other states has brought about a decrease of highway fatalities; and if anyone has any such information I wish when I sit down that they would give me that information and quote the authority. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Dover-Foxcroft, Mr. Meisner.

Mr. MEISNER: Mr. Speaker and Members of the House: I am not going to make a speech, but in case I should be misunderstood by my silence I want to go on record in support of Committee "A".

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker and Members of the House: To answer a couple of the questions that have been posed by the gentleman from Old Orchard Beach, my understanding of the use of this equipment is he said he went into the group meeting of the Judiciary and he had a Scotch and water, my understanding of this is that it requires fifteen minutes after the consumption of any alcohol before an accurate test can be given, which any trained operator would be aware of.

Now it seems to be continually pointed out, the reliability of this equipment. The Department of Health and Welfare, and I have been reliably told this, has the equipment to both test it, calibrate it, and has the people in there who will set up clinics and classes to instruct personnel in the operation of it, and the bill clearly says that it will have to be a person — the person using this will have to be

somebody who is certified by the Department of Health and Welfare.

The SPEAKER: The pending question is on the motion of the gentleman from East Millinocket, Mr. Birt, that the House accept Report "A" on House Paper 1306, L. D. 1835, Bill "An Act relating to Highway Safety." The yeas and nays have been requested. For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. All of those desiring a roll call will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from East Millinocket, Mr. Birt, that the House accept Report "A" on L. D. 1835. All those in favor of accepting Report "A" will vote yes; those opposed will vote no. The Chair opens the vote.

ROLL CALL

YES — Allen, Baker, E. B.; Baker, R. E.; Benson, Birt, Bragdon, Brown, M. F.; Burnham, Clark, Crommett, Darey, Dickinson, Drigotas, Drummond, Dunn, Durgin, Eustis, Ewer, Fortier, Hall, Hanson, B. B.; Hanson, H. L.; Hanson, P. K.; Harriman, Haynes, Hewes, Hichens, Hoover, Huber, Humphrey, Immonen, Jewell, Keyte, Levesque, Lewin, Lewis, Lincoln, Maddox, Meisner, Morrell, Mosher, Pendergast, Philbrook, Pike, Porter, Rackliff, Richardson, G. A.; Richardson, H. L.; Ross, Sahagian, Sawyer, Shaw, Shute, Snow, P. J.; Starbird, Trask, Waltz, White, Wight, Williams.

NO — Bedard, Belanger, Beliveau, Berman, Bernard, Binnette, Boudreau, Bourgoin, Bradstreet, Brennan, Brown, R.; Bunker, Carey, Carrier, Carroll, Carswell, Champagne, Conley, Cornell, Cote, Cottrell, Crockett, Crosby, Curran, Cushing, D'Alfonso, Danton, Dennett, Dudley, Edwards, Evans, Farrington, Fecteau, Foster, Gaudreau, Gauthier, Gill, Giroux, Harnois, Harvey, Hawes, Healy, Henley,

Hennessey, Hinds, H o d g k i n s , Hunter, Jalbert, Jameson, Kilroy, Kyes, Lebel, Martin, McMann, McNally, Minkowsky, Nadeau, N. L.; Payson, Prince, Quimby, Rideout, Robertson, R o b i n s o n , Rocheleau, Roy, Scott, C. F.; Scribner, Snowe, P.; Soulas, Tanguay, Thompson, Townsend, T r u m a n , Wheeler, Wood.

ABSENT — Buck, Cookson, Couture, Fraser, Jannelle, Littlefield, Lycette, Miliano, Nadeau, J. F. R.; Noyes, Quinn, Scott, G. W.; Sullivan, Susi, Watts.

Yes, 60; No, 75; Absent, 15.

The SPEAKER: Sixty having voted in the affirmative and seventy-five in the negative, the House did not accept Report "A". Is it now the pleasure of the House to accept Report "B"?

The motion prevailed and the New Draft was read twice.

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

Mr. JALBERT: Mr. Speaker, I would like to ask if we talk Report "B" we are talking about the new document L. D. 1875?

The SPEAKER: The answer is in the affirmative.

Mr. JALBERT: Mr. Speaker and Members of the House: Before we accept Report "B" I would like to ask any —

The SPEAKER: The Chair would advise the gentleman that Report "B" has been accepted, it has had its second reading.

Mr. JALBERT: Mr. Speaker, may I speak on Report "B" pending its being given its third reading?

