

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

SENATE

Wednesday, June 21, 1967

Senate called to order by the President.

Prayer by Rev. Paul L. Muder of South China.

Reading of the Journal of yesterday.

Paper from the House Non-concurrent matter

Bill "An Act to Authorize a Bond Issue in Amount of Seven Hundred and Fifty Thousand Dollars for Construction of a Dormitory at Maine Maritime Academy." (H. P. 343) (L. D. 491)

Recalled from the files by Joint Order (H. P. 1214)

Comes from the House Re-committed to the Committee on Appropriations and Financial Affairs.

In Senate: Recommitted to the Committee on Appropriations and Financial Affairs in concurrence.

House Papers Joint Orders

ORDERED, the Senate Concurring, that Bill, "An Act Relating to Highway Advertising Control," Senate Paper 542, Legislative Document 1443, be recalled from the Legislative Files to the House. (H. P. 1224)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the subject matter of Bill "An Act Relating to Tandem Trailers," Senate Paper 595, Legislative Document No. 1573, introduced at the regular session of the 103rd Legislature, to determine whether the best interests of the State would be served by the enactment of such Legislation; and be it further

ORDERED, that the Committee report the results of its study to the 104th Legislature. (H. P. 1222)

Comes from the House, Read and Passed.

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

Mr. JOHNSON of Somerset: Mr. President, I move that this Order be placed on the Special Legislative Research Table.

The PRESIDENT: The Senator from Somerset, Senator Johnson, moves that this Order lay on the Special Legislative Research Table.

The Chair recognizes the Senator from Cumberland, Senator Snow.

Mr. SNOW of Cumberland: Mr. President, a parliamentary inquiry: Is this Order a proper subject for discussion at this time?

The PRESIDENT: The present motion before the Senate is a tabling motion which is not debatable. I would say that the debate would properly come when the Order is taken from the table.

Thereupon, on motion by Mr. Johnson of Somerset, placed on the Special Legislative Research Table

ORDERED, the Senate concurring, that an Interim Study Committee is created to be composed of 9 members, as follows: 3 to be appointed by the President of the Senate; 3 to be appointed by the Speaker of the House; the Secretary of State; the Chairman of the State Highway Commission and the State Tax Assessor, and the Committee shall elect its own chairman; and be it further

ORDERED, that this Committee is directed to study highway revenues and projected highway requirements of the State of Maine to determine and report to the next regular session of the Legislature whether relative contributions to highway costs are equitable in proportion to the use made by the various classes of highway users; whether highway costs are higher because of the use of the highways by various classes of users, and, if the Committee determines it to be necessary, to prepare and return to the next regular session of the Legislature a bill incorporating such provisions as may appear to be necessary or desirable to equitably allocate highway costs among the various classes of users; and be it further

ORDERED, that to implement this study said Committee is

authorized and directed to employ such technical and clerical assistance as may be necessary; and be it further

ORDERED, that the Committee shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of its duties; and be it further

ORDERED, that there is appropriated from the Legislative Appropriation the sum of \$5,000 for the expenses incurred by the Committee. (H. P. 1223)

Comes from the House, Read and Passed.

(On motion by Mr. Ferguson of Oxford, tabled pending Passage.)

Communication

**State of Maine
Supreme Judicial Court
Augusta, Maine**

June 20, 1967

Hon. Jerrold B. Speers
Secretary of the Senate
State House
Augusta, Maine

Dear Mr. Speers:

There are enclosed the Answers of the Justices to the Question of June 2, 1967.

Respectfully yours,

ROBERT B. WILLIAMSON
Enclosure

OPINION

OF THE JUSTICES OF THE SUPREME JUDICIAL COURT GIVEN UNDER THE PROVISIONS OF SECTION 3 OF ARTICLE VI OF THE CONSTITUTION, ON QUESTIONS PROPOUNDED BY THE SENATE IN AN ORDER DATED JUNE 2, 1967.

Which was Read and Accepted and with accompanying papers Ordered Placed on File.

ANSWERS OF THE JUSTICES

To the Honorable Senate of the State of Maine:

In compliance with the provisions of Section 3 of Article VI of the Constitution of Maine, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following answers to the questions propounded on June 2, 1967.

QUESTION (1): Are the definitions of "industrial project", as set forth in Sec. 1 of Legislative Document 33 as amended by Committee Amendment "A", constitutional and within the authority granted to the Legislature by section 14-A of Article IX of the Constitution of Maine?

ANSWER: We answer in the negative.

The basis of the present statute is to be found in the Constitution, Article IX, Section 14-A which authorized legislative provisions for insured mortgage loans for the purpose of "fostering, encouraging and assisting the physical location, settlement and resettlement of industrial and manufacturing enterprises within the State." We are satisfied that the phrase "industrial and manufacturing enterprises" was carefully chosen to limit and describe the type of activity to be benefited by the extension of the credit of the State.

In our view, the word "industrial" in this phrase is inseparable from and must be read in conjunction with the word "manufacturing." We recognize that in common parlance the word "industry" is frequently employed to describe a particular type of activity. For example, we may speak of the "agricultural industry," the "fishing industry," the "trucking industry" or the "recreational industry," to mention only a few of those with which we are familiar. We do not, however, equate the word "industry" as thus employed with the phrase "industrial and manufacturing enterprises" which the electorate wrote into the Constitution. It is significant, for example, that it was recognized that "recreational projects" which in commonly used and well understood terms comprise what is usually called the "recreational industry" required specific constitutional sanction in order to qualify for the benefits of State supported loans. Art. IX, Sec. 14-B.

Activities which constitute the harvesting of the products of the land or sea do not qualify within the scope which we assign to the Constitutional phrase. The

proposed legislation seeks by definition to extend the credit of the State to agricultural and fishing activities beyond the scope of the Constitutional limit imposed by the phrase "industrial and manufacturing enterprises."

QUESTION (2): Does Sec. 2 of Legislative Document 33 as amended by Committee Amendment "A" violate the Constitution in providing for direct loans to applicants and dispensing with the necessity of a local development corporation?

ANSWER: In the light of our reply to Question No. 1, this question is not reached.

Dated at Augusta, Maine, this twentieth day of June, 1967.

Respectfully submitted:

Robert B. Williamson
Donald Webber

Walter M. Tapley, Jr.

Harold C. Marden
Armand S. Dufresne, Jr.
Randolph A. Weatherbee

Order

On motion by Mrs. Sproul of Lincoln

ORDERED, the House concurring, that Legislative Document No. 1700, "An Act Relating to Salaries of Jury Commissioners and County Officers in the Several Counties of the State and Court Messenger of Cumberland County, House Paper 1197, be recalled from the Governor to the Senate. (S. P. 702)

Which was Read and Passed.

Sent down for concurrence.

At this point the President appointed the following Senators to the Transportation Commission:
Senators:

BARNES of Aroostook
RENY of York

Committee Reports

House

Ought to Pass As Amended

The Committee on Judiciary on Bill "An Act Relating to Service on Non-residents in Motor Vehicle Accidents." (H. P. 941) (L. D. 1373)

Reported that the same Ought to Pass As Amended by Committee Amendment "A" (H-443)

Comes from the House, report Read and Accepted, and the Bill Passed to be Engrossed As Amended.

The Committee on Judiciary on Bill "An Act Relating to Adoption." (H. P. 895) (L. D. 1296)

Reported that the same Ought to Pass As Amended by Committee Amendment "A" (H-442)

Comes from the House, report Read and Accepted, and the Bill Passed to be Engrossed As Amended.

Which reports were Read and Accepted in concurrence and the Bills read once. Committee Amendments "A" were Read and Adopted in concurrence.

Under suspension of the rules, the Bills were Read a Second Time and Passed to be Engrossed in concurrence.

Ought to Pass in New Draft

The Committee on State Government on Recommended Resolve Proposing Amendment to the Constitution Relating to Bond Issues to be Voted Upon by the People. (H. P. 1033) (L. D. 1499)

Reported that the same Ought to Pass in New Draft, under same title: (H. P. 1206) (L. D. 1717)

Comes from the House, report Read and Accepted, and the Bill Passed to be Engrossed As Amended by House Amendment "B" (H-444)

Which Report was Read and Accepted and the New Draft Read Once. House Amendment "B" was Read and Adopted. Under suspension of the rules the Resolve was Read a Second Time and Passed to be Engrossed in concurrence.

Ought to Pass in New Draft — New Title

The Committee on Taxation on Bill "An Act Relating to Municipal Excise Taxes on Boats and Motors." (H. P. 1041) (L. D. 1513)

Reported that the same Ought to Pass in New Draft under New-Title: "An Act Relating to Boat Registration." (H. P. 1212) (L. D. 1724)

Comes from the House Indefinitely Postponed.

On motion by Mr. Wyman of Washington, the Senate voted to accept the unanimous Ought to Pass in New Draft Report of the Committee and the Bill, in New Draft, was Read Once. Under suspension of the rules, the Bill was Read a Second Time and Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Business Legislation on Bill "An Act Providing for a Truth-in-Lending Act." (H. P. 781) (L. D. 1143)

Reported that the same Ought Not to Pass.

(Signed)

Senators:

MacLEOD of Penobscot
KATZ of Kennebec

Representatives:

SCOTT of Wilton
TRASK of Milo
SCOTT of Presque Isle
HARRIMAN of Hollis

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft — New Title, "An Act Relating to Truth-in-Lending and Disclosure of Interest and Finance Charges in Retail Sales." (H. P. 1215) (L. D. 1728)

(Signed)

Senator:

HARDING of Aroostook

Representatives:

SULLIVAN of Portland
FECTEAU of Biddeford
GAUTHIER of Sanford

Comes from the House, Minority — Ought to Pass in New Draft Report accepted, and the Bill Passed to be Engrossed As Amended by House Amendment "A" (H-445).

(On motion by Mr. MacLeod of Penobscot, tabled until later in today's session.)

Divided Report

The Majority of the Committee on Business Legislation on Bill "An Act Providing for Disclosure of Interest and Finance Charges on Loans." (H. P. 964) (L. D. 1465)

Reported that the same Ought Not to Pass.

(Signed)

Senators:

MacLEOD of Penobscot
HARDING of Aroostook
KATZ of Kennebec

Representatives:

TRASK of Milo
GAUTHIER of Sanford
SCOTT of Wilton
SCOTT of Presque Isle
HARRIMAN of Hollis
FECTEAU of Biddeford

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

(Signed)

Representative:

SULLIVAN of Portland

Comes from the House, Minority — Ought to Pass report Read and Accepted, and the Bill Passed to be Engrossed As Amended by House Amendment "A" (H-446)

(On motion by Mr. MacLeod of Penobscot, tabled until later in today's session pending Acceptance of either Committee Report.)

Divided Report

The Majority of the Committee on State Government on Bill "An Act Creating the Oceanology Act of 1967." (H. P. 948) (L. D. 1379)

Reported that the same Ought to Pass in New Draft "A" under New Title "An Act Creating the Maine Ocean Science Council." (H. P. 1210) (L. D. 1722)

(Signed)

Senators:

LUND of Kennebec
STERN of Penobscot
WYMAN of Washington

Representatives:

DENNETT of Kittery
WATTS of Machias
PHILBROOK
of South Portland
RIDEOUT of Manchester
CORNELL of Orono

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft "B" under New Title: "An Act Creating

the Maine Ocean Science Agency.”
(H. P. 1211) (L. D. 1723)

(Signed)

Representatives:

STARBIRD

of Kingman Township
MARTIN of Eagle Lake

Comes from the House, Majority
- Ought to Pass in New Draft “A”
Report Read and Accepted and
the Bill, in New Draft “A”,
Passed to be Engrossed.

In Senate: Majority Ought to
Pass in New Draft A Report
Accepted and the Bill, in New
Draft, Read Once. Under suspen-
sion of the rules, the Bill was Read
a Second Time and Passed to be
Engrossed in concurrence.

Senate

Report of Committee of Conference

The Committee of Conference on
the disagreeing action of the two
branches of the Legislature, on Bill
“An Act Establishing the
Policemen’s Arbitration Law.” (S.
P. 342) (L. D. 926)

Ask leave to report that the
Senate Recede and Concur with the
House in passing the Bill to be
Engrossed as Amended by House
Amendment “A”.

(Signed)

EDWARD STERN
JOSEPH SEWALL

Senate

KENNETH P. MacLEOD
HORACE DRUMMOND
E. A. HARRIMAN
PAUL R. HUBER

House

Which Report was Read and
Accepted, and the Senate voted to
Recede and Concur with the House.

Divided Report

The Majority of the Committee
on Appropriations and Financial
Affairs, acting in accordance with
Joint Order (S. P. 687) Report A
Bill (Draft “A”) under title of
“An Act Making Additional
Appropriations for the Expendi-
tures of State Government and for
Other Purposes for the Fiscal
Years Ending June 30, 1968, and
June 30, 1969.”

(Emergency)

(S. P. 700) (L. D. 1737)

And report that the same Ought
to Pass

(Signed)

Senator:

ALBAIR of Aroostook

Representatives:

HINDS of So. Portland

BIRT of Millinocket

DUNN of Denmark

HUMPHREY of Augusta

BRAGDON of Perham

The Minority of the same
Committee on the same subject
matter, Report A Bill (Draft “B”)
under the same title (S. P. 701)
(L. D. 1738) and report that it
Ought to Pass.

(Signed)

Senators:

BERRY of Cumberland

DUQUETTE of York

Representatives:

SCRIBNER of Portland

JALBERT of Lewiston

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

Mr. BERRY of Cumberland: Mr.
President, I move the Senate
accept Report “B”.

The PRESIDENT: The Senator
from Cumberland, Senator Berry,
moves that the Senate accept the
Minority Report Ought to Pass on
Draft “B”.

The Chair recognizes the Senator
from Aroostook, Senator Albair.

Mr. ALBAIR of Aroostook: Mr.
President and Members of the
Senate: I hate to rise at this time
in opposition to my colleague on
the Appropriations Committee,
Senator Berry, however I will
defend the position of the majority
of the Committee on Appropria-
tions.

If you will look at L. D. 1737
and 1738, and I will not bore you
with figures, but I will give you
totals. The Section “A” of 1738,
the total aggregate is \$233,000 vs.
1737 total aggregate of \$135,585.
There is no disagreement in
Section “B” which is a total of
\$292,813. Now, the difference is
\$100,000 in Section “A”, and it was
the feeling of the Committee that
the departments can well live with-
in the \$135,585 that we have allo-
cated to them or approved. This
comes out of surplus. The surplus

account now has been tapped for some \$400,000. This will be tapped for \$526,000 if the Minority Report prevails. The Majority Report would be \$428,000 or a saving of approximately \$100,000 or \$97,000.

I would hope that you would vote against my good friend, Senator Berry, on his motion, that the Minority Report did not prevail, and I would ask for a division.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: The Report "B" includes three items which are not included in Report "A" and I would parenthetically state that there are several other items which are equally worthy which have not been included in Report "B", which were omitted in an attempt to keep this figure as low as possible. I consider all the items in both "A" and "B" mandatory for the proper operation of your state government for the coming biennium, and I believe that they should quite properly have been included either in the Current Services Budget or in the Supplemental Budget. Due to the passage of time and understandable human error, both in the Committee and in the State Departments, that have occurred over the past five months, these items are before you. There are other items, as I say, which I would very much like to see in. One that occurs to me right off hand is the problem presented to me by a department head who spoke to me yesterday saying that because they were not getting a relatively small amount of money they would not be able to complete satisfactorily the assignment given to them by the past legislatures, and I know from personal experience that this particular case is an extremely worthy one and that the State of Maine will be going back on its word if it does not comply. As I say, even this item is not included in Report "B".

In Report "B" the first item in which there is a variance is an item for the Insurance Department to provide actuarial services amounting to \$17,000 and \$500 in

the "All Other" category. It is rather an amazing thing that the Maine State Insurance Department does not have an Actuary in its employ. It is the belief of everybody concerned, and I can assure you the other members of the Committee too, that the provision of this service will be for the financial betterment of the state. The only difference of opinion is whether it should be included in here, and I believe it should. The state is going to get these services. They will have to get them on a consulting basis, and they will be paying more for them than if they hire a consultant.

The Maine Port Authority is the next item for \$10,000 and this is absolutely necessary for the proper functioning of the department. It is not an increase in service. It is an absolutely vital item to keep the Port Authority functioning at its present level.

The next item to which I would invite your attention is an item of \$32,300 to provide computer service for the Augusta State Hospital inventory proposal, and this is something which is necessary for the Department of Mental Health and Corrections to have in order to comply with the Medicare Program, and if we don't do this we are going to lose sums in excess of \$100,000. The last item I call your attention to which is in Report "B" and not in Report "A" is a partial implementation of Maine State Archive and Records Management Program. Here again we have a program which was passed by the last session of the Legislature, not a partisan matter in any way, and I must admit openly that through an error on the part of your Committee that the complete supplemental budget of the State Archives was omitted from consideration. In an effort to alleviate this situation, the request of the Department, which was fully justified, was cut down a great deal. Report "B" provides for one person the first year and this is the only difference in the two reports.

I do believe that this is a bare-bones proposition and that this budget as presented in Report "B" is necessary for the operation of

the several departments. I do wish with all my heart there was more money in here for some of the other departments.

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

Mr. ALBAIR of Aroostook: Mr. President and Members of the Senate: Very briefly, under the Insurance Department, they have an increased budget over '65 of around \$4,500. Again under the Maine Port Authority in 1575, which is the Current Services Budget, we have allocated \$49,150 each year of the biennium. They are asking for \$10,000 more. Their revenues have increased and I see no reason why they can't absorb this \$10,000 cost at this time. Now, as far as the Mental Health and Corrections, with a \$33,000,000 budget, I am sure they can absorb \$32,000. I can't see a problem there. Under the State Archives, we have shifted over in the second year of the biennium an adjustment, we have eliminated the capital from \$1,200, down to "All Other" in personal services. We have allowed \$1,400 in the first year, the '67-'68 year, and the \$2,000 under "All Other" in the same year, and we have left the two positions to start this program, which I understand will not be rolling for another three or four years. Now this will give the State Archives people in the second year of this biennium two people, plus \$2,000 in "All Other" and \$600 in capital.

To call your attention again in Section "C" for understanding of this document, there is a carrying clause at the bottom of the L. D. and the purpose of this is to carry over money that was allocated to the Department of Economic Development of \$93,200 earlier in the session, a special appropriation to run the Expo '67.

I still hope that the Senate will go in opposition to my good friend, Senator Berry, and vote against his motion.

The PRESIDENT: Is the Senate ready for the question? The pending question is the motion of the Senator from Cumberland, Senator Berry, that the Senate accept the Ought to Pass on Draft "B".

As many as are in favor of accepting Draft "B" will stand and remain standing until counted. Those opposed will stand and remain standing until counted.

A division was had. 11 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion to accept Draft "B" did not prevail.

Thereupon, the Senate voted to accept the Ought to Pass in Draft "A" Report and the Bill in Draft "A" was Read Once. Under suspension of the rules, the Bill in Draft "A" was Read a Second time and Passed to be Engrossed.

Sent down forthwith for concurrence.

Enactors

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

An Act Relating to Compensation of Complaint Justices of the District Court. (S. P. 434) (L. D. 1088)

An Act Establishing Maximum Legal Interest Rate on Personal Loans in Excess of Two Thousand Dollars." (H. P. 345) (L. D. 493)

An Act Revising Laws Relating to Licensed Small Loan Agencies. (H. P. 468) (L. D. 681)

(On motion by Mr. Mills of Franklin, tabled, unassigned, pending Enactment.)

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

Emergency

An Act Relating to the Financing of the State Liquor Commission. (H. P. 1147) (L. D. 1638)

This being an emergency measure and having received the affirmative vote of 27 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 President laid before the Senate the first tabled and today assigned matter, (H. P. 457) (L. D. 631) Bill, "An Act Creating County Commissioner Districts."

Tabled — June 19, 1967 by Senator Beckett of Washington.

Pending — Motion by Senator Berry of Cumberland to indefinitely Postpone.

The President: The Chair recognizes the Senator from Washington, Senator Beckett.

Mr. BECKETT of Washington: Mr. President, I move the pending question.

The PRESIDENT: Is it now the pleasure of the Senate that the bill be indefinitely postponed?

The Chair recognizes the Senator from Oxford, Senator Ferguson.

Mr. FERGUSON of Oxford: Mr. President and Members of the Senate: I rise in opposition to the motion of the Senator from Cumberland, Senator Berry.

I don't believe there is any need of going into extensive debate on this bill. It has been voted on twice in the Senate and passed by a very large majority in the House. I think this legislation is something that is badly needed for the simple reason that some of the counties are not getting equal representation in their counties by the county commissioners. All three county commissioners in very many cases, in most cases, come from the larger centers in all the counties.

There has been a question of the constitutionality of this bill expressed by some members of the Senate, but I have checked with the Attorney General, and there is on your desks here an answer to my request pointing out that this bill is legal and constitutional. We would certainly be taking a progressive step in the enactment of this important piece of legislation. I hope you will vote against the motion of the Senator from Cumberland, Senator Berry.

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

Mr. BARNES of Aroostook: Mr. President and Members of the Senate: I rise in opposition to this motion to indefinitely postpone, and I would request a division when the vote is taken.

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

Mr. BERRY of Cumberland: Mr.

President and Members of the Senate: One other point that occurs in the problem of implementing this bill is that of changing the districts once they have been made. These are very carefully spelled out, the county commissioner districts in each county and, as you will recall, my objection has been to the staggered voting which would prevent people from voting on their county commissioner except once every six years.

Now, I pose to you the problem: Let us suppose that the variance of population changes from the 10 percent allowance as provided in the bill, how is it changed? We have county commissioners which are elected two years apart if the system is in operation, and then we have some districts that are unconstitutional because their population is above or below that 10 percent figure. Yet we have people who are elected to office for four more years than the present incumbents. It seems to me that here again we have a really truly unworkable and unsolvable problem. I would hope that you would support my motion.

The PRESIDENT: The pending question is on the motion of the Senator from Cumberland, Senator Berry, that the bill be indefinitely postponed. As many as are in favor of indefinite postponement will stand and remain standing until counted. Those opposed to indefinite postponement?

A division was had. 15 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion prevailed and the bill was indefinitely postponed until counted.

Sent down for concurrence.

The President laid before the Senate the second tabled and today assigned matter, (H. P. 246) (L. D. 354) Bill, "An Act Relating to the Appointment of Clerks of the Judicial Courts."

Tabled—June 20, 1967 by Senator Ferguson of Oxford.

Pending — Enactment.

On motion by Mr. Ross of Piscataquis, retabled until later in today's session.

The President laid before the Senate the third tabled and today assigned matter, (S. P. 428) (L. D. 1082) Bill, "An Act to Conform the Statutes with the Amendments to the Rules of Civil Procedure."

Tabled — June 20, 1967 by Senator Mills of Franklin.

Pending — Passage to be Engrossed.

Mr. Mills of Franklin presented Senate Amendment "A" and moved its adoption.

Senate Amendment "A", Filing S-284, was read by the Secretary as follows:

SENATE AMENDMENT "A" to S. P. 428, L. D. 1082, Bill, "An Act to Conform the Statutes with the Amendments to the Rules of Civil Procedure."

Amend said Bill by inserting after section 1 the following sections:

'Sec. 2. R. S., T. 10, §1504, amended. Section 1504 of Title 10 of the Revised Statutes is amended to read as follows:
§1504. False oath; mandamus to compel recording

Whoever willfully swears or affirms falsely to any such certificate is guilty of perjury and shall pay treble damages to every party injured thereby. If the Secretary of State has reason to apprehend, on the filing of such certificate, that any statement therein contained is untrue, he may decline to record the same, unless the party filing it obtains relief in the nature of mandamus to compel him. Such relief may be granted by any proper court, but without costs to the Secretary of State, on proof that all the statements in such certificate are true, but no final hearing on the application therefor shall be had until such notice thereof, as said court orders, has been advertised in one or more newspapers published in the county where the party filing said certificate resides. Any persons who desire may appear and intervene as parties defendant, and oppose the granting of such relief and shall be liable to judgment for any costs occasioned by such intervention.

Sec. 3. R. S., T. 14, §1204, amended. Section 1204 of Title 14 of the Revised Statutes, as amend-

ed by sections 12 and 13 of chapter 356 of the public laws of 1965, is further amended to read as follows:

§1204. Impaneling of jury; challenges; alternate jurors

When venire for jurors are returned to court the clerk shall, at the commencement of each term, prepare an alphabetical list of the names of the several persons returned as traverse jurors. The court shall cause it to be ascertained whether all so returned are present, and any juror desiring to be excused shall make application therefor when his name is called and thereupon be heard on said application.

Before proceeding to the trial of any civil case to a jury, the clerk shall, under directions of the court, place the names of all jurors legally summoned and in attendance, and not engaged in the trial of any other cause, separately upon tickets in a box and the names shall be drawn from the box by the clerk after having been thoroughly mixed, one at a time, for the purpose of constituting a jury.

The Supreme Judicial Court shall by rule provide the manner of exercising all peremptory challenges, and the number and order of peremptory challenges. After the panel is thus completed, the presiding justice shall appoint a foreman for the trial of the case.

Whenever by reason of the prospective length of a civil trial or other civil cause the court in its discretion shall deem it advisable, it may direct that jurors in addition to the regular panel be called and impaneled to sit as alternate jurors. Such alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Such alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges and may be subject to the same obligations and penalties as jurors on the regular panel. An al-

ternate juror who does not replace a juror on the regular panel shall be discharged when the jury retires to consider its verdict. **The Supreme Judicial Court shall by rule provide the number of alternate jurors, the manner of exercising all challenges to alternate jurors, and the order and number of challenges to alternate jurors.**

Sec. 4. R. S., T. 14, §1302, repealed. Section 1302 of Title 14 of the Revised Statutes, as amended by section 14 of chapter 356 of the public laws of 1965, is repealed.

Sec. 5. R. S., T. 14, §1509, amended. Section 1509 of Title 14 of the Revised Statutes is amended to read as follows:

§1509. Petitions for relief

On application of a private person for relief from a judgment or for relief in the nature of certiorari, mandamus or quo warranto, or like process, the court may or may not allow costs to a person appearing on notice as defendant.'

Further amend said Bill by renumbering sections 2 and 3 to be sections 6 and 7.

Further amend said Bill by adding at the end the following:

'Sec. 8. R. S. T., 26, §1342, amended. The last sentence of section 1342 of Title 26 of the Revised Statutes is amended to read as follows:

No label, trademark, device or form of advertisement, so closely resembling one already recorded as to be liable to be mistaken therefor, shall be recorded, and when in the judgment of the Secretary of State such resemblance exists, he may refuse to record such label, trademark, device or form of advertisement, and thereupon proceedings may be had in the nature of mandamus, upon the application of any such association or union, as provided in Title 10 section 1504.

Sec. 9. Effective date. This Act shall become effective December 31, 1967.'

Senate Amendment "A" was adopted and the Bill, as Amended, Passed to be Engrossed.

Under suspension of the rules, sent down forthwith for concurrence.

The President laid before the Senate the fourth tabled and today assigned matter, (H. P. 1184) (L. D. 1686) House Reports—from the Committee on State Government on Bill "An Act to Establish the Division of Municipal Affairs in the Executive Department." Majority Report, Ought to Pass; Minority Report, Ought Not to Pass.

Tabled—June 20, 1967 by Senator Johnson of Somerset.

Pending—Motion by Senator Wyman of Washington to Accept the Majority Ought to Pass Report.

On motion by Mr. Johnson of Somerset, the Majority Ought to Pass Report of the Committee was accepted, and the Bill read once.

House Amendment "A" was read and adopted and, under suspension of the rules, the Bill given its Second Reading and Passed to be Engrossed in concurrence.

The President laid before the Senate the fifth tabled and today assigned matter, (S. P. 378) (L. D. 990) Senate Reports—from the Committee on Judiciary on Bill "An Act to Clarify Authority of Complaint Justices and District Court Judges." Majority Report, Ought to Pass as Amended by Committee Amendment "A", Filing S-276; Minority Report "A", Ought to Pass; Minority Report "B", Ought Not to Pass.

Tabled—June 20, 1967 by Senator Hildreth of Cumberland.

Pending—Motion by Senator Hildreth of Cumberland to Accept the Minority Report "A", Ought to Pass.

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

Mr. HILDRETH of Cumberland: Mr. President, you will recall that debate ceased on this matter yesterday when it became apparent that Senator Harding would offer an amendment, which he now has prepared, and which I have looked over and which is perfectly acceptable to me. I would therefore move that we accept the

Minority Ought to Pass Report so that he may offer his amendment.

The PRESIDENT: The Senator from Cumberland, Senator Hildreth, moves that the Senate now accept the Minority Report "A", Ought to Pass.

The Chair recognizes the Senator from Franklin, Senator Mills.

Thereupon, on motion by Mr. Mills of Franklin, retabled until later in today's session, pending the motion by Senator Hildreth of Cumberland that the Senate accept Minority Report "A", Ought to Pass.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Couturier.

Mr. COUTURIER of Androscoggin: Mr. President, is the Senate in possession of H. P. 1045, L. D. 1517, Bill, "An Act Relating to Hours of County Offices of Androscoggin County"?

The PRESIDENT: The Chair replies in the affirmative, this bill having been held for reconsideration.

Mr. COUTURIER: Mr. President, I would move that the Senate now reconsider its action whereby we receded and concurred with the House, and I would like to speak briefly to my motion.

The PRESIDENT: The Senator from Androscoggin, Senator Couturier, moves that the Senate now reconsider its action of yesterday whereby it voted to recede and concur with the House.

The Chair recognizes the Senator from Androscoggin, Senator Couturier.

Mr. COUTURIER: Mr. President, my only purpose for making this motion is that I have been advised this morning that there are two amendments on this bill and that the amendments are inconsistent. Therefore, something will have to be worked out before we can proceed with the bill. I have no other interest in the bill; it is simply to make it a workable bill.

Thereupon, the Senate voted to reconsider its action whereby it voted to recede and concur.

On further motion by the same Senator, tabled and specially assigned for Thursday, June 22, pending consideration.

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

Mr. JOHNSON of Somerset: Mr. President, is S. P. 654, L. D. 1666, Bill "An Act Regulating Snow Traveling Vehicles," in possession of the Senate?

The PRESIDENT: The Chair will reply in the affirmative, this matter having been held pending reconsideration.

Mr. JOHNSON: Members of the Senate: I would like to say that we have the same problem with this bill as Senator Couturier had with his. I would now move that we reconsider our action whereby we receded and concurred.

Thereupon, the Senate voted to reconsider its action whereby it voted to recede and concur.

On further motion by the same Senator, tabled and specially assigned for Thursday, June 22, pending consideration.

The President laid before the Senate the seventh tabled and unassigned matter, (H. P. 671) (L. D. 943) Bill, "An Act Relating to Wearing Fluorescent Clothing When Hunting In Southwestern Zone for Two Years."

Tabled — June 13, 1967 by Senator Johnson of Somerset.

Pending — Enactment.

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

Mr. JOHNSON of Somerset: Mr. President, I move the pending question.

The PRESIDENT: The pending question is on the enactment of the bill.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I have had considerable opposition from my constituents on this. I in no way intend to get into hunting matters, but the people from my part of Cumberland County are against this and, accordingly, I feel I must move that this bill be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that this bill be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Lund.

Mr. LUND of Kennebec: Mr. President and Members of the Senate: This bill has been thoroughly debated in this body and elsewhere, and it has survived a number of attacks. It has been amended so as to be reduced in size so that a suitable test area can be established where the effectiveness of the wearing of fluorescent clothing during the deer hunting season can be worked out. We have every year for a great many years now lost a number of persons who were hunting as a result of fatalities, and an even greater number of people have been wounded in the course of hunting. It seems a little unfortunate after all of the debate that has been had on this bill that it should now have what might be termed a surprise attack.

However, the Fish and Game Department has made an effort for several years to reduce hunting fatalities by hunter training and by public relations programs. These have been successful to an extent. Also, I think the fatalities have been reduced to some extent by increased wearing of fluorescent clothing. However, we have reached a point now in Maine where it would seem appropriate for us to try what has proved so successful in other states. There was opposition to a statewide test and, in order to meet that opposition, it was reduced in scope. I would hope that the Senate would not go along with Senator Berry's motion to indefinitely postpone at this time.

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

Mr. SNOW of Cumberland: Mr. President and Members of the Senate: I would arise to concur with the Senator from Kennebec, Senator Lund. I arise only because I think that the measure is a sound one. It is one we should test. I would like to note that, although my colleague, Senator Berry from Cumberland County, may have received calls and other communications from his constituents, I have received no communications either for or against the measure.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Hoffses.

Mr. HOFFSES of Knox: Mr. President and Members of the Senate: I have since my term in this Senate been very much opposed to this particular type of legislation, and during the 102nd Legislature, when the bill was presented to the Committee on Inland Fisheries and Game, the bill was introduced by the good Senator from Kennebec, Senator Lund, and I must confess and apologize to the good Senator that I was rather rough in my questioning him on the qualities of this piece of legislation.

I did sign against the bill this time but, due to the amendments which have reduced the area to the most populous area of the State, I have agreed to go along with this measure on a two-year trial basis. This is a measure which has been espoused by the Fish and Game Department. At the public hearing the wardens and the other members of the Department were very much in accord and in favor of this type of legislation. I now would favor the legislation, and if it will save but one life it is well worth the effort which will be expended for this bill. So, I would agree with the Senator from Kennebec and the Senator from Cumberland, Senator Snow, that you vote against the motion of the other good Senator from Cumberland, Senator Berry, and that this bill can be enacted and will be put to a two-year trial basis.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Anderson.

Mr. ANDERSON of Hancock: Mr. President and Members of the Senate: At the executive hearing of the Fish and Game Committee I too was opposed to this bill. But now I really think it should be given a fair trial and I concur with the Senator from Kennebec, Senator Lund.

The PRESIDENT: Is the Senate ready for the question? As many as are in favor of the motion of the Senator from Cumberland, Senator Berry, that the bill be

indefinitely postponed will say yes; those opposed, no.

A viva voce vote being taken, the motion to indefinitely postpone did not prevail.

Thereupon, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the tenth tabled and unassigned matter, (S. P. 668) (L. D. 1696) Bill "An Act Creating a State Planning Office."

Tabled—June 14, 1967 by Senator Johnson of Somerset.

Pending—Enactment.

Mr. Johnson of Somerset moved the pending question.

Thereupon, on motion by Mr. Berry of Cumberland, placed on the Special Appropriations Table.

The President laid before the Senate the 13th tabled and unassigned matter, (S. P. 495) (L. D. 1257) Bill "An Act Creating the Maine Higher Education Development Authority."

Tabled—June 16, 1967 by Senator Johnson of Somerset.

Pending—Enactment.

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

The President laid before the Senate the 17th tabled and unassigned matter, (H. P. 1035) (L. D. 1501) RESOLVE, Proposing an Amendment to the Constitution Insuring Payment of Industrial Loans to Fisheries and Agriculture.

Tabled—June 20, 1967 by Senator Johnson of Somerset.

Pending—Final Passage.

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

On motion by Mr. Ross of Piscataquis,

Recessed until three o'clock this afternoon.

After Recess

Called to Order by the President.

The President laid before the Senate Item 6-5, (H. P. 781) (L.

D. 1143) Bill, "An Act Providing for a Truth-in-Lending Act." Tabled earlier in today's session by the Senator from Penobscot, Senator MacLeod, Pending Acceptance of Either Committee Report.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator MacLeod.

Mr. MacLEOD of Penobscot: Mr. President and Members of the Senate: Item 6-5 An Act Providing for a Truth-in-Lending Act, with a Report "B", An Act Relating to Truth-in-Lending and Disclosure of Interest and Finance Charges in Retail Sales, is one of three bills that we had before the Business Legislation Committee this winter dealing with this area of truth-in-lending. We had long hearings on all three bills. Unfortunately, the Committee did not have an adequate chance to discuss these in executive session. The bill you see before you, 1728, which is the Minority Report, is a new draft and the new draft was done by a member of our Committee, the distinguished Minority Floor Leader, the Senator from Aroostook, Senator Harding, and this was a redraft of two other redrafts that were done — if you will excuse me, Senator Mills, in some smoke filled rooms; by some unknown persons from the Maine Merchants Association, the Maine University Law School, I think he is present here today — they were not members of the Senate but they did spend a lot of time trying to draft adequate legislation in this field.

So the bill we have before us today is actually the fourth version of the original L. D. which was 1143. This came out of Committee six to four Ought Not to Pass and I was one of the signers of the Ought Not to Pass Report, and I signed the Ought Not to Pass Report because I felt I could not in good conscience sign this bill Ought to Pass when it had been redrafted for the third time on a Friday and the Committee met for the first time on Wednesday at 6 o'clock after the House adjourned and we had very, very little time to discuss it. Since that time I have spent several hours with the bill. I have talked over the amendment before it was prepared with Repre-

sentative Robertson of the House. The amendment puts in a provision that the lender or the seller can charge a delinquent fee if the payments are not made on time, and the other was a technical amendment to clarify some punctuation to which the Senator from Aroostook fouled up on a comma and a period.

I do feel now that I can support this bill. There may be some areas in it that are still a little cloudy to me, but I think that I understand the bill. It deals with installment sales and credit sales such as your Sears Roebuck, Freeses' in Bangor and also your retail sales which use a revolving account. All it provides really is that the seller will provide to the buyer the actual annual interest rate he is going to be paid on his installment charges, and this doesn't seem to be too much to ask to be provided to the consumer.

Mr. President, I move the acceptance of the Minority Ought to Pass Report of L. D. 1728.

The PRESIDENT: The Senator from Penobscot, Senator MacLeod, moves that the Senate now accept the Minority Ought to Pass, in New Draft, Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: I also signed the report in the wrong direction, and I will echo the words of Senator MacLeod and I will go a little further after saying the nice things about the hard work that Senator Harding has done convincing us that he does have a good bill. I am not absolutely confident that this bill in its present form, as amended, covers all the original objections that we had to it and I would urge the members of the Senate between this, its first reading, and tomorrow to give attention to it to see whether indeed it fills the bill completely.

The PRESIDENT: The pending question is the motion of the Senator from Penobscot, Senator MacLeod, that the Senate accept the Ought to Pass, in New Draft, Report of the Committee.

Thereupon, the Senate voted to accept the Ought to Pass, in New Draft, Report of the Committee, and the New Draft was Read Once.

House Amendment "A" was Read and Adopted, and the New Draft tomorrow assigned for Second Reading.

The President laid before the Senate Item 6-6, (H. P. 964) (L. D. 1465) Bill, "An Act Providing for Disclosure of Interest and Finance Charges on Loans." Tabled by the Senator from Penobscot, Senator MacLeod, earlier in today's session, pending acceptance of either Committee Report.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator MacLeod.

Mr. MacLEOD: Mr. President, this bill has not been redrafted. This is the original document put in by Representative Scribner of Portland. This bill does have an amendment that was put on in the House. The amendment makes the penalty in this bill for violation in line with L. D. 1728 which we just had the first reading on, which removes them from the criminal section — it makes it a civil penalty instead of a criminal penalty which is much milder. The other section of the amendment is the delinquency finance charge that, if the payment is late, the seller has a right to charge a delinquency fee, and that if an interest rate is charged greater than the amount stated, the amount that is actually being charged, if the seller is charging more than this, this will not be out of compliance. In other words, if he said he was charging 30 per cent, and he is actually charging only 20 per cent, it will not be considered a violation.

This bill deals primarily with banks and small loan companies and other financial institutions, that they will have a stamp made up or forms made up to show the true interest rate on add-on and discounted loans. There is a lot of public support for this type of legislation similar to L. D. 1728, and I must admit that on this one nine members of the Committee signed Ought Not to Pass for the same reasons outlined before. This bill had not been discussed in executive session at

all. We did sign it out nine to one Ought Not to Pass last Wednesday. All the three Senators here in the Senate signed Ought Not to Pass and six of the House members, but the wisdom and knowledge of Representative Sullivan from Portland seemed to have prevailed in the House where it passed by a four to one margin — if it's permissible to tell about that, and I would comment that on both of these documents, L. D. 1728, which involves over five thousand retail establishments, there is going to be a substantial cost involved for the Banking Commissioner to enforce this and to get out the necessary material to inform all the retailers in the state what they must do to comply with this law and also from the enforcement end.

So I am hoping to have an amendment on the second reading tomorrow for L. D. 1728, and I am sure that there is going to be some costs applied to 1465, but assuming that this could be taken care of before it is given its second reading and passed to be engrossed, I now move that the Minority Ought to Pass Report be accepted on L. D. 1465.

The PRESIDENT: The Senator from Penobscot, Senator MacLeod, moves that the Senate now accept the Minority Ought to Pass Report of the Committee.

Thereupon, the Senate voted to accept the Minority Ought to Pass Report of the Committee and the Bill was Read Once. House Amendment "A" was Read and Adopted, and the Bill Tomorrow Assigned for Second Reading.

The President laid before the Senate the second tabled and today assigned matter (H. P. 246) (L. D. 354) Bill "An Act Relating to the Appointment of Clerks of the Judicial Courts." Tabled earlier in today's session by the Senator from Oxford, Senator Ferguson, pending the passage of the bill to be enacted.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Mr. FERGUSON of Oxford: Mr. President and Members of the Senate: I am more than surprised that this piece of legislation,

Legislative Document 354, got up to the enactment stage. I didn't pay very much attention to it until I had some calls on this piece of legislation last week. I know that it has been very well lobbied. There was no lobbying done in opposition to it. This piece of legislation came out of the Maine Municipal Association which I am very active in. The Executive Secretary told me the other day that this was introduced so as to keep fiddling away at county government. I don't believe that we should give this piece of legislation the consideration that it has received up to this time. The courts and the attorneys have been very much interested in this bill. They thought they would get a better type of judicial court clerk. As you know there are many other duties that clerks of court perform other than at the sessions of the Superior Courts. They are Clerk for the County Commissioners, and they have many, many other functions, too numerous for me to mention here, and I am going to make a motion that this bill and all of its accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Oxford, Senator Ferguson, moves that this bill and accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Lincoln, Mrs. Sproul.

Mrs. SPROUL of Lincoln: Mr. President, I would support the motion of the Senator from Oxford. Although I have been contacted by the Clerk of the Court in my own county, I reserve the right not to agree with him on this. My reason, one of them, maybe it's a political reason, but I just can't see a ballot with nobody running on it but the Senators and Representatives and the Congressional candidates. It is getting so now that we take the clerks off the ballots and we take several other offices that ordinarily run, and I just can't go along with that. We have also been very fortunate in Lincoln County, particularly, by having a very capable Clerk of Courts, and I certainly support the motion of the Senator from Oxford.

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

Mr. HILDRETH of Cumberland: Mr. President, I had hoped not to speak on this bill, but I think that somebody should arise in defense of it. I think it is a forward looking bill. I think it will make for better working of the court system to reserve to the Chief Justice the opportunity to appoint these clerks. It is a very common and ordinary thing for the clerks of courts to be appointed rather than to be elected, and I would also point out that it is not going to diminish the ballot by that much. Besides, if this districting of County Commissioners goes through, we will be able to vote for them every six years, and I think that the bill, seriously, is a good bill, and should be passed.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Lund.

Mr. LUND of Kennebec: Mr. President and Members of the Senate: Over the past years that encompass recollections for most of us, I would suggest to you that the nature of the job of the Clerk of Courts has changed a great deal, and I am thinking not now of the functions mentioned by Senator Ferguson. I believe the Clerk of Courts does serve as an adjunct to County Commissioner, although I can't recall what other functions, too numerous to mention he suggests, that there are. I think the most important function, and the one that we are primarily concerned with, is the service of the court, and I think this bill is designed to give us clerks who are better able to carry out their duties. Over the memory span of many of us, the functions of Clerk of Courts have changed a great deal within the recent few years. We have changed completely from a former procedure that found its roots back in ancient England under which it was practically impossible for an individual who was not represented to find out what was going on until it had already happened.

Under the present rules, the procedure is understandable, but they do require the functions of a person

who has some grasp, understanding, of the legal processes involved, and it is not uncommon today in some of our courts to find requests for pre-trial conference are processed improperly by the clerks, and that some of them, while we have some excellent ones, we have some that are not as good, and some of them do not carry out the responsibilities under our new rules as well as they should. I can think within the recent two years of more than one case in which a court decree was filed with the Clerk of Courts, and the Clerk of Courts failed to notify the attorneys in the case. The period of time in which the appeal must have been filed passed and, because the attorneys and the parties never learned of the decision, they lost their right to appeal. Our statutes don't make any provision to correct that type of a situation. I am not suggesting that there are a lot of clerks doing a bad job because that isn't so. There are many who are. However, the nature of the job is changing so that it is not one like many or most of our elected officials. It is not one which may be carried on by a person without some special training or experience in the field. I think this philosophy has been followed by most of the clerks of our various judicial systems in this country, and most in this state. Our Maine District Court has about 42 clerks appointed by the Chief Judge. The Maine Supreme Court, our Law Court, appoints its two clerks. The United States District Court Clerk is appointed by the judge; Circuit Court of Appeals appointed by the judge. The clerks of the Supreme Court of the United States are similarly appointed by the judge.

This measure has the support of the court, which feels it would like to be able to control to a proper extent the functioning of the persons who are carrying out the work of the court. It has the unanimous support of the clerks of courts, and so far as I can tell, most of the lawyers to whom I have talked have felt that this would be a step in the right direction. I will grant you that this will take one person off the ballot. There is no disputing

that, but it seems to me that our proper function here today is to try to determine in what way the interest of the people of Maine may best be served, whether it be by appointive or elective, and it seems to me that in this particular function, one requiring some technical skill and experience, the appointive procedure is the appropriate one, and I hope you will vote against the motion to indefinitely postpone.

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

Mr. SNOW of Cumberland: Mr. President and Members of the Senate: Three years ago the Senator from Penobscot, Senator Stern, and I ran for the Senate of Maine as Democrats in traditionally Republican Counties. We were elected, much to the surprise of each of us. I would like to note to the Senate that either of us might also have run for Clerk of Courts in Cumberland and Penobscot Counties, and if this had happened, I am sure there would be chaos in one of the court systems today. I would rise in support of Senator Lund.

The PRESIDENT: The Chair recognizes the Senator from Lincoln, Mrs. Sproul.

Mrs. SPROUL of Lincoln: Mr. President, it looks like the politician in me is getting ahead of the lawyer, but I would point out to the Senate that, not only are we considering legislation in this term to take the Clerk of Courts off the ballot, but also the Judge of Probate and the Register of Probate, and I am wondering, as I said before, just who is going to be running.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Stern.

Mr. STERN of Penobscot: Mr. President, Members of the Senate: I want to go along in support of Senator Hildreth and Senator Lund and Senator Snow, and I just want to state that I have had the experience and we must consider the public. Many times in going in counties other than mine, because in that county we have a wonderful Clerk of Courts, but I have been in other counties and the jury is

sitting around and we are paying them plenty of money a day, and we have to find these important papers the attorneys are asserting that they filed and were filed, and we can't find them, and there has been considerable loss of time before we get these things straightened out, and it is costing the state and county plenty of money. This happens in a few counties.

I don't think that there would be a wholesale discarding of clerks, but I do know that there have been several judges also who have approached me and told me how the administration of justice has been hindered and delayed by incompetent clerks. This is not a lawyer's bill, Senator Farley and Senator Berry, this is a bill that is primarily for the benefit of the people and the public, and I feel that we should support it.

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

Mr. FARLEY of York: Mr. President and Members of the Senate: This possibly is a lawyer's bill, but I would like to speak for those who are on the outside who love the political game. We have seen a lot of redistricting and this and that. Surely someone may come up with an amendment here to get the Governor out of the State of Maine and off the ballot. After all, we are here, and many of these attorneys who have spoken surely owe some debt of gratitude to the county tickets. I myself would vote to abolish county government, but when you start picking here and picking there, I don't think it is fair for either political party because after all we should have a right to vote for our clerk of courts, judge of probate, or the register of probate. The gentleman from Penobscot said I don't agree with attorneys. That could be true. I have a retainer in my business and sometimes I am a little skittish there too, because they have all got telephones and I may be on the wrong end of it, but I say to you all if you love politics, and that is what it is. Let's not try to kid ourselves here, we are all politicians. Let us leave the ballot as it is and let the Clerk of Courts stand there. I think we have just

as good clerks of courts in the State of Maine as the Chief Justice could appoint. I can go back to York County when Mr. Fenderson, and he wasn't an attorney, was the Clerk of Courts for 35 years. He was no attorney. I am going to support the motion — and it is a funny one too — of the Senator from Oxford County, Senator Ferguson.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Mr. FERGUSON of Oxford: Mr. President and Members of the Senate: I certainly appreciate having the able Senator from York County, Senator Farley, on my team this time. With his help, I can't see how we can fail to get rid of this unnecessary piece of legislation.

On this bill, it is very, very brief, that the Clerks of the Judicial Court shall be appointed by the Chief Justice of the Supreme Judicial Court and shall hold office for four years. I think the least they could have done here was add "with the approval of the County Commissioners." These people are going to be responsible to the Chief Justice, but here in Augusta where they sit a lot of time and up in Arostook County, it is so far fetched that I don't know just how it is going to work. I certainly hope until we get something that would look more like a workable bill that you will go along with my motion. Thank you.

Mr. President, when the vote is taken, I request that it be taken by a division.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Hoffses.

Mr. HOFFSES of Knox: Mr. President and Members of the Senate: I am reminded of that saying "fools walk in where angels fear to tread," and that is my situation here today. I would disagree with the good Senator from Penobscot when he says this is not a lawyer's bill. I fail to see his reasoning there. I believe this is a lawyer's bill.

I am deeply concerned about county government. This is an infringement upon county government. The good Senator from York

has said that we are all politicians. I might amplify that a little by saying that we would all like to be politicians. This is a political office, Clerk of Courts, and I do not believe that we here today who are in this session should be considering taking the office of Clerk of Courts off the ballot. Now, the Clerk of Courts in my county has not indicated to me any desire or interest in this bill. There have been members of county government in various forms who have indicated their concern about this infringement upon our county government. We have one matter relative to county commissioner districts which I have taken a rather dim view of. The good Senator from Lincoln has mentioned about the other offices on the county ticket that have been considered removing. I believe that this matter should not be considered at this time, and I would go along with the good Senator from Oxford in the indefinite postponement of this L. D.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President, I would like to speak of my own experience and my own contacts in regard to Clerks of Courts in my own county, and I do feel that over the years the judgment of the populace in selecting the Clerk of Courts has been a correct judgment. It has filled the office with people who could not be improved on, and were the choice taken away and given to authority in Augusta or any other city of the state, wherever the court or the Chief Justice might come from, and it does seem to me that where the functions of the Clerk of Court are many and varied, having to do with many matters which do not concern the Supreme Judicial Court, the Clerk of the Court of County Commissioners, for instance, and many other matters, that it is a position which is peculiarly close to the people, I have in mind that if it hadn't been for this election in 1964 that this bill wouldn't be before us now.

I think that the democratic process functioned in such a way as to be acutely disappointing to court personnel having to do with some of these clerks, and so they want to change the rules. I think they could go back to the old adage that "hard cases make good law". I think that it is quite a bit more far-reaching than it appears at its first blush when you take away from the populace of our counties the right of selection of this official who is very close to the people, much closer to the people than the Supreme Judicial Court, and as I say my own experience has been that that judgment exercised at the ballot box has been good judgment in my county over a good many years, and so I would vote with the Senator for indefinite postponement.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Lund:

Mr. LUND of Kennebec: Mr. President and Members of the Senate: Perhaps for my own edification, I would like to ask a question of some of those who have alluded to these innumerable functions that are carried on by the clerk of courts other than being clerk to the county commissioners. I would be interested to have somebody tell me what these innumerable functions are that have to do with the people that the clerk of courts carry on other than serving the courts.

The PRESIDENT: The Senator from Kennebec, Senator Lund, has posed a question to the Senate, any member of whom may answer if he or she desires.

The Chair recognizes the Senator from Lincoln, Mrs. Sproul.

Mrs. SPROUL of Lincoln: Mr. President, I would answer the Senator from Kennebec in this fashion, being more familiar with my own county than with any other: The Clerk of Courts in Lincoln County is Clerk of the Superior Court. He is also Clerk of the District Court. He is Clerk to the County Commissioners. He is law librarian of the law library, and at times he has even been custodian of the courthouse.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Stern.

Mr. STERN of Penobscot: Mr. President and Members of the Senate: Senator Lund asked a foolish question and I am going to give him a foolish answer. The clerk of courts does have functions with the public all the time. These divorce clients come in and want copies of their divorce decrees and, therefore, they have a lot of dealings with the public, and support orders and all this. There are a lot of times that the clerk of courts does deal with the public. But that has nothing to do with the efficiency that is demanded in the courts by the judges. The main function of a clerk, in my humble opinion, is to see to these papers. Today, under our new procedures, there are innumerable papers filed and they are all very important. They are filed properly, and without these papers, believe me, the administration of justice is going to be seriously hampered. If we have a clerk - and I say there are very few, because I know most of them are very, very well educated in their jobs and they have been there for years - and if this law was passed, I know and I feel that if anyone of you are worried about perhaps some clerk being ousted out of his job, you don't have to worry, because most of them, because of their efficiency, will be appointed by the judge, who would only be happy to do so because he knows that the court will function smoothly.

This is not a job that an attorney can get. I think there is something in the law - I haven't read it thoroughly - that this law applies to any person not an attorney - maybe it doesn't, but I think it does. If I am wrong I know somebody is going to correct me. But this law applies only to a resident of the county who is not an attorney at law, so this takes it out of being a lawyer's bill. I don't have to worry about running for that office. And we don't have to worry about a lawyer being selected for that office. So these clerks who are already in, 90 per cent of them, nine out of ten, will have their jobs, because if they are doing a capable job they

certainly will not be ousted. That would hamper justice. So, I can't see, other than the objections raised by Senator Farley, and I don't consider that an objection at all - you can disregard what Senator Farley said - but I feel that this is something, and I am serious, that is for the best interest of the public, and Senator Farley, when he says we are all politicians, let him speak for himself. I am not a politician, because if I was a politician I wouldn't insult him, and he can consider what I have said as an insult.

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

Mr. FARLEY of York: Mr. President, it would seem to me that if there are differences of opinion amongst the attorneys and the clerks of courts, why do they have a Maine Bar Association and a Grievance Committee? Why don't they come in with a bill instead of somebody else here and pronounce the words "We are politicians" and all this. I am not a politician; I never had a political job in my life, because I always had the courage of my convictions and I know I am at the bottom of the list. But, sure enough, if there are troubles between the clerks of courts and the attorneys, if they can't get along, they have got a Bar Association and there can be something done about it.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: There has been a certain air of levity here, I think, on what is a fairly serious subject. We have had several measures before this session of the Legislature designed to improve and increase the efficiency of our judicial system, and many of them are overdue. The judicial branch of our government has not received the attention through the years that the executive and the legislative branches have, and I think the start that the 103rd is making, notably in reinforcing the criminal division of the Attorney General's office, legal-medical examiners, and some other bills we had, and

this one included, we have a chance to do a good job and to strike a good batting average for increasing the efficiency of our judicial system.

It seems to me that we are here giving a tool, a useful tool, to the head of the court system in the State, and we are attempting to have our judicial system run smoothly for the effectiveness and the benefit of the public. I would have a great deal of confidence in any Chief Justice of the Supreme Court in the appointment clerks of courts.

The fact that we have had a good batting average, as has been mentioned, is certainly a fact of record. We have had excellent clerks of courts.

If you step outside the boundaries of the State of Maine you will see that the judicial branch of the government is frequently up for grabs at the polls. Judges are elected. All sorts of court officers are elected. A step in the right direction to take the courts completely out of politics, and to make them more effective for the people of the State of Maine, would be to pass this bill. I would urge you to vote against the motion for its indefinite postponement.

The PRESIDENT: Is the Senate ready for the question? As many as are in favor of the motion to indefinitely postpone the bill will stand and remain standing until counted. Those opposed will stand and remain standing until counted.

A division was had. 11 Senators having voted in the affirmative, and 21 Senators having voted in the negative, the motion to indefinitely postpone did not prevail.

Thereupon, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the fifth tabled and today assigned matter, retabled earlier in today's session by Senator Mills of Franklin, (S. P. 378) (L. D. 990) Senate Reports — from the Committee on Judiciary on Bill, "An Act to Clarify Authority of Complaint Justices and District Court Judges." Majority Report, Ought

to Pass as Amended by Committee Amendment "A" — Filing S-276; Minority Report "A", Ought to Pass; Minority Report "B", Ought Not to Pass. Pending Motion by Senator Hildreth of Cumberland to Accept Minority Report "A", Ought to Pass.

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

Mr. HILDRETH of Cumberland: Mr. President, I move that we accept the Minority Report "A", Ought to Pass, so that Senator Harding will be able to introduce the amendment of which I spoke earlier this morning.

The PRESIDENT: Is it now the pleasure of the Senate to accept Minority Report "A", Ought to Pass?

The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: I speak in opposition to this, and in favor of the Majority Ought to Pass Report, as Amended by Committee Amendment "A".

This Majority Report goes to the root, it seems to me, of the judicial administration of the District Courts. In 1961 the District Court Law was enacted. As I recall it, that was the year that it was enacted in Maine. It was done after a great deal of study and research, and it was generally acclaimed very widely as being a great step forward in the administration of justice in Maine. I recall so well a short time after that — I think it was the next summer — at a summer meeting of the State Bar Association, Mr. Justice Tom Clark of Texas, of the United States Supreme Court, appearing at the Maine Bar Association meeting and commending the Maine Legislature for its wisdom in making this great step forward. It was as it was written, and as it was intended to be administered, such legislation, a great step forward. However, it was beyond the conception of the Legislature at that time that the arrest warrants and the judicial functions of the Court would be carried out by people of a non-judicial character, to wit: it was provided in the law that the function of the issuance of warrants, the

initiation of criminal complaints, would be separated from the judicial function of determination of guilt.

Those of you who have served in the Municipal Courts of the State in years gone by recall, and many of you have been in the Courts, and you recall that one of the abuses which was hoped to be corrected by this forward-looking legislation of 1961 was a separation between the function of the initiation of the criminal process and the determination of guilt. You recall, those of you who have served as Municipal Court Judges, that police officers would bring to you criminal complaints, and it would be your function under the law to examine those police officers, examine their testimony and such evidence as they might submit, to determine whether or not any criminal action should be taken, should be initiated in the name of the State of Maine. That starts the process, of course, and then, having decided that there was sufficient evidence to initiate the criminal process, it then became your function as a Municipal Court Judge to sit in judgment on that case, for you to go into another room, to go from your chamber into the courtroom and hear the evidence of the case, if the man pleaded not guilty, as occasionally they did, and then to determine whether or not he was truly guilty.

Well, those of us who have sat in that position and have had to make those decisions realize that it is awfully hard to divorce from your mind the evidence you have heard when you are determining whether or not a criminal complaint should be initiated. That was one of the primary purposes of the District Court Act of 1961, to break that up, to say to the citizen that "You will not be judged first as to whether or not there is sufficient evidence to prosecute you by one and the same person as subsequently does determine your guilt or innocence." So, it was provided, in the wisdom of the Legislature, that the office of complaint justice should serve to make that determination whether or not criminal prosecution should ensue, and the complaint justice

office was set up by the Legislature, by the Act that set up the District Courts, to perform that function. And it was provided by the Legislature that that person holding that office, that judicial office, of determination of whether or not criminal action should take place should be filled by a person receiving a salary. The law then and the law now says "salary," and it does not say "a fee".

Now, what has happened? The stenographers today are determining whether or not judicial process shall commence, not judicial people whatsoever. I say stenographers - their position is technically that of clerk, but they are clerical personnel, they are untrained in the law, and they are in many instances, I should say most instances, completely incapable of making a judicial determination on evidence. They have no training whatsoever to function as a judicial person, as a judicial officer of the Courts of this State. The office of complaint justice exists, but it is observed in the omission from its functioning more than in its operation. Strangely enough, it is true that the only time, under this law as it now exists, when a complaint justice's warrant must be used, when only a complaint justice may institute the proceedings, is when a search warrant is to be obtained. In other words, if you were a police officer and you sought to search the residence or the barn, or any property, of a person suspected of crimes, suspected of manufacturing illicit liquor, or something of that sort, or having stolen goods in his barn, then you couldn't go to this stenographer-clerk and obtain such a warrant. The law requires that in order to search the property of another you must go to the complaint justice. But if you were to arrest that man on a warrant of assault and battery, or a warrant for any other common crime, you could get the warrant through this secretary or clerk, who is completely untrained to perform that function. It seems anomalous to say the booze in a man's barn is considered more sacred than his person, that the judicial officer, the c o m p l a i n t justice, must function when you

are searching his property, but he does not have to function, and the clerk may function and issue a warrant for his body arrest, which I think indicates that there is a great discrepancy there that needs to be corrected.

The only argument I have heard in our discussions about this prior to today as to the efficacy of establishing these c o m p l a i n t justices in the posture that they were intended to occupy was that the cost was too great, that it would be too expensive to have trained people function in this proceeding.

Now, I think when you are talking about the administration of justice, the arrest of people, and the functioning of our courts, that expense should certainly not be the prime consideration. It has been said, and it has been demonstrated very well, that the American public obtain their impressions and obtain their experiences in justice, in regard to the functioning of the courts, through the functioning of these courts, these what we call the lower courts. That is where the great bulk of our people obtain their only impressions of the law. It is most important that at that stage of the judicial process that they be given the fairest and the most judicial type of treatment, and not given the perfunctory treatment that they get when a police officer comes in and obtains warrants practically for the asking from clerks who have no training whatsoever in the determination of whether sufficient evidence exists to institute such prosecutions.

It is true that as far as money is concerned there is a tremendous lot of money in this court fund. There are a number of hundreds of thousands of dollars in it, and there are the funds available for the proper functioning of these courts of the State under judicial officers as they were intended to be set up in 1961. Furthermore, in regard to money, we are in this Legislature, I hope, passing money bills which will give to our judges in all layers of the Court, the District Court, the Superior Court and the Supreme Court, rather good increases in their salaries at an expense of quite a number of

hundreds of thousands of dollars. And that we hope will be done, that we expect should be done. But, I submit, it is just as important to the functioning of our judicial system that at this lowest level, where most of the American people and the people of Maine have their contacts with the law, that the decision as to whether or not criminal process should issue should not be left to clerical personnel who are not trained to do it.

I submit I have discussed this with a number of legislators who were members of the Legislature in the year in which this law was originally enacted, and I have been advised that it never, never would have been put on the books if it had been envisioned that clerical personnel would be taking over the functions that had been performed by judicial officers before that time. I submit that this is a change that is overdue, that it is one that is mete and proper under the circumstances, and that the motion of the good Senator from Cumberland, Senator Hildreth, to accept the Minority Report should fail.

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

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: The other day when I had spoken on the matter the good Senator from Cumberland, Senator Hildreth, mentioned "give the devil his due." I this time am on Senator Hildreth's side, so I assume that I may be on the side of the angels, and perhaps I will do better, I don't know.

I do hesitate to differ with my good friend and colleague, the Senator from Franklin, Senator Mills, but I would mention that the problem under which this bill was introduced was this: that is, that there are some counties which have no complaint justice within them, or the complaint justice is absent. This bill was intended to take care of that problem. Under the amendment which I propose a complaint justice from an adjoining county may issue a warrant if there is no complaint justice within the other county, or if the complaint justices therein are all

absent. This, I think, would answer the problem which the Chief Justice had raised, and which he would like to have taken care of.

Insofar as the other aspect of this matter which the Senator from Franklin has spoken on, I would say that there was no public hearing in relation to that aspect as to whether or not we should make this drastic change which he suggests in our District Court System. It would mean that the complaint justice would have to issue a complaint in all cases of traffic, of speeding, of overweight, of failing to stop at a stop sign and what have you. It seems to me that is very unnecessary and it would be a very expensive burden to throw upon our system, because I believe that those clerks who are there are well trained and can fill out these forms — in effect, that is all they are — in relation to these very simple offenses.

In relation to the more serious offenses, I believe that our judges have given their clerks in almost all cases very good training, and I think that they recognize those situations where perhaps they ought not to tread. At least it has been my experience in the District Court System in Aroostook County that it has worked out very well, and I don't think that we are at the stage where we can make this very drastic change which the Senator from Franklin, Senator Mills, has suggested. So, I would support the motion which the Senator from Cumberland, Senator Hildreth, has made, and, if it does prevail, then I would offer the amendment which I think would take care of the problem which was presented giving rise to this bill in the first place. When the vote is taken, Mr. President, I would ask that it be taken by division.

The PRESIDENT: The pending question is on the motion of the Senator from Cumberland, Senator Hildreth, that the Senate accept the Minority Report, Ought to Pass.

As many as are in favor of the motion will stand and remain standing until counted. Those opposed to the motion will stand and remain standing until counted.

A division was had. 22 Senators having voted in the affirmative, and five Senators having voted in the negative, the motion prevailed. Thereupon, the Bill was Read Once.

Mr. Harding of Aroostook presented Senate Amendment "A" and moved its adoption.

Senate Amendment "A", Filing S-285, was read by the Secretary as follows:

SENATE AMENDMENT "A" to S. P. 378, L. D. 990, Bill, "An Act to Clarify Authority of Complaint Justices and District Court Judges."

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

'Sec. 1. R. S., T. 4, §161, amended. The first paragraph of section 161 of Title 4 of the Revised Statutes is amended to read as follows:

Complaint justices shall be appointed and commissioned by the Governor, with the advice and consent of the Council, to act within the county of residence of the complaint justice or to act within an adjoining county if in said adjoining county there is either no complaint justice or if all complaint justices therein are absent, and shall hold their office for 4 years from the date of their commissions and shall receive such salary as shall be determined by the Chief Judge and paid as an expense of the District Court.

Sec. 2. R. S., T. 4, §171, amended. The first sentence of the 2nd paragraph of section 171 of Title 4 of the Revised Statutes, as repealed and replaced by section 4 of chapter 356 and amended by section 4 of chapter 425, both of the public laws of 1965, is further amended to read as follows:

He may, and on complaint shall, cause to be arrested persons found within his county or in an adjoining county under the conditions specified in the first paragraph of section 161 charged with offenses; and those having committed offenses therein or in an adjoining county who have escaped therefrom or from an adjoining county; and all persons charged with felonies, offenses and misdemeanors, and all affrayers, rioters,

breakers of the peace and violators of the law, and may require such offenders to find sureties for keeping the peace.'

Senate Amendment "A" was adopted and, under suspension of the rules, the Bill, as Amended, given its Second Reading and Passed to be Engrossed.

Sent down for concurrence.

Out of Order
Under Suspension of the Rules
Additional Papers from the House
Non-concurrent matters

Bill "An Act to Abolish Imprisonment for Debt and to Revise the Laws Relating to Disclosures of Debtors." (S. P. 680) (L. D. 1710)

In Senate, June 15, Passed to be Engrossed.

Comes from the House, Indefinitely Postponed in non-concurrence.

On motion by Mr. Mills of Franklin, the Senate voted to Insist and ask for a Committee of Conference.

Bill "An Act Relating to Method of Fixing Salary of Inland Fish and Game Commissioner." (S. P. 250) (L. D. 610)

In Senate, June 19, Report "B" Ought Not to Pass Read and Accepted.

Comes from the House, Report "A" Ought to Pass Read and Accepted and the Bill Passed to be Engrossed in Non-concurrence.

On motion by Mr. Wyman of Washington, the Senate voted to insist and ask for a Committee of Conference.

The President appointed the following Conferees on the part of the Senate:

Senators:

WYMAN of Washington

LUND of Kennebec

STERN of Penobscot

Bill "An Act Creating a Second Assistant County Attorney for York County." (S. P. 280) (L. D. 660)

In Senate, June 20, Passed to be Engrossed.

Comes from the House, Bill and Report Indefinitely Postponed in Non-concurrence.

On motion by Mr. Duquette of York, the Senate voted to Insist and ask for a Committee of Conference.

Bill "An Act Relating to Highway Commission Land Taking." (H. P. 1196) (L. D. 1699)

In House, June 15, Passed to be Engrossed.

In Senate, June 20, Indefinitely Postponed.

Comes from the House, that body having Insisted and asked for a Committee of Conference.

House Conferees appointed by the Speaker:

Mrs. FULLER of York
Mr. DENNETT of Kittery
Mr. HEWES

of Cape Elizabeth

On motion by Mr. Ross of Piscataquis, the Senate voted to Insist and join in a Committee of Conference.

The President appointed the following Conferees on the part of the Senate:

Senators:

ROSS of Piscataquis
FERGUSON of Oxford
BERRY of Cumberland

Bill "An Act Providing for a Tax on Real Estate Transfers." (H. P. 1143) (L. D. 1627)

In House, June 2, Passed to be Engrossed As Amended by House Amendment "A" (H-307)

In Senate, June 20, Passed to be Engrossed without Amendment in Non-concurrence.

Comes from the House, that body having Insisted and asked for a Committee of Conference.

House conferees appointed by Speaker:

Messrs. HANSON of Gardiner
QUINN of Bangor
BELIVEAU of Rumford

On motion by Mr. Johnson of Somerset, the Senate voted to Insist and join in a Committee of Conference.

The President appointed the following Conferees on the part of the Senate:

Senators:

MILLS of Franklin
YOUNG of Hancock
GIRARD of Androscoggin

House Papers Joint Orders

ORDERED, the Senate concurring, that the Legislative Research Committee is authorized and

directed to study in depth the problems relating to privately owned water supplies which have been destroyed or rendered unfit for use as water supplies because of construction or maintenance operation on the State Highway System. Said study shall include, but not be limited to, an examination of the law of this and neighboring states with a view toward a more effective and equitable means of administering standards of responsibility, financial settlements and appeal of such claims; and be it further

ORDERED, that a report of such study, together with any recommendations and implementing legislation, be made at the next special or regular session of the Legislature. (H. P. 1225)

Comes from the House Read and Passed.

On motion by Mr. Johnson of Somerset, placed on the Special Legislative Research Table.

ORDERED, the Senate concurring, that the Legislative Research Committee be directed to study and review legislative compensation of this and other states to determine whether there are inequities in the amount paid in relation to the effort demanded and the ability required; whether policies regarding salary, per diem and living expense allowances which determine said compensation should be revised, adjusted or be more efficiently handled by other means, and to consider such other matters relating to salary, per diem and allowances as it deems necessary; and be it further

ORDERED, that the Committee report the results of its study to the 104th Legislature. (H. P. 1227)

Comes from the House, Read and Passed.

On motion by Mr. Johnson of Somerset, placed on the Special Legislative Research Table.

ORDERED, the Senate concurring, that the Law and Legislative Reference Librarian, Edith L. Hary, be and hereby is authorized, during the current biennium, to attend the conferences of the National Legislative Conference, and that she be

reimbursed for her necessary traveling expenses. (H. P. 1228)

Comes from the House Read and Passed.

Which was Read and Passed in concurrence.

ORDERED, the Senate concurring, that the Legislative Finance Officer, Frederick Kneeland, be and hereby is authorized during the current biennium, to attend the conference of the National Legislative Conference, and that he be reimbursed for his necessary traveling expenses. (H. P. 1226)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

ORDERED, the Senate concurring, that Bill "An Act Granting Complimentary Fishing Licenses for Certain Maine Residents in Armed Forces" (H. P. 1120) (L. D. 1592)

Be recalled from the Legislative files. (H. P. 1213)

In House, June 15, Read and Passed.

In Senate, June 20, Indefinitely Postponed in non-concurrence.

Comes from the House, that body having Insisted and asked for a Committee of Conference.

On motion by Mr. Hoffses of Knox, the Senate voted to Insist and join in a Committee of Conference.

The President appointed the following Conferees on the part of the Senate:

Senators:

HOFFSES of Knox
ROSS of Piscataquis
SEWALL of Penobscot

Divided Report

The Majority of the Committee on State Government on Bill "An Act to Create the Bureau of Alcoholic Beverages." (H. P. 284) (L. D. 404)

Reported that the same Ought to Pass in New Draft

New Title "An Act to Create the Department of Alcoholic Beverages." (H. P. 1218) (L. D. 1734)

(Signed)

Senators:

WYMAN of Washington
LUND of Kennebec
STERN of Penobscot

Representatives:

DENNETT of Kittery
WATTS of Machias
CORNELL of Orono
RIDEOUT of Manchester
MARTIN of Eagle Lake
PHILBROOK of
South Portland

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

(Signed)

Representative:

STARBIRD
of Kingman Township

Comes from the House, Majority Report Ought to Pass, in New Draft, And New Title Passed to be Engrossed.

On motion by Mr. Wyman of Washington, the Majority Ought to Pass in New Draft New Title Report of the Committee was Accepted, and the Bill Read Once.

Under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed in concurrence.

Divided Report

The Majority of the Committee on State Government on Bill, "An Act Enabling Municipalities to Create Historic Districts and to Provide for the Preservation of Historic Buildings and Places." (H. P. 856) (L. D. 1269)

Reported that the same Ought not to Pass.

(Signed)

Senator:

STERN of Penobscot

Representatives:

DENNETT of Kittery
WATTS of Machias
RIDEOUT of Manchester
CORNELL of Orono
STARBIRD
of Kingman Township

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft. (H. P. 1216) (L. D. 1729)

(Signed)

Senators:

WYMAN of Washington
LUND of Kennebec

Representatives:

PHILBROOK

of South Portland

MARTIN of Eagle Lake

Comes from the House, Minority Report Ought to Pass in New Draft, Read and Accepted, and the Bill Passed to be Engrossed.

On motion by Mr. Wyman of Washington, the Minority Ought to Pass in New Draft Report of the Committee was Accepted, and the Bill Read Once.

Under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed in concurrence.

Enactors

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

An Act Defining Industrial Project Under Industrial Building Law. (S. P. 34) (L. D. 33)

Comes from the House having failed of Enactment.

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

Mr. ALBAIR of Aroostook: Mr. President and Members of the Senate: I would move for the indefinite postponement of L. D. 33, and I would speak briefly to the motion.

The PRESIDENT: The Senator from Aroostook, Senator Albair, moves that this item, "An Act Defining Industrial Project Under Industrial Building Law," be indefinitely postponed.

The Chair recognizes the Senator from Aroostook, Senator Albair.

Mr. ALBAIR of Aroostook: Mr. President and Members of the Senate: L. D. 33 proposed to define agricultural machinery to come under the Industrial Building Authority. The bill received passage from committee with an amendment, but there is a question of constitutionality. Therefore, this body sent to the Court a request for a decision, and the decision came back in the negative, that it would not be constitutional to pass this bill.

We do have presently on the Appropriations Table a constitutional resolve which will be taken up later in this session. I do hope

at that time we will be able to send this to the electorate, and the people might ratify the constitutional amendment.

The PRESIDENT: The Senator from Aroostook, Senator Albair, moves that this item be indefinitely postponed in concurrence. Is this the pleasure of the Senate?

The motion prevailed, and the Bill was Indefinitely Postponed in concurrence.

On motion by Mr. Ferguson of Oxford, the Senate voted to take from the table Joint Order, Item 1-3, tabled earlier in today's session by that Senator, pending passage.

The same Senator then moved that the Joint Order receive passage.

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

Mr. JOHNSON of Somerset: Mr. President and Members of the Senate: I would move the indefinite postponement of this Order. Over the past six years we have spent \$90,000 making a study. I have these reports here. One is the Jergeson Report, which was made with the State Highway Commission, Management Consultants. We also have another one here which was made in 1960, which cost approximately \$75,000. As near as I can figure out, we are spending a little money that we do not need to spend, and I would move that this Order be indefinitely postponed.

The PRESIDENT: The Senator from Somerset, Senator Johnson, moves that this Order, Item 1-3, be indefinitely postponed. As many as are in favor of the motion to indefinitely postpone will say yes; those opposed, no.

A viva voce vote being taken, the motion prevailed and the Order was Indefinitely Postponed.

On motion by Mr. Johnson of Somerset, the Senate voted to take from the table (S. P. 373) (L. D. 986) Bill "An Act Reducing Maximum Amount and Duration of Small Loans and Establishing Equitable Rates for Small Loan Agencies." Tabled June 20 by Senator Johnson of Somerset, pending enactment.

The PRESIDENT: The Chair now recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President, for the purpose of offering an amendment, which amendment restores to the bill the language which is in the present law, and should be in the present law, in regard to permitting a borrower to divide up his loans between a husband and wife, that is, it prevents that, and it is merely a routine thing to fill in an omission, I would move, Mr. President, that we reconsider our action whereby this was passed to be engrossed.

The PRESIDENT: The Senator from Franklin, Senator Mills, moves that we reconsider our action whereby this bill was passed to be engrossed. Is this the pleasure of the Senate?

The motion prevailed.

Mr. Mills of Franklin then presented Senate Amendment "A" and moved its adoption.

Senate Amendment "A", Filing S-266, was read by the Secretary as follows:

SENATE AMENDMENT "A" to S. P. 373, L. D. 986, Bill "An Act Reducing Maximum Amount and Duration of Small Loans and Establishing Equitable Rates for Small Loan Agencies."

Amend said Bill by adding at the end of section 6 the following underlined paragraph:

'No licensee shall induce or permit any borrower or borrowers to split up or divide any loan, and all sums owned by any person at any one time directly or contingently shall be considered as one contract of loan for the purpose of computing the interest payable thereon. No licensee shall induce or permit any person, nor any husband and wife, jointly or severally, to become obligated, directly or contingently or both, under more than one contract of loan at the same time, for the purpose or with the result of obtaining a higher rate of interest than would otherwise be permitted by this section.'

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator MacLeod.

Mr. MacLEOD of Penobscot: Mr. President and Members of the Senate: I have here what could be an amendment, and should be an amendment. There is a cost to this bill involving some \$51,000. I just received this from the Banking Commissioner and I would like some time to prepare an amendment to be attached to this before it is engrossed. I would hope that someone might table this until tomorrow morning so I could have that amendment prepared.

The PRESIDENT: Although Senate Amendment "A" was read, it has not been adopted. Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The motion prevailed.

The PRESIDENT: The Chair now recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: I would like to express myself just briefly about a apprehension that comes over me when I hear a figure coming up from the Banking Department of \$51,000. I can't think of a better way to try to kill a bill than to come up with an exorbitant cost estimate and try to get it on the Appropriations Table and get it killed that way. I would hope that the Committee and those from whom this bill came to this Legislature after deliberation would give most serious consideration to any such estimates because of the possible fatal effect that it could have upon the bill. We know that there has been difficulty in regard to the details regarding this legislation from that department, and I am apprehensive when it suggests that regulation of this business in regard to cutting down the lengths of the terms of their loans, and regard to cutting down the amounts of their loans, would cost anything like \$51,000. I am highly suspicious of it, and I yield to the Senator for his tabling motion.

Thereupon, on motion by Mr. MacLeod of Penobscot, tabled and specially assigned for Thursday, June 22, pending Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Mr. FERGUSON of Oxford: Mr. President, I would inquire whether Legislative Document 631, "An Act Creating County Commissioner Districts," is in possession of the Senate?

The PRESIDENT: The Chair will inform the Senator that the Senate does have in its possession L. D. 631, H. P. 457, "An Act Creating County Commissioner Districts."

Mr. FERGUSON: Mr. President, I now move that we reconsider our action whereby we indefinitely postponed this bill this morning.

The PRESIDENT: The Senator from Oxford, Senator Ferguson, moves that the Senate now reconsider its action whereby this measure was indefinitely postponed.

The Chair recognizes the Senator from Androscoggin, Senator Couturier.

Mr. COUTURIER of Androscoggin: If I am in order, Mr. President, before I vote on this, I would like to know for what purpose the Senator from Oxford wishes to reconsider this matter. After that, I would possibly ask for a division on the vote.

The PRESIDENT: The Senator from Androscoggin, Senator Couturier, has posed a question to the Senator from Oxford, Senator Ferguson, who may answer or not, as he so desires.

The Chair recognizes the Senator from Oxford, Senator Ferguson.

Mr. FERGUSON of Oxford: Mr