

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Third
Legislature*

OF THE

STATE OF MAINE

1967

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, April 4, 1967

Senate called to order by the President.

Prayer by Rev. Richard Nordgren of Portland.

Reading of the Journal of yesterday.

Papers From The House Non-concurrent Matter

Bill "An Act Relating to Licensing of Premises for Dancing Purposes. (S. P. 83) (L. D. 164)

In Senate, March 2, passed to be engrossed as amended by Committee Amendment "A" (S-8)

Comes from the House, passed to be engrossed as amended by Committee Amendment "A" and House Amendment "A" in non-concurrence. (H-128)

(On motion by Mr. Stern of Penobscot, tabled pending further consideration.)

Communication

State of Maine
Office of the Governor
Augusta, Maine
04330

April 3, 1967

Members of the Senate
and House of Representatives
of the 103rd Legislature

With the greatest respect for the judgement of the Members of the Senate and House of Representatives, I am submitting my reasons for opposing Legislative Document 4 which would remove the opportunity for Maine voters to conveniently vote for the candidates of the political philosophy of their choice. My reasons for opposing L. D. 4 are both practical and philosophical. I will discuss the practical reasons first.

1. The ballot, as it is now structured, provides Maine voters with a full range of choice. Voters can, if they wish, vote for individual candidates without regard for political affiliation or they may vote for all or most of the candidates of the political party of their choice in an easily understood manner. I think it is important that voters retain and recognize this choice.

Independent thinking and independent voting have long been a characteristic of the Maine voter.

2. This bill would work a particular hardship to the working man who customarily votes after returning from his job to find a long line of people before him at the polls. Increasing the time of voting will unquestionably be a deterrent that will dissuade many people from exercising their voting privilege and could be tantamount to disenfranchisement of some of our people. We should avoid this. It should also be noted that this bill would significantly increase the time and expense involved in recounts.

3. If the party square is removed, the available evidence and experience in other state indicates that many voters would not take the trouble to vote for candidates for lesser offices. Therefore, in many local elections candidates might very well be elected by a small minority of the voters not at all representative of the broad interests of the entire community.

4. Our system of government is most successful when party responsibility is clearly defined and when political parties are vigorous in their organization, personnel, and policy formulation. Deleting the party square tends to weaken the internal structure of political parties since it places a premium on individual action by candidates at all levels, regardless of political affiliation. Because of this a political party is in a poor position to offer aid to candidates for the lower position or to persuade them to work for platform programs. The result is that elections tend to become popularity contests in which issues are submerged and public policy takes a back seat to public relations. Diminishing the importance of political allegiance and philosophy simply strengthens what most people consider an undesirable tendency of modern politics to be "personality-oriented" and, in turn, dominated by publicly invisible special interests.

5. Leading students of American government contend that we can best improve our state government in America by strengthening party responsibility, rather than by

weakening it. In my judgement, a vote based primarily on the political philosophy of a candidate, indicated by this party allegiance, is to be preferred to a vote based solely on personality or ethnic background or social connections. Although L. D. 4 by itself would not result in the destruction of the political party responsibility, let us avoid this undesirable end by avoiding this beginning.

I do not believe that a substantial case has been made for eliminating the party box from the ballot in the State of Maine. I share the sentiment of a leading Maine newspaper which said in a recent editorial: "We are not convinced that abolishing straight ticket voting would produce either greater voting responsibility or fewer errors. Voters are not denied the opportunity to choose by name now if they wish, so we see no great advantage in the proposed change."

Therefore, there is returned here-with, without my approval, Legislative Document 4, and I respectfully urge this Legislature to sustain my veto.

Sincerely,

KENNETH M. CURTIS

Governor

KMC-hmc

(S. P. 592)

Mr. MacLEOD of Penobscot: Mr. President and Members of the Senate: I feel that perhaps some comment should be made regarding the Governor's message. This message is not a surprise to many of us, but it is a disappointment to me and I hope to many others. I do not know which party will benefit in the long run or in the short run, if the big square were removed. I know the people of Maine would benefit in the long or short run through better candidates being attracted to public office.

The Governor comments in No. 3:

"Therefore, in many local elections candidates might very well be elected by a small minority of the voters, not at all represen-

tative of the broad interests of the entire community."

This young man seems to have a phobia about the minority of the voters making decisions. I recall last June when the voters of Maine turned down an airport bond issue the Governor indicated we should have a special session of the legislature to rectify this mistake by the voters in referendum, saying that only a very small minority of the voters vote in the primary elections and therefore, it wasn't representative of the broad community. If you carried this to its ultimate conclusion, you might also say that the Governor was nominated by a very small minority of his own party in that June primary. There were three candidates, and a very, very small minority of the total voters of the State of Maine. So, perhaps his nomination was not representative of the true interest of the people.

He shows the sentiment of a leading newspaper's editorial in No. 5. It says that they aren't sure whether the big X is good or bad. There were four editorials in leading Maine newspapers last week imploring the Governor not to veto this measure. I hope that the Senate votes to override the Governor's veto. Thank you.

The PRESIDENT: The pending question is shall this Bill become a law notwithstanding the objection of the Governor.

The Chair recognizes the Senator from Hancock, Senator Anderson.

Mr. ANDERSON of Hancock: Mr. President, would the Chair kindly put the question again?

The PRESIDENT: The question is shall this Bill become a law notwithstanding the objections of the Governor. A vote yes will be in favor of the bill. A vote no will be in favor of sustaining the veto of the Governor. Is the Senate ready for the question?

The Chair recognizes the Senator from Androscoggin, Senator Couturier.

Mr. COUTURIER of Androscoggin. Mr. President, serving on the Committee on Election Laws, I have had the occasion before to speak before the members of this Senate and to state that I was opposed to L. D. No. 4. I stated

then that there were many valid reasons for this bill not to pass. The Governor has given some of these reasons in his veto message and there are many others. I feel, for instance, that I share the beliefs of numerous professors of political science and government when I state that it is important that party responsibility be strengthened in a system of government which structurally diffuses responsibility as much as ours. It is important that choices be placed before the voter in such a form as to be easily understood and quickly made since few have the time or apparently the inclination to go to the trouble to investigate many obscure, technical, and difficult to understand, alternatives. Responsibility for the nomination of capable candidates, as well as for the formulation of suggested policies, should be with the party. Any action which weakens such a party role makes it difficult for the voter to determine who is responsible for action or inaction, causes him to experience a sense of frustration reflecting his ignorance and frequently causes him to vote with little knowledge of the candidates' qualifications or positions.

With the party square removed, as L. D. 4 wants to do, many voters would not go to the trouble to vote for candidates for the lesser offices and I have stated this many times before. Our system of government works most usefully, not only when party responsibility is clearly defined, but also when both parties are vigorous in organization, personnel and policy formulation. Deleting the party square tends to weaken the internal structure of parties since it places a premium on individual actions by candidates at all levels, whatever the party position. Thus, the party is in a poorer position either to offer aid to candidates of the lower positions or to persuade them to comply with the party's program. Elections then seem to become popularity contests in which it is important to be popular perhaps with only a small minority of the voters.

It has been stated that removing

the party square would result in better candidates for office. This argument has never been completely refuted. However, since I doubt the allegation as some of the professors of government and political science do, I would like to offer a possible refutation. Candidates now run on their own merits and there is opportunity for split voting, but they also run with some sense of responsibility to the party as well as to themselves. This helps to create the necessary ties upon which party government is based.

A number of individuals voting in the Legislature with no party coordination and leadership would provide a very confusing system for the voter to understand and an even more inefficient legislative system.

We are not convinced, and I certainly am not convinced, and I know many professors of government and political science are not convinced, that a candidate running as an individual would be more effective or responsible government official than an individual who recognizes the importance of his party relationship. I certainly urge the members of this Senate to vote yea and sustain the Governor's veto.

The PRESIDENT: Is the Senate ready for the question? The question now before the Senate is shall this bill become a law notwithstanding the objections of the Governor? A vote yea will be in favor of the bill. A vote no will be in favor of sustaining the veto of the Governor.

The Chair recognizes the Senator from Penobscot, Senator Stern.

Mr. STERN of Penobscot County: The speech, if you call it a speech, which I am about to make is not one that is intended to convince any of you to follow my particular persuasion or whatever I am going to talk about. I am merely getting up to explain that I have changed my mind on two bills, now to show you and to convince you that I am not up here purely on partisan policies when I explain to you that I am going to make a speech a little later on in the session to tell you that I have changed my

mind about a bill pertaining to the law, the comparative negligence law, and, I will make that speech later. It is a bill that I have fought for and I have supported the majority opinion of the Judiciary Committee, which was argued so bitterly in the House. I have changed my mind on that, and I will make a speech a little later on in the session to tell you why, because I saw the light of reason. And for the same reason, I am getting up to tell you why I have changed my mind in connection with my previous vote in the elimination of the straight ballot.

As many of you recall, I got up here and I told about my own personal experience of winning an election by a very close margin in a Republican area. As you will also recall, not only did I win, but two of my good friends—the able gentleman from Cumberland, Roger Snow and also that able gentleman, Senator Harding from Aroostook. Now, they won in their respective areas despite the fact that they were opposing a strong Republican majority. The reason that I gave was absolutely proper and just and right, but I didn't come up with the right answer.

After I made my speech, a gentleman from the press came up to me and he said, "Senator Stern, I just want to be sure. After you argued, I wasn't quite sure that you voted to eliminate the straight party balloting or not." He said, "Your reasoning conflicted with your vote." And I said, "No, the reasoning was proper and my vote was proper." But I went home and I had people call me up, professors from the University of Maine, wanting to know whether I had lost my mind, and they spoke to me, spoke to me for some time and they told me my reasoning was proper, but my arithmetic was terrible. Just consider it, here I am in a Republican area. And you remember, you can read the Journal, when I argued to the effect that the people, the electorate, was intelligent enough to look the ballot over, despite the straight ballot, and pick out whom they thought would do an excellent job in the Legislature and

they were able to cross party lines. And the proof in the pudding is that they did elect three Senators who I am sure, at least two of them, without fear of contradiction are two of the most able Senators in the House.

So, my arithmetic is bad. One and one, they did cross party lines, they were able to vote intelligently and they did vote intelligently. So it shows that the fact that you have got a straight party ballot box doesn't necessarily mean that the electorate wouldn't be intelligent and look the candidates over and vote for the candidate whom they think would do the best job.

So, because of this particular arithmetic, I find that I should have come up with the right answer, that one and one makes two, and not three. And also, due to the very strong arguments and letters that I received from the history and government professors at the University of Maine, several of whom were Republicans, several Democrats, told me that despite any benefits that might be derived from the elimination of the straight party balloting, they felt that it would weaken party government.

I am not changing my mind. I am changing my arithmetic. I just want to do this to understand why, when the vote is taken, why I am going to vote to support the Governor's veto. And if anybody accuses me of vacillating and being weak on it when you hear my argument as to why I changed my mind on the elimination to the 50-50 clause in comparative negligence, you know that I am not stubborn, that I am always a person that you can talk to and perhaps you can enlighten me to see the light of justice, or perhaps explain to me in such a fashion that I can see the light of reasoning, I will change my mind. So, you see I am not changing it on one particular item today; I am changing it on two particular items. And I hope that I will have the opportunity a little later in the day to explain why I changed my mind on the majority opinion of the Committee report, the Judiciary, the Ought to Pass Report

in connection with the 50-50 fault in comparative negligence.

The PRESIDENT: Is the Senate ready for the question? The Chair recognizes the Senator from York. Senator Reny.

Mr. RENY of York County: Mr. President, I would like to say just one word, if I may. Senator MacLeod says that eliminating the big box would bring out better candidates. Well, I would like to ask each Senator to look to his right or his left, whether he be Republican or Democrat, I don't think it would. I think right now that we have a wonderful Senate here and I don't see how we could profit any by taking off the big box.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY of York County: Mr. President and Members of the Senate: Surely I know that I can't change a vote here because there are only a few of us and the majority is a little too heavy, but I appreciate Governor Curtis' veto of the bill. I was not a part of the Curtis machine. In the balloting I was opposite a losing candidate, but being by a losing candidate I still got by without a recount or anything near a recount. But I believe in Governor Curtis' veto. He believes the same as I do and I am a great believer in representative form of government, and that means both political parties which are big, not only in the State of Maine, but in the country itself. The ballot goes with the Democrat that votes and it goes with the Republican. The square helps the boys on the bottom of the ticket and if the people want to cut a ticket, they know how to cut a ticket. You may say that you've got to be intelligent in here or this or that, but I say to you that if you've got a little horse sense, that is all that is needed in this body and I am proud of the opportunity to support the Governor and his veto. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Johnson.

Mr. JOHNSON of Somerset County: Mr. President, Lady and Gentlemen of the Senate: I think that all of us here today will certainly agree that good, sound government begins at the ballot box, and I think that if we look over the past years, we have noticed that many candidates, regardless of how they have turned out, in the actual positions in which they were elected, were not elected on their own merits. They were elected because there was a glamour figure at the top of the ticket, or a popular figure, or a capable figure. And I think that good government does begin here and I think that we should have a choice as a voter and not an echo from the top down. I think that two years ago, in '64, that Mickey Mouse could have won, regardless of his qualifications, if his name had been on a Democratic ballot. I think the Republicans here who come from these strongly Republican areas where they get the straight X are to be commended for the fact that they think and are voting, and they will vote today to override this veto, because they feel basically that good government does begin at the ballot box and this is our chance to make that attempt.

The PRESIDENT: Is the Senate ready for the question? Again, the question is shall this bill become a law notwithstanding the objections of the Governor. A vote of yes will be in favor of the bill, a vote of no in favor of sustaining the veto of the Governor. The Secretary will call the roll.

Roll Call

YEAS: Albair, Anderson, Barnes, Beckett, Berry, Brewer, Curtis, Ferguson, Good, Greeley, Hildreth, Hoffses, Johnson, Katz, Lund, MacLeod, Mills, Ross, Sewall, Snow, Sproul, Viles, Wyman, Young, the President of the Senate, Mr. Campbell.

NAYS: Boisvert, Couturier, Duquette, Farley, Girard, Harding, Norris, Reny, Stern.

The PRESIDENT: Twenty-Five in the affirmative and nine in the negative, the Senate has voted that the bill shall become a law notwith-

standing the objections of the governor.

Reports of Committees

House

Change of Reference

The Committee on Highways on Resolve Reimbursing the Town of Brunswick for Property Tax Exemption on Property of State of Maine. (H. P. 26) (L. D. 47)

Reported that the same should be referred to the Committee on Claims

Comes from the House, report read and accepted.

The Committee on Business Legislation on Bill "An Act Relating to Payment of Bank Deposits and Interest and Loan and Building Shares When Payable to Two or More Names." (H. P. 873) (L. D. 1285)

Reported that the same should be referred to the Committee on Judiciary.

Comes from the House, report read and accepted.

The Committee on Sea and Shore Fisheries on Bill "An Act Relating to Coastal Marshlands" (H. P. 763) (L. D. 1110)

Reported that the same should be referred to the Committee on Natural Resources.

Comes from the House, report read and accepted.

Which reports were read and accepted in concurrence.

Leave to Withdraw

The Committee on Agriculture on Bill "An Act Relating to Labeling of Bread, Rolls and Pastry Products." (H. P. 956) (L. D. 1400)

Reported that the same should be granted leave to withdraw.

Comes from the House, report read and accepted.

The Committee on Legal Affairs on Bill "An Act Relating to Transfer of Members of Boards and Commissions in City of Lewiston." (H. P. 1018) (L. D. 1482)

Reported that the same should be granted leave to withdraw.

Comes from the House, report read and accepted.

The Committee on Legal Affairs on Bill "An Act Increasing Salaries of Mayor and Aldermen of City

of Lewiston." (H. P. 1017) (L. D. 1481)

Reported that the same should be granted leave to withdraw.

Comes from the House, report read and accepted.

The Committee on Sea and Shore Fisheries on Bill "An Act Enabling Towns to Form Districts to Operate Alewife Fisheries." (H. P. 722) (L. D. 1017)

Reported that the same should be granted leave to withdraw.

Comes from the House, report read and accepted.

The Committee on State Government on Bill "An Act Creating the Office of Chief Medical Examiner for the State of Maine." (H. P. 244) (L. D. 352)

Reported that the same should be granted leave to withdraw, as covered by other legislation.

Comes from the House, report read and accepted.

The Committee on Taxation on Bill "An Act Providing for Sales Tax on Advertising." (H. P. 251) (L. D. 359)

Reported that the same should be granted leave to withdraw.

Comes from the House, report read and accepted.

The Committee on Taxation on Bill "An Act Relating to Taxation of Casualty Insurance Companies for Administration of Bureau of Fire Prevention." (H. P. 809) (L. D. 1185)

Reported that the same should be granted leave to withdraw.

Comes from the House, report read and accepted.

Which reports were read and accepted in concurrence.

Ought Not to Pass

The Committee on Agriculture on Bill "An Act Relating to Trucking of Livestock." (H. P. 773) (L. D. 1120)

Reported that the same Ought not to Pass.

Comes from the House, report read and accepted.

The Committee on Business Legislation on Bill "An Act Repealing Authority of Insurance Commissioner to Restrict Licenses for Certain Kinds of Insurance." (H. P. 827) (L. D. 1235)

Reported that the same Ought not to pass.

Comes from the House, report read and accepted.

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

The Committee on Highways on Resolve To Reconstruct Millison Falls bridge between the Towns of Windham and Gorham." (H. P. 792) (L. D. 1170).

Reported that the same Ought not to Pass.

Comes from the House, report read and accepted.

The Committee on Labor on Bill "An Act Revising the Minimum Wage Law." (H. P. 368) (L. D. 515)

Reported that the same Ought not to Pass.

Comes from the House, report read and accepted.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Good.

Mr. GOOD of Cumberland: I move the Senate accept the Ought not to pass report in concurrence. L. D. 515 is one of several bills having to do with minimum wage that have been before the Labor Committee. L. D. 515 would make waiters, waitresses, doormen, bell hops, chamber maids in resorts and so on and so forth subject to the minimum wage. Heretofore, they have been exempt from the minimum wage, and the Committee on reporting this out Ought not to pass because this category of employees is being taken care of in another legislative document, 172, to be reported out by the Committee on Labor, so if 172 does receive passage, and I believe it is going to be reported out 9 to 1 that it should receive passage, waiters, waitresses, doormen, bell hops, chamber maids, and so on and so forth who have heretofore not been subject to the minimum wage, will be classed as service employees and if they receive less than \$20 a month in tips, they will be entitled to the full minimum wage, provided they are not students, I will have something to say about that later. However, if they do receive more than \$20 a month in tips, then they are classed as service employees, and the employer may say to these service employees, "You are receiving 50

per cent of your wages in tips," provided they are, of course, "and if the minimum wage goes to \$1.40, I will pay you 70 cents an hour and you can have anything that you make in tips for yourself. However, if you are not making 70 cents an hour in tips, only making 20 cents an hour, I'll pay you \$1.20 and the other 20 cents will make up the difference of the minimum of the \$1.40 that goes with that." So I thought a word of explanation of why we reported this out Ought not to pass at this time was in order.

The PRESIDENT: The Senator from Cumberland, Senator Good, now moves that we accept the Ought not to pass report of the committee in concurrence.

The motion prevailed.

The Committee on Labor on Bill "An Act Increasing Minimum Wages." (H. P. 321) (L. D. 455)

Reported that the same Ought not to pass.

Comes from the House, report read and accepted.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Good.

Mr. GOOD of Cumberland: Mr. President, here again we have a second minimum wage bill which is covered by another bill which is in Committee and has been reported out — It's not on the docket this morning. This bill before you L. D. 455 would increase the minimum wage beginning this fall to \$1.40 and a year from this fall to \$1.50, while this bill would go to \$1.60, so the bill before you would increase the minimum wage to \$1.40 this fall and a year from this fall to \$1.60. We reported this out that it Ought not to pass, and I make the motion that the Senate accept the Committee Ought not to pass report because we are reporting out favorably, at least 9 to 1 in favor of the minimum wage going to \$1.40 this fall and \$1.50 a year from this fall. There is a difference of 10 cents. In other words this bill here would go to \$1.60 a year from now, but the bill we are reporting out would go to \$1.50. Thank you.

The PRESIDENT: The Senator from Cumberland, Senator Good,

now moves that we accept the Ought not to pass report of the Committee in concurrence. Is this the pleasure of the Senate?

The motion prevailed.

The Committee on Labor on Bill "An Act Relating to Overtime for Hotels and Motels Under Minimum Wage Law." (H. P. 412) (L. D. 578)

Reported that the same ought not to pass.

Comes from the House, report read and accepted.

Which reports were read and accepted in concurrence.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Good.

Mr. GOOD of Cumberland: On L. D. 578, I move that the Senate accept the Committee Ought not to pass report. L. D. 578 would exempt hotels from the overtime provision in the minimum wage law. Now, the last session of the legislature enacted into law a provision that after 48 hours, time and-a-half was payable to employees. This did not exempt hotels. Now, after a hearing and quite a bit of study on this, we felt that hotels, motels, and restaurants, because of the nature of their business — they work shorter hours in the winter, long hours in the summer — that we would exempt them from the overtime provision so we have taken 578 and it will appear in 172 as an amendment exempting hotels, motels and restaurants from overtime after 48 hours, so this bill, 578, is really being taken care of in another bill. Thank you.

The PRESIDENT: The Senator from Cumberland, Senator Good, moves that we now accept the Ought not to pass report of the Committee in concurrence. Is this the pleasure of the Senate?

The motion prevailed.

Ought to Pass

The Committee on Public Utilities on Bill "An Act Relating to Board of Trustees of and Increasing Indebtedness of Eagle Lake Water and Sewer District." (H. P. 952) (L. D. 1383)

Reported that the same ought to pass.

Comes from the House, report read and accepted and the Bill Passed to be engrossed.

The Committee on Public Utilities on Bill "An Act Relating to Source of Supply of the Brewer Water District." (H. P. 912) (L. D. 1322)

Reported that the same ought to pass.

Comes from the House, report read and accepted and the Bill Passed to be engrossed.

The Committee on Public Utilities on Bill "An Act to Amend the Charter of the York Sewer District." (H. P. 614) (L. D. 856)

Reported that the same ought to pass.

Comes from the House, report read and accepted and the Bill passed to be engrossed.

The Committee on Public Utilities on Bill "An Act Relating to the Board of Water Commissioners of the Town of Boothbay Harbor." (H. P. 374) (L. D. 521)

Reported that the same ought to pass.

Comes from the House, report read and accepted and the Bill passed to be engrossed.

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

Ought to Pass — As Amended

The Committee on Liquor Control on Bill "An Act Relating to Importation of Bottled Wines by Licensed Maine Bottlers." (H. P. 636) (L. D. 892)

Reported that the same ought to pass.

Comes from the House, report read and accepted and the Bill passed to be engrossed As Amended by House Amendment "A" (H-124)

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

The Committee on Legal Affairs on Bill "An Act to Grant a New Charter to the Town of Kittery." (H. P. 521) (L. D. 768)

Reported that the same ought to pass As Amended by Committee Amendment "A" (H-120)

Comes from the House, report read and accepted and the Bill Passed to be engrossed As Amended by Committee Amendment "A".

The Committee on Judiciary on Bill "An Act Relating to Eminent Domain Under Urban Renewal Proceedings." (H. P. 585) (L. D. 816)

Reported that the same ought to pass As Amended by Committee Amendment "A" (H-119)

Comes from the House, report read and accepted and the Bill passed to be engrossed As Amended by Committee Amendment "A".

Which reports were read and accepted in concurrence and the Bills read once. Committee Amendments "A" were read and adopted in concurrence, and the Bills, As Amended, tomorrow assigned for second reading.

Ought to Pass in New Draft

The Committee on Agriculture on Bill "An Act Prohibiting the Coloring of Live Rabbits or Fowl." (H. P. 653) (L. D. 908)

Reported that the same ought to pass in New Draft H. P. 1095 L. D. 1561 under new title: An Act Relating to Sale or Gift of Rabbits or Fowl.

Comes from the House, report and Bill Indefinitely postponed.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Barnes.

Mr. BARNES of Aroostook: Mr. President, with respect to Item 6-24, L. D. 1561 New Draft, since this bill was reported out by the Committee on Agriculture, I find new information has come to life and I question possibilities and feasibility of this bill and whether or not it could be enforceable. So, at this time, I would move that this bill be indefinitely postponed.

The PRESIDENT: The Senator from Aroostook, Senator Barnes moves that this bill and all its accompanying papers be indefinitely postponed. Is this the pleasure of the Senate?

The motion prevailed.

Divided Report

Five members of the Committee on Education on Bill "An Act Exempting State Colleges from Line Category Budget Control." (H. P. 737) (L. D. 1060)

Reported in Report "A" that the same ought to pass.

(Signed)

Senator:

SNOW of Cumberland

Representatives:

SHUTE of Farmington

RICHARDSON

of Stonington

HANSON of Lebanon

CARROLL of Limerick

Five members of the same Committee on the same subject matter, reported in Report "B" that the same ought not to pass.

(Signed)

Senators:

KATZ of Kennebec

MacLEOD of Penobscot

Representatives:

ALLEN of Caribou

LEVESQUE

of Madawaska

BAKER of Winthrop

Comes from the House report "B", ought not to pass read and accepted.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Snow.

Mr. SNOW of Cumberland: Mr. President and Members of the Senate: I would like to know, that is, if the Senate accepts the Ought not to pass report in concurrence, if there is other legislation which hopefully will be forthcoming within several weeks which also deals with this problem and in my judgment, at least, in a better fashion. Why I signed the Ought not to Pass report is mainly because I do not believe that the colleges should have line budget control. I believe that this second measure which will come before you later does deal with this problem more effectively. Therefore, I would not oppose the acceptance of the Ought not to pass report.

The PRESIDENT: The pending question is on the acceptance of Report "B" Ought not to pass. As many as are in favor of accepting Report "B" Ought not to pass

will say aye; those contrary-minded?

A viva voce vote being taken, the motion prevailed.

Divided Report

The Majority of the Committee on Transportation on Bill "Relating to Protective Headgear by Persons Riding Two-wheeled Motor Vehicles." (H. P. 177) (L. D. 240)

Reported that the same ought to pass in New Draft under New Title: An Act relating to Protective Headgear by Persons Riding Motorcycles." (H. P. 1092) (L. D. 1560)

(Signed)

Senators:

BARNES of Aroostook
RENY of York
JOHNSON of Somerset

Representatives:

KEYTE of Dexter
LEBEL of Van Buren
CROSBY of Kennebunk
LYCETTE of Houlton
PENDERGAST
of Kennebunkport
KILROY of Portland

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

(Signed)

Representative:

JEWELL of Monticello

Comes from the House, Majority ought to pass in new draft report read and accepted, and the Bill, in New Draft, passed to be engrossed.

Majority Ought to Pass report of the Committee read and accepted. The Bill, in new draft read once and tomorrow assigned for second reading.

Senate

Leave to Withdraw

Mrs. Sproul for the Committee on Legal Affairs on Bill "An Act Relating to Pension Adjustments for Former and Present Members of the Lewiston Police Department." (S. P. 196) (L. D. 836)

Reported that the same should be granted leave to withdraw.

Mr. Stern for the Committee on Legal Affairs on Bill "An Act Relating to Pensions for Members

of Lewiston Police Department." (S. P. 197) (L. D. 837)

Reported that the same should be granted leave to withdraw.

Mr. Stern for the Committee on Legal Affairs on Bill "An Act Relating to Pensions for Disabled Members of the Lewiston Police Department." (S. P. 198) (L. D. 838)

Reported that the same should be granted leave to withdraw.

Which reports were read and accepted.

Sent down for concurrence.

Ought to Pass

Mr. Albair for the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Funds and Provide Staff for Alcoholism Services." (S. P. 9) (L. D. 15)

Reported that the same ought to pass.

Mr. Norris for the Committee on Claims on Resolve in Favor of Town of New Sharon for Support of Angie Thompson." (S. P. 531) (L. D. 1366)

Reported that the same ought to pass.

Which reports were read and accepted and the Bill and Resolve read once and tomorrow assigned for second reading.

Ought to Pass As Amended

Mr. Katz for the Committee on Education on Bill "An Act to Reconstitute School Administrative Districts Nos. 54, 56, 57, 58, 59, 60, 62 and 63." (S. P. 398) (L. D. 1070)

Reported that the same ought to pass As Amended by Committee Amendment "A" (S-55)

Which report was read and accepted and the Bill read once. Committee Amendment "A" was read by the Secretary as follows:

COMMITTEE AMENDMENT "A" to S. P. 398, L. D. 1070, Bill, "An Act to Reconstitute School Administrative Districts Nos. 54, 56, 57, 58, 59, 60, 62 and 63."

Amend said Bill, in the Title, by striking out the figures and word "60, 62 and 63" and inserting in place thereof the following: '62, 63 and 64'

Further amend said Bill by striking out all of sections 16, 17 and 18.

Further amend said Bill by adding at the end, before the Emergency clause the following new sections:

Sec. 25. School Administrative district No. 64 reconstituted and established; validation of proceedings in member municipalities

The municipalities of Bradford, Corinth, Hudson, Kenduskeag and Stetson are constituted to be and to have been since March 27, 1967, a School Administrative District, known as School Administrative District No. 64, with all of the powers, privileges and franchises granted to school administrative districts according to the Revised Statutes of 1964, Title 20, sections 211 to 307. The proceedings taken in the town meetings held in the municipalities of Bradford, Corinth, Hudson, Kenduskeag and Stetson, wherein it was voted to join in the formation of a school administrative district, are validated, confirmed and made effective.

Sec. 26. Validation of election and proceedings of school directors and action by officers and agents.

The school directors of School Administrative District No. 64, selected in the said municipalities to serve as such, are declared to be and to have been duly elected and qualified for the respective terms for which each was elected, and all of the proceedings of the board of school directors of said district as said board was from time to time constituted and as shown by the records of said district and all of the action duly taken in accordance therewith by the officers and agents of said district with regard to the issuance of capital outlay bonds or any borrowing anticipation of the sale thereof, or the preparation, presentation and acceptance of any school budget or any borrowing for current operating expenses, are validated, confirmed and made effective.

Sec. 27. Amendments. Any amendments of, additions to or changes in said sections 211 to 307 which may hereafter be enacted shall, unless otherwise

specifically provided therein, be deemed to apply to and to govern said School Administrative District No. 64.

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

Committee Amendment "A" was adopted, and the Bill, as amended, tomorrow assigned for second reading.

Mr. Lund for the Committee on Public Utilities on Bill "An Act Relating to Protecting Source of Public Water Supply." (S. P. 435) (L. D. 1154)

Reported that the same ought to pass As Amended by Committee Amendment "A" (S-56)

Which report was read and accepted and the Bill read once. Committee Amendment "A" Filing S-56 was read by the Secretary as follows:

COMMITTEE AMENDMENT
"A" to S. P. 435, L. D. 1154, Bill, "An Act Relating to Protecting Source of Public Water Supply."

Amend said Bill by striking out in the 11th and 12th lines of section 1 (10th and 11th lines of L. D. 1154) the underlined words "located anywhere on the watershed of" and inserting in place thereof the underlined words 'having a system of drainage or sewage flowing or seeping into'

Further amend said Bill by striking out in the 2nd line of the 2nd paragraph of section 1 (first line of 2nd paragraph of L. D. 1154) the underlined words "as outlined" and inserting in place thereof the underlined words 'within said 1,000 foot distance'

Committee Amendment "A" was adopted, and the Bill, as amended, tomorrow assigned for second reading.

Divided Report

Five members of the Committee on Education on Bill "An Act Revising the Laws Relating to Barbers and Schools of Barbering." (S. P. 247) (L. D. 607)

Reported in Report "A" that the same ought to pass As Amended by Committee Amendment "A" (S-54)

(Signed)

Senator:

KATZ of Kennebec

Representatives:

BAKER of Winthrop
HANSON of Lebanon
RICHARDSON
of Stonington
ALLEN of Caribou

Five members of the same Committee on the same subject matter, reported in Report "B" that the same ought not to pass.

(Signed)

Senators:

SNOW of Cumberland
MACLEOD of Penobscot

Representatives:

CARROLL of Limerick
LEVESQUE
of Madawaska
SHUTE of Farmington

On motion by Mr. Snow of Cumberland, the Senate voted to accept the Ought Not to Pass report of the committee.

Divided Report

The Majority of the Committee on Appropriations and Financial Affairs on Bill "An Act Providing Funds to Assist the Casco Bay Island Development Association to Create an International Vacation and Conference Center on Peaks Island." (S. P. 327) (L. D. 862)

Reported that the same ought to pass.

(Signed)

Senators:

BERRY of Cumberland
ALBAIR of Aroostook
DUQUETTE of York

Representatives:

BRAGDON of Perham
HUMPHREY of Augusta
HINDS of So. Portland
JALBERT of Lewiston
SCRIBNER of Portland

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

Representatives:

BIRT of E. Millinocket
DUNN of Denmark

Ought to Pass report of the committee accepted, the Bill read once, and tomorrow assigned for second reading.

Divided Report

The Majority of the Committee on Education on Bill "An Act

Relating to Approval of Secondary Schools." (S. P. 401) (L. D. 1032)

Reported that the same ought to pass As Amended by Committee Amendment "A" (S-57)

(Signed)

Senators:

KATZ of Kennebec
SNOW of Cumberland
MacLEOD of Piscataquis

Representatives:

SHUTE of Farmington
ALLEN of Caribou
HANSON of Lebanon
CARROLL of Limerick
LEVESQUE
of Madawaska
BAKER of Winthrop

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

Representative:

RICHARDSON
of Stonington

(On motion by Mr. Katz of Kennebec, tabled pending acceptance of either report.)

Second Readers

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

House

Bill "An Act Relating to Use of Interest of Organized Townships Fund by Lakeville Plantaiton." (H. P. 312) (L. D. 446)

Bill "An Act Permitting Town of Brunswick to raise money for boarding Home." (H. P. 394) (L. D. 541)

Bill "An Act to Authorize the Plantation of Matinicus Isle to Form a School Administrative District." (H. P. 482) (L. D. 695)

Bill "An Act Relating to Definition of a Junior High School." (H. P. 783) (L. D. 1145)

Bill "An Act Relating to Removal of Motor Vehicles Parked Illegally on Highways and Highway Rights-of-Way." (H. P. 1085) (L. D. 1545)

Bill "An Act Prohibiting Shooting at or Near Wildfowl Decoys of Another." (H. P. 1090) (L. D. 1557)

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

House — As Amended

Bill "An Act Increasing Penalties for Violation of Fishing Regulations." (H. P. 840) (L. D. 1248)

Bill "An Act Providing for a Council-Manager Charter of Town of Gorham." (H. P. 529) (L. D. 769)

Bill "An Act Describing the Boundary Line Between the Towns of Paris and West Paris." (H. P. 413) (L. D. 579)

Bill "An Act Creating a Hospital Administrative District No. 1 in Penobscot County." (H. P. 278) (L. D. 398)

Bill "An Act to Provide a Council-Manager Charter for the Town of Cumberland." (H. P. 195) (L. D. 284)

Which were read a second time and passed to be engrossed, As Amended, in concurrence.

Senate

Bill "An Act Increasing the Number of Justices of the Superior Court." (S. P. 222) (L. D. 485)

Bill "An Act Providing for Group Life Insurance for Justices of the Supreme Judicial and Superior Courts and Judges of the District Court." (S. P. 557) (L. D. 1430)

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

Sent down for concurrence.

Senate — As Amended

Bill "An Act Relating to Membership of State Soil and Water Conservation Committee." (S. P. 50) (L. D. 40)

(On motion by Mr. Harding of Aroostook, tabled and specially assigned for Wednesday, April 12.)

Bill "An Act Relating to Protection of Corporate Name of Corporations Excused or Suspended." (S. P. 339) (L. D. 872)

Bill "An Act Relating to Bill for Juvenile Offenders." (S. P. 406) (L. D. 1037)

Bill "An Act Relating to Powers of Attorneys in Taking Acknowledgements for Instruments for Recording." (S. P. 430) (L. D. 1084)

Which were read a second time and passed to be engrossed, As Amended by Committee Amendments "A".

Sent down for concurrence.

Enactors

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

An Act Relating to Open Season on Muskrats in Somerset County. (H. P. 221) (L. D. 311)

An Act Relating to Fishing Without License for Patients at Veterans Administration Hospital. (H. P. 499) (L. D. 712)

An Act Revising the Savings and Loan Association Laws. (H. P. 689) (L. D. 970)

An Act Relating to Dealers in Deer Skins and Heads. (H. P. 836) (L. D. 1244)

An Act Relating to Hunting Waterfowl on Haley Pond, Town of Rangeley and Dallas Plantation, Franklin County. (H. P. 841) (L. D. 1249)

An Act Relating to Parking Facilities for Handicapped Persons. (H. P. 1062) (L. D. 1388)

Which were passed to be enacted, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

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

Resolve in Favor of Loudon C. Minor of Cape Elizabeth for Automobile Damage by Escapee from Boys Training Center. (S. P. 469) (L. D. 1161)

(On motion by Mr. Berry of Cumberland, placed on the Special Appropriations Table.)

Resolve Regulating Fishing in Certain Waters in Hancock County. (H. P. 448) (L. D. 623)

Resolve in Favor of Town of Greenbush, Penobscot County, for Damage to Bridge. (H. P. 878) (L. D. 1290)

(On motion by Mr. Berry of Cumberland, placed on the Special Appropriations Table.) (See action later in today's session.)

Which were finally passed, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

On motion by Mr. Berry of Cumberland, the Senate voted to reconsider its action whereby Item 8-10 was placed on the Special Appropriations Table.

On motion by Mr. Ferguson of Oxford, placed on the Special Highway Appropriations Table.

Emergency

An Act Relating to Nonlapsing Funds for Development of Swan Island. (S. P. 242) (L. D. 602)

This being an emergency measure and having received the affirmative vote of 32 members of the Senate, was passed to be enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

The Chair lays before the Senate the first tabled and today assigned matter (H. P. 605) (L. D. 849) House Report from the Committee on Judiciary on Bill, "An Act Relating to Equal Fault of Claimant Under Comparative Negligence Law." Majority Report, Ought to Pass; Minority Report, Ought not to pass. Tabled March 31 by Senator Stern of Penobscot pending acceptance of either report.

The Chair now recognizes the Senator from Penobscot, Senator Stern.

Mr. STERN of Penobscot: Mr. President and fellow Members of the Senate: I am sure that many of you don't begrudge me the pleasure of getting up to address you today and perhaps I will be doing so more frequently in the future. You see being away from the courtroom gets you a little rusty, and I have to take advantage of this opportunity to address — first, we have a different atmosphere here. You know in the courtroom when I get up to speak, most frequently the opposing attorney gets up and objects and the judge usually sustains the objection, and believe me it is a frustrating experience, but I do want to explain to you why I changed my mind again on this particular bill.

I feel that the Judiciary Committee Chairmanship by that a ble

gentlemen from Farmington, Peter Mills, is perhaps one of the outstanding committees we have in the Legislature. I attend their meetings almost as frequently as I do my other meetings. In fact, I would be very disappointed if I was not appointed as an honorary or ex-officio member of that Judiciary Committee, but this Committee, up to now, has passed and turned out many reports pertaining to the law which I have wholeheartedly supported and I felt that they were a hundred per cent right. I felt that they were in this particular report. It is a bunch of lawyers largely that passed the Committee report out 7 to 3 and that is a tremendous per cent when you think and bear in mind that the Supreme Court very frequently comes up with a 5 to 4 decision, but to me this was a tremendous percentage and they had good reason to pass out this bill L. D. 849, 7 to 3. I was for it and I lobbied many of my friends to vote in its behalf, but I had occasion to go down the aisle and get in the balcony when the House argued this particular bill, and as I sat there in the balcony, I listened to some of the wild, irresponsible, ludicrous statements made by some of the lay people in the Legislature. I had to be restrained by my son.

The PRESIDENT: The Chair recognizes Senator Berry. You may state your point of order.

Mr. BERRY of Cumberland: I believe that we do not make reference to remarks made in the other body in debates concerning matters on which this body is not acting.

The PRESIDENT: The Senator from Penobscot has heard the remark and I am sure he will be governed accordingly.

Mr. STERN: I will, you see, I didn't realize this is the first time, I suppose, in the last legislature and this that anybody has ever objected to what I have to say, so it makes me feel at home. It doesn't bother me at all.

At any rate, I have heard these statements argued in the other body and I felt that if a professional group of attorneys could not

pass a bill that was so sensible in its terms and so readily apparent to a lay person that it would create the confusion that it did, that I felt that perhaps I should change my mind, and I was so excited about that time that this is the reason that I asked that this bill be tabled, but I have had time to study it, I have had time to talk to many of the attorneys in Penobscot County, I have talked with some judges, and although I feel that the bill some day may be passed, it has very good features, probably this is not the time for it, and I did not feel that I should stir the dying embers, and because of the most important reason that I feel I should explain to the members of the Judiciary who voted to pass this bill, I do honestly feel that if the bill was enacted today that it would make settlement difficult to make. I think it would encourage litigations, our courts and our judges would not know what to do under the circumstances because of the fact that it would promote settlement.

Mr. President, I want to, under the circumstances, move that we concur with the House in the indefinite postponement of this bill, L. D. 849.

The PRESIDENT: The Senator from Penobscot, Senator Stern, moves that we concur with the House in the indefinite postponement of the bill and accompanying reports.

The Chair recognizes the Senator from Kennebec, Senator Lund.

Mr. LUND of Kennebec: Mr. President and Members of the Senate: I am happy to welcome Senator Stern to that group of those who have taken the light in view of the wisdom of this legislation, and in view of his rather extenuous explanations today on his various positions on various matters — I wish there was somebody here in this body who had the wit that he usually demonstrates when others are confronted with problems — I can't hope to supply that absence of wit, but I am reminded of a story that I thought might be appropriate

under the circumstances. There was an attorney who had two cases on successive days before the same judge and it happened that they represented opposite positions on the same question. The first day he appeared before the judge and he prevailed a very brilliant argument on his behalf and the second day he took the opposite side of an identical case, presented his argument to the court. Following the argument, the judge called him to the bench and asked him very quietly how he could possibly argue the one argument of the day before when he prevailed and present the opposite argument today with the hope of prevailing, and the attorney said: "Well, your honor, yesterday I thought I was right; today, I know I am right."

The PRESIDENT: The pending question is on the motion of the Senator from Penobscot, Senator Stern, that the bill and accompanying papers be indefinitely postponed. The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I want to say that I concur with the motion that the Senator from Penobscot, Senator Stern, has made. However, for a different reason than he has suggested. I did feel that this was good legislation. I do feel that the majority of the Judiciary Committee was right in reporting out as Ought to pass. If this were to pass, there would be a large body of law which would be available for our courts to interpret the statutes which is not available now, and I disagree with the Senator, I think that this would lessen litigation rather than increase it. However, we have a practical situation in that the proponents of the measure in the House advise me that it probably will be impossible to pass it there. It has met its fate and so we'll recognize the situation and as the Senator from Penobscot, Senator Stern, said perhaps this bill will have another day, but this is not the bill's day.

The PRESIDENT: Is the Senate ready for the question? As many

as are in favor of the motion to indefinitely postpone the bill and accompanying papers will say "aye"; contrary-minded?

A viva voce vote being taken, the motion prevailed and the bill was indefinitely postponed.

On motion by Mr. Hildreth of Cumberland, the Senate voted to take from the table the 25th tabled and unassigned matter (H. P. 318) (L. D. 452) House Report Ought not to pass from the Committee on Judiciary on Bill, "An Act Repealing the Law on Comparative Negligence in Civil Actions." Tabled March 30 by Senator Hildreth of Cumberland pending acceptance of report.

On further motion by the same Senator, the Senate accepted the Ought not to pass report of the Committee.

On motion by Mr. Ferguson of Oxford, the Senate voted to take from the table the 14th tabled and unassigned matter (H. P. 154) (L. D. 217) House Reports from the Committee on Natural Resources on Bill, "An Act Classifying Portion of Presumpscot River Basin." Majority Report, Ought not to pass; Minority Report Ought to pass. Tabled March 21 by Senator Ferguson of Oxford pending acceptance of either report.

On further motion by the same Senator, the Senate voted to accept the Ought not to pass report of the Committee.

On motion by Mr. Ross of Piscataquis.

Adjourned until ten o'clock tomorrow morning.