The SPEAKER: The gentleman may proceed.

Mr. JALBERT: Mr. Speaker and Members of the House: Before this bill would be given its third reading and passed to be engrossed I would ask any member of the Judiciary Committee what happens in this instance to a man who is inside the warning of ten miles and he is stopped and he is told, — I saw no radar signs, I came in on a side street or I came in on a side road. It behooves me that this measure as it is drafted now is meaningless and as a layman I — I construe to be meaningless,

and I would like to know whether the members of the Judiciary Committee are aware — if I'm right, and if they're aware if I'm right if they intend to amend the bill so at least you could have a workable measure. If not, if there is not an answer to my question, and if I'm right and nothing is to be done about it, I would move the indefinite postponement of L. D. 1875.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, poses a question through the Chair to any member of the Judiciary Committee who may answer if they choose, and the Chair recognizes the gentleman from Portland, Mr. Brennan.

Mr. BRENNAN: Mr. Speaker and Members of the House: In answer to Mr. Jalbert's question, the present draft is meaningless and the Committee itself intends to amend the bill so it will make some sense.

Thereupon, the New Draft was assigned for third reading tomorrow.

The SPEAKER: The Chair would advise the members that we have several matters from the Senate and we are printing a supplemental and we will be in recess until the sound of the gong.

After Recess

Called to order by the Speaker.

The following papers from the Senate, appearing on Supplement No. 2, were taken up out of order by unanimous consent.

Non-Concurrent Matter

Bill "An Act relating to Hearings before Water and Air Environmental Improvement Commission" (H. P. 1322) (L. D. 1868) which was passed to be engrossed as amended by House Amendment "A" in non-concurrence in the House on January 22.

Came from the Senate with House Amendment "A" indefinitely postponed and the Bill 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

Bill "An Act Increasing Hunting and Fishing Licenses" (H. P. 1327) (L. D. 1872) which was indefinitely postponed in the House on January 22.

Came from the Senate passed to be engrossed in non-concurrence.

In the House:

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

Mr. ROSS: Mr. Speaker and Members of the House: Although there was lengthy debate on this yesterday I did not speak. I have spoken in this House on a great many bills dealing with hunting and fishing in the State of Maine. Like many of you I have tramped the woods and fields of this State with a gun, I have fished our streams and ponds, both through the ice and in the summer by boat and canoe for the last forty years. I hold a guide's license. To prove my interest in the sport of fishing I have with me a picture that some of you might like to look at, after we're over; it is four Atlantic salmon that I caught last summer, ranging from thirteen pounds to twenty-two pounds, in one day.

The gentleman from Sanford, Mr. Nadeau said that he was very worried because a great many states have lower fees. I have seen just exactly the opposite in a great many places, and for this reason during the last session I sponsored two salmon bills to protect the local residents of our State of Maine. Because in Canada, in our two neighboring provinces of Quebec and New Brunswick — and the gentleman from Bangor, Mr. Ewer mentioned how cheap it was to fish in New Brunswick, in several places there you have to pay in excess of \$50 per day in fees for permission to fish these waters.

I have shot geese in North Carolina where you have to pay even more than that per day. I certainly never want to see anything like this in the State of Maine. Now certainly nobody wants

to see increased taxes or really wants to see increased fees of any kind. But here we have a department with dedicated revenues, and this was mentioned yesterday. And some time ago we agreed to raise the salary of our employees but they can't do it in this department, if we don't do something like this they will instead have to cut down on their programs.

Now much was made yesterday in the House about surplus or reserve funds and that these monies could come out of those, and they said that we were doing that in our general revenue funds. Let me remind you, we do spend these reserves for buildings and for capital improvements and things like that; but to take salaries that are recurring expenses that is certainly not the place to do it.

A great deal of criticism has been said about the Department, and all departments are criticized and perhaps this one comes under more scrutiny than others, because outdoorsmen by their very individualistic nature are self-appointed experts. Now I have talked with sportsmen in various areas of the state. They certainly don't want to see the licenses increased, but I sincerely believe that they are willing to accept it if it will mean paying an adequate wage to the people enforcing the laws. Now if this passes I for one certainly will be very willing to face the hunters and fishermen in my area.

In the final analysis, our residents in the State of Maine really get quite a lot for the money. In some places the natives are frozen out and are not allowed to fish at all. In some states and provinces they find that this is a better way to get a lot more money, to charge exorbitant fees for the out-of-state people and the residents never get to fish or hunt in those areas at all.

And so for these reasons I certainly do support this bill and I now move that we recede from our former action and concur with the Senate.

The SPEAKER: The gentleman from Bath, Mr. Ross now moves that the House recede from its former action and concur with the Senate.

The Chair recognizes the gentleman from Bangor, Mr. Ewer.

Mr. EWER: Mr. Speaker and Members of the House: I'm sorry if I gave the gentleman from Bath, Mr. Ross the feeling that I thought fishing was cheap in New Brunswick because I didn't mean to, I tried to convey the impression and thought I did that fishing was better in New Brunswick than it was in Maine. I know that fishing along the Salmon River in New Brunswick certainly is not inexpensive.

As far as this increase in licenses both for natives and for out-of-staters concerned, it is not excessive in the present bill and I am the first to admit it. But to me this is more or less a matter of principle. I am very much opposed to the dedicated fund idea for anything except possibly the Highway Department where future planning for a good many years ahead is essential. I don't know of any other scheme that will set up a little empire quicker than dedicated funds will do. I feel that the funds are perfectly adequate in this department for this increase in pay. By their own admission, and we've had a lot of conflicting amounts of money stated to us from different sources, there is enough left to take care of this amendment if they don't take in another cent for the next couple of years.

I am all in favor of the wardens getting more money. A warden's job is a difficult one, it's a tough one, it's a rugged job, it's a job that isn't the safest one in the state certainly; and I have a great deal of confidence in the men who are wardens and a great deal of trust in them. And I think they deserve not only this raise in pay but probably more if we had the money to give it to them. But this thing is a matter of, it seems to me, of principle, a matter of — well I wouldn't go so far as to say common honesty because there is a mixup in figures undoubtedly. But I do feel that the statement of the Treasurer of the State of Maine that at the close of business December 31, 1967, this department had unallocated funds to the extent of \$770,000, that by their own

admission they have spent some three or four hundred thousand, they still have enough left to take care of this increase because the wardens got the increase effective January first this year and they're getting it for this year, and according to the Department there will be no income coming in from increased revenue in permits and licenses until next year at any rate.

I would like to read to you part of an item by Bud Leavitt in the Bangor News recently. It says, —

“Chief Warden Maynard Marsh's report for the year ending June 30, 1967, is hardly a pauper's paper.

The chief warden's report is a picture of happiness and good health.

He wrote:

“We have been fortunate this year in having the necessary funds to make several capital improvements.

Work has been completed on the new camps at Sunday Cove at Umbagog Lake and at Township 11 R 17, adjacent to Deaquam, Quebec, Canada.

New headquarters buildings at Songo, Bowdoinham and Grindstone are nearing completion.

We have built a combination garage and storage building at Castle Hill.

Three new bays on the Greenville garage building have been completed as well as the addition to the Greenville Plane Base.

The foundation for a new house at Wesley, which will eventually be used as a home for the warden in that area, has been completed and the prefabricated house which has been delivered at the site will be erected this fall.

Foundations for the headquarters building and garage storage combination at Dover-Foxcroft have been completed, and the buildings are in process of being erected.

Two garage bays at the Augusta storehouse have been finished. Most of the construction has been accomplished through the use of warden labor and talent.

Even with this new construction, to find sufficient storage space for warden equipment is a continuing problem.

Forty-seven motor vehicles have been traded this year.

In addition, we have acquired two extra vehicles which can be used as needed.

A total of eighteen boats and canoes with an equal number of outboard motors as well as fifteen trailers, have been purchased to replace old items of equipment.

Thirty snow traveling vehicles were purchased making a total of eighty-two machines in the field.

We are hopeful that this coming fall we can purchase sufficient vehicles so that each district warden will be issued a snow traveler as an item of standard equipment.

A new Super Cruiser aircraft complete with pontoons and radio equipment was purchased and based at Eagle Lake. The old Super Cruiser, formerly based at Greenville, has been sold at bid.'

I dislike being so bold as to suggest things can't be all bad with one segment of the fisheries and game department.

Deputy Fish and Game Commissioner George W. Bucknam says construction and land-buying by the department has been temporarily halted. The action was necessary, he said, because the department is feeling a financial pinch.

Yet this 103rd Maine Legislature, convening in Augusta in an emergency session, is being asked to hike the hunting and fishing fees of some 80,000 Maine residents by \$1.50 to \$2.50 a year." This is before the bill was amended by the way . . . "I submit Warden Marsh's report does not call for the shipment of a care package."

This gentleman expresses my opinion on the whole thing better than I can do it myself.

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

Mr. STARBIRD: Mr. Speaker, I ask for a roll call.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Lewin.

Mr. LEWIN: Mr. Speaker, Ladies and Gentlemen of the House: When I think about the need of the Fish and Game Department today I think of the long history of service to the people of our State. As a hunter and a fisher-

man, it is my observation that the State of Maine still continues to offer good hunting and fishing for our own people, as well as our visitors from across our borders. I believe this Department of Inland Fisheries and Game has functioned well over the years to maintain good fishing and hunting in the face of greatly increased pressures.

It is my understanding that if we fail to enact this bill, at this time, the cash balance of the Department which has been running as high as \$700,000 will decline to \$235,000 aside from working capital (\$150,000) by June 30, 1969.

Noting that it will be the middle of 1970 before any action by the 104th Legislature can help, it may not be amiss to point out that with the cost of the salary increases the cash balance as of June 30, 1970 will have been reduced to \$65,000. It is very clear to me that this Department, which has made a great contribution to the economy of the State, as well as providing good fishing and hunting for our people, has no alternative but to cut back drastically on Warden Service and its needed equipment, to mention just one item. I find it hard to believe that with the references we've heard to poaching during the debate on this bill that this is the time to reduce the effectiveness of Warden Service. I would like to say that ten years ago in our state we had 102 wardens; today we have 100.

I hope this Legislature will pass this bill, and thus enable the Fish and Game Department to provide the cost of the salary increases without having to sacrifice substantial portions of their current programs.

The SPEAKER: A roll call has been requested. All of those desiring a roll call will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Bath, Mr. Ross,

that the House recede from its former action and concur with the Senate on Bill "An Act Increasing Hunting and Fishing Licenses," House Paper 1327, L. D. 1872. If you are in favor of the motion you will vote yes, if you are opposed you will vote no, and the Chair opens the vote.

ROLL CALL

YES — Allen, Baker, E. B.; Baker, R. E.; Belanger, Beliveau, Benson, Birt, Boudreau, Bourgoin, Bragdon, Brennan, Brown, R.; Champagne, Conley, Cornell, Cottrell, Crockett, Crosby, Curran, Cushing D'Alfonso, Darey, Dennett, Dudley, Dunn, Edwards, Eustis, Evans, Farrington, Gaudreau, Gill, Hanson, B. B.; Hanson, H. L.; Hanson, P. K.; Harriman, Harvey, Haynes, Healy, Hewes, Huber, Immonen, Keyte, Kilroy, Label, Levesque, Lewin, Lewis, Maddox, Martin, McMann, Minkowsky, Morrell, Nadeau, N. L.; Noyes, Payson, Pendergast, Philbrook, Pike, Porter, Quimby, Rackliff, Richardson, H. L.; Rideout, Ross, Sawyer, Scott, C. F.; Shaw, Shute, Snowe, P.; Soulas, Thompson, Townsend, Trask, Waltz, White, Wight, Wood.

NO — Bedard, Berman, Bernard, Binnette, Bradstreet, Brown, M. F.; Bunker, Burnham, Carey, Carrier, Carroll, Carswell, Clark, Cote, Crommett, Danton, Dickinson, Drummond, Ewer, Fecteau, Fortier, Foster, Gauthier, Giroux, Harnois, Henley, Hichens, Hodgkins, Humphrey, Hunter, Jameson, Kyes, Lincoln, McNally, Meisner, Prince, Richardson, G. A.; Robertson, Robinson, Sahagian, Snow, P. J.; Starbird, Truman, Wheeler, Williams.

ABSENT — Buck, Cookson, Couture, Drigotas, Durgin, Fraser, Hall, Hawes, Hennessey, Hinds, Hoover, Jalbert, Jannelle, Jewell, Littlefield, Lycette, Milano, Mosher, Nadeau, J. F. R.; Quinn, Rocheleau, Roy, Scott, G. W.; Scribner, Sullivan, Susi, Tanguay, Watts.

Yes, 77; No, 45; Absent, 28.

The SPEAKER: Seventy-seven having voted in the affirmative and forty-five in the negative, the House has voted to recede and concur.

Non-Concurrent Matter

Report "A" of the Committee on Judiciary on Bill, "An Act relating to Referendum under Maine Housing Authorities Act" (H. P. 1308) (L. D. 1837) reporting same in new draft "A" (H. P. 1332) (L. D. 1877) under same title and that it "Ought to pass", and Report "B" on same Bill reporting same in new draft "B" (H. P. 1333) (L. D. 1878) under same title and that it "Ought to pass" on which the House accepted Report "A" and passed the Bill to be engrossed on January 19.

Came from the Senate with Report "B" accepted in non-concurrence and the Bill passed to be engrossed as amended by Senate Amendment "A" in non-concurrence.

In the House:

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

Mrs. CARSWELL: Mr. Speaker, I move that we insist and ask for a Committee of Conference.

The SPEAKER: The gentlewoman from Portland, Mrs. Carswell, moves that the House insist and request a Committee of Conference.

The Chair recognizes the gentleman from Hollis, Mr. Harriman.

Mr. HARRIMAN: Mr. Speaker, as I understand this amendment on this bill, all that it does is give the people of Portland, the taxpayers, a chance to vote on any new housing projects they may have. In other words, the City of Portland at the present time under this bill is allowed to go through with the Model Cities program, but the taxpayers have a right to decide what future projects there may be in the city. Therefore, I would not like to see this go to a Committee.

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

Mr. CARSWELL: Mr. Speaker and Members of the House: I hope the House will remain consistent in its former action. We voted 81 yes in favor of my bill to 45 no. Now there seems to be a smoke screen involved in this bill. People seem to say that we are trying

to take something away from the citizens of the City of Portland. The fact exists that we have a real emergency, and decent, safe sanitary housing for the citizens of the City of Portland, the need has already been established. During the next five years the City's Model City program will have to create 600 new public housing units, and to improve and rehabilitate an additional 1400 units to replace those taken off the market by Urban Renewal.

Now let me explain Urban Renewal. We have been involved in Urban Renewal for a number of years, and it only took one referendum to allow the Urban Renewal Authority to operate in the City of Portland and bulldoze down many, many housing units. However, the City of Portland has not been able to keep pace with putting up housing for these people who are displaced, so consequently, they have been placed into housing that is very low standard housing; it is infested; many of these places people have been placed into do not have the necessary sanitary facilities, they do not have the necessary heat; so if we vote for my bill, we will be voting to give the people of the City of Portland something that is an established need.

Now let me go further to say that the City Council, a non-partisan group, which is representative of the citizens of the City of Portland, have voted in favor of this. The Jewish Women's Organization, who is responsible for bettering government and bettering our City of Portland, they are 300 in number, they have gone along with my amendment. The Child and Family Services connected with United Community Services, they have gone along with my amendment. The League of Women Voters, which is a non-partisan organization, they have studied the matter, they have studied it for a number of years, and they still feel that this multiple referendum is nothing but an Albatross hung around the necks of the citizens of the City of Portland, and it prevents us from having the housing that we

definitely need. Another group that has gone along with us is the Human Relations Bureau, the West End Homesavers Association, and the Portland Housing Authority.

So we the citizens of the City of Portland really and truly know that we have got to provide housing for those people who have been displaced. And as I said one other time, if we have to wait for six months for a referendum, there is a chance that the Federal funds will not be available such as they have been cut off for Federal highway programs, so are we going to wait until the funds are cut off and then tell our Model City planners, well, there just aren't enough funds now for public housing. I hope that the House, as I said before, will remain consistent and go along with their previous vote to help us people in the City of Portland. I therefore hope that we can insist and ask for a Committee of Conference.

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

Mr. CONLEY: Mr. Speaker, Ladies and gentlemen of the House: I just wish to stand here a moment to substantiate what the gentlewoman from Portland, Mrs. Carswell has said, and I am sure whatever difference there is between Report "A" and Report "B" can be resolved, and I ask you to go along and support the motion for a Committee of Conference.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. D'Alfonso.

Mr. D'ALFONSO: Mr. Speaker, if I may, I would like to explain to the House why I think it is absolutely necessary that this does go to a Committee of Conference. For the information of the House members, Report "A" was a very simple, and I don't use that term loosely, bill drafted to give the City of Portland a chance to go ahead with their public housing program without the necessity of a referendum. Report "B" would have required the City of Portland residents to vote in referendum on a referendum. Now to further confuse the situation Senate Amendment "A", which has been accepted, would have the City of

Portland do as follows, which actually means nothing, it is in all reality a double negative. It further provides that nothing contained in this section shall require the holding of any referendum to authorize the Housing Authority of any city or town whose population is in excess of 60,000 to enter into any contract for loans, grants, contributions or other financial assistance with the Federal Government for any project, if the project is within a defined area of the city or town previously designated by the Authority and approved by the voters by referendum for the location of public housing projects. They are saying here you don't have to vote in referendum because you have already voted in referendum, which to me doesn't mean a thing. So in effect, what they are telling us to do is to send back to the people, a bill to vote in referendum on a referendum and that is not what we are looking for. We are looking for Report "A."

The way the present situation exists, it is confused, there are double negatives of some kind in there, and unless there is a Committee of Conference, I don't think anyone is going to understand what has actually been accomplished.

The SPEAKER: The Chair recognizes the gentleman from Hollis, Mr. Harriman.

Mr. HARRIMAN: Mr Speaker, I am definitely opposed to this and the reason being it is not because it is the Portland area, not because I believe I have the ability to sway many votes, but I believe I would have trouble living with myself to allow legislation of this type to go through this House without raising my voice in protest. I hope you will bear with me as I go back to another bill that came before the Taxation Committee, of which I am a member, and it at least bears the imprint of the same people who want this bill.

A representative from the City of Portland and a representative of the Housing Authority were asking this legislature to rebate a certain percentage of the taxes through a lowered valuation that were rightfully due the City of Portland, and to rebate these to

the owner of the housing project. Now let me give you a little background about this project in Portland and how it works.

I make no claim to being any authority in the field of housing, but I do want to give you the financial background of the housing as outlined by the proponents and not by me, by the proponents at this hearing. The projects are operated and owned by private investors, but like all projects in which a large percentage of government money is involved, there are strings attached, sometimes more politely called guidelines. The housing project in which they were involved in Portland says that no one can be eligible for a tenant who has an income of over \$7,200 a year in earnings. This varies in the cities from a low of \$7,100 to a high of \$7,600. Now let's assume that this housing project cost \$2,000,000. The owner or the private investor puts up \$200,000, the balance of \$1,800,000 is furnished by the Federal Government, which is you and I. And if there is only an interest rate of 3 per cent, and is allowed to earn on his investment a net return of 6 per cent; this is according to their own testimony.

Now what has evidently happened in Portland is that if the taxes are paid the city on the same basis as other property or real estate owners have to pay, the owner or investor in the housing development will not be able to earn on his investment the 6 per cent allowed by the Housing Authority, and the Authority will not allow the owner, who is the man who invested the \$200,000, to increase the rent until the average earnings in the city go high enough to justify an increase in rent in accordance with the formula set up by the Housing Authority, or as one person said, it might possible be adjusted in the future through rent subsidies.

Now the present law does not allow the assessors to abate taxes to this development without the agreement of the Legislature, and we of course were asked to do this so that Portland could comply with Federal Authority powers and make the climate more favorable

for Portland to get more Federal money.

Now let's look at the complete picture. Government money is our money, your's, mine, the taxpayers' of Portland and the State and of our Nation, and when credit is pledged it is also your's and mine and all the other taxpayers. The Federal Government is borrowing money which will eventually have to be repaid in the open market at from 4½ to 6 per cent, then loaning it to these investors or landlords for 3 per cent; then because they cannot get a return of 6 percent as allowed by the Government, they ask the local authorities to let them pay less than the local competitors, or the local government wants us to do this so they can get more Federal housing. If that abatement had been allowed, the difference between what they should have paid and what they didn't pay would have gone onto the other taxpayers, and in the case of the other landlords in the city, if this thing was carried out to the nth degree they would of necessity have to pick up this extra tax money and increase their rents which in turn would increase the need for more Federal housing. And to me, it means eventually, this other bill that they were in for, meant eventually more government housing and just another nail in the coffin of free enterprise.

The taxpayers are being caught on both ends and in the case of the landlord he is subsidizing his own competition. Now this Report "A" is asking for the right to enter into contracts with the Federal Government for model cities and so forth without a referendum, which to my mind is just another way to give the City of Portland or any other city a building program which the majority of the taxpayers may not want. This is their money and it is our money; the Government has nothing but what they first take away from us.

We in the Legislature, are we going to deny the taxpayers the right to vote as to how their money will be spent? That is my whole argument, ladies and gentlemen. Thank you.

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

Mr. CONLEY: Mr. Speaker and Ladies and Gentlemen of the House: I appreciate the concern of the gentleman from Hollis, Mr. Harriman, for the welfare of the people of Portland, but I honestly would like to say that I think Mr. Harriman is somewhat confused because the bill that he spent so much time elaborating on was a bill that was presented to him before the Committee on Taxation. That Committee made its proper requiem, by that Committee, and it was reported out unanimously ought not to pass which Report this House accepted I believe almost a week ago.

Now the bill that we're discussing here today has nothing to do with giving rebates in taxation to the citizens of Portland. I think that the gentlewoman from Cumberland or from Portland, Mrs. Carswell, very clearly stated what the intent of this bill was. It is my understanding that there are three types of public housing that come under the Portland Housing Authority, and anytime they want to go into any one particular segment of this housing act or the three housing acts, they have to hold a public housing, or a public referendum to do it, and they want renewals and they have to go under a referendum for it; if they want to go in and build so many units in one location they have to go to referendum. Now we have overwhelming support from almost every organized group within the city who are in favor of this bill that is before us today. I don't think that you could get the ten or eleven House members here to be unanimously in favor of this if it was as controversial as some people are trying to bring it out to be; it's not. This has been discussed before the — the resolution that I read here the other day came from the Advisory Committee of the Model City group; it's been discussed by the League of Women Voters, it's been discussed by many, many groups, and this is something that is essential to the City of Portland. I believe if any of you have been in the

Munjoy-South area in the past few years or up along the peninsula it's quite obvious to all of you that there is dire need of public housing in that area, and this is all we're trying to do, we're trying to get these slums out so that the area is going to prohibit the death of some unfortunate beings. So again, I say all we are asking now for is to just go before a Committee of Conference where I am sure it will be resolved. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Morrell.

Mr. MORRELL: Mr. Speaker and Ladies and Gentlemen of the House: I would urge all of you to go along with Mrs. Carswell and the Portland group. The danger of losing funds for an accepted project due to delay is very real. A case in point is a housing for the elderly project in Brunswick. Several years ago the community voted for such a project and the establishment of a housing authority was authorized. Federal funds for the project in the amount of \$1,300,000 were made available. Then on a zoning technicality it had to go back to the voters, and the vote was adverse. It was then some months before the vote had to go before the town again or was ready to go before the town again, and this time they passed it by a four to one margin. However, it now appears that the delay may have at least temporarily caused us to lose this fund, and it's a worthwhile project; it may have to wait for a good many months if ever to be brought back in, and I think the danger is very real and I think we should go along.

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

Mr. HEWES: Mr. Speaker, I move we recede and concur and I would speak to that motion.

The SPEAKER: The gentleman from Cape Elizabeth, Mr. Hewes, now moves that the House recede and concur. The gentleman may proceed.

Mr. HEWES: Mr. Speaker and Members of the House: We are not discussing whether there should be public housing or not, we're dis-

cussing whether or not the people of Portland should have a right to vote on referendum on whether or not they should have public housing. We aren't depriving them, the people of Portland, of something, we're giving them the right to vote on something if we adopt the bill that was passed by the other House. The bill which we passed here in this House a few days ago disenfranchises the people of Portland from their right to vote on a local issue, namely, the issue of public housing. Presently, we have used 60,000 population as a guidepost. It would be a simple thing to amend that down to 5,000 or 1,000 so that this right of referendum will be lost to communities of 500 or 1,000 or whatever size is used.

It seems to me that it is a matter of moral principle whether or not the people have a right to vote on this when there is no right to appeal under the Portland City charter, as I understand the law.

The other day during the course of the debate, as I understood it, it was mentioned that the City of Portland might lose federal funds. I spoke with Howard O. Heller, who is a Portland official and he informed me that the fact of the referendum will not per se cause the loss of federal funds. Obviously, if the people of Portland don't want public housing in a certain part of the City then of course it's voted down by the City and they wouldn't get the federal funds, but the mere fact that a referendum is attached to the law does not exclude them from federal funds.

In addition it is my understanding that there are more than 500 units that have been voted upon but have not yet been constructed, and according to Mr. Heller it will be at least three years before these 500 units are built. So I ask, whose afraid of the referendum? The people in a television show, as I understand it they have — WGAN TV has a show which asks a question of pertinent interest, and it is my understanding that the people of Portland voted three to one against removing the referendum, in this television show that

the question was asked earlier this month.

So I respectfully submit that we should recede and concur.

The SPEAKER: The pending question is on the motion of the gentleman from Cape Elizabeth, Mr. Hewes that we recede from our former action and concur with the Senate in the acceptance of Report "B".

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

Mr. CONLEY: Mr. Speaker and Members of the House: I would just like to clear the air somewhat on the statement that the gentleman from Cape Elizabeth, Mr. Hewes has made in reference to the television program of TVQ. Everybody in southern Maine is fully aware of the fact that TVQ is carried on Channel 13 and is broadcast well I guess up as far north here as Augusta and probably in almost the entire southern end of the state. And everybody within the radius of Portland has that opportunity of calling in from seven o'clock in the evening until — six-thirty I guess in the evening or seven o'clock at night until eleven o'clock at night. I'm not saying that the answers to these kinds of questions can be ranked or not but I can say that on certain political questions, anything dealing with the Chief Executive in the front office, the opposition doesn't stand a chance because my ten kids are on the phone from the time the program is on the air until they go off at eleven o'clock. So that throws that argument out the window.

What we're talking about now is whether or not the people of Portland, who have sent ten Representatives up here to do a job for them, are going to be given that opportunity. I am not afraid to lay my political life on the grapevine here, or on the vine today in reference to this question that is before us and I will see that the other ten Representatives from Portland are standing on their feet in opposition. The thing is that there are built-in safeguards relative to public housing where it can take place. Ten years ago I would have been somewhat concerned about the membership of

the City Council, I would have had feelings of wanting to be a little bit more protective; but I have great faith today in our city government, I think the changes that have taken place over the recent years have been fully good. Not only that, the Planning Board also has to go along with the proposals as far as the changes are concerned in the public housing.

So really it is nothing unusual that we're asking you — again I just can't see the great debate that is taking place here because of the fact that as I see it I think there are such built-in protections or there is built-in protections for the people.

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

Mr. RICHARDSON: Mr. Speaker and Members of the House: I hate to disagree with my good friend from Cape Elizabeth, Mr. Hewes, but I can really see no valid objection to sending this to a Committee of Conference, attempting to work out a solution which is acceptable to both sides. I have decided how I am going to vote and without telling you that I would simply say to you that I think that we're prolonging this debate for no good purpose, I think it would be an insult really to the proponents of this bill, which we accepted in the House, to now deny them an opportunity to try to sit down around the council table, for six members to try to work it out.

I would urge you to consider the action that you would take if you do recede and concur, I would ask you to vote against that and to vote to allow a Committee of Conference to attempt to work it out. If the difference of opinion is as violent as it is supposed to be, it will be a report of unable to agree. But let's get to that point at least.

Mr. Jalbert of Lewiston 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 a motion for the previous question will vote yes

and those opposed will vote no, and the Chair opens the vote.

A vote of the House was taken.

The SPEAKER: Obviously a sufficient number having voted in the affirmative the motion for the previous question is now entertained. The question before the House now is, shall the main question be put now, which is debatable for five minutes by any one member. Is it now the pleasure of the House that the main question be put?

Thereupon, the main question was ordered.

The SPEAKER: The main question is on the motion of the gentleman from Cape Elizabeth, Mr. Hewes, that the House recede from its former action and concur in the acceptance of Report "B" on Bill "An Act relating to Referendum under Maine Housing Authorities Act," House Paper 1333, L. D. 1878. All those in favor will vote yes; those opposed will vote no, and the Chair opens the vote.

A vote of the House was taken.

28 having voted in the affirmative and 76 having voted in the negative, the motion did not prevail.

Thereupon, the House voted to insist and ask for a Committee of Conference.

Non-Concurrent Matter Tabled and Assigned

Bill "An Act Proposing a Salary Plan for Certain Unclassified State Officials" (H. P. 1336) (L. D. 1880)

Which was passed to be engrossed in the House on January 22.

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

In the House:

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Dennett.

Mr. DENNETT: Mr. Speaker and Members of the House: This bill is somewhat a little complicated. It perhaps would need a great deal of explanation. The hour is late. I would trust that some good person would lay this on the table until tomorrow.

Thereupon, on motion of Mr. Richardson of Cumberland, tabled pending further consideration and specially assigned for tomorrow.

On motion of Mr. Richardson of Cumberland,

Adjourned until ten o'clock tomorrow morning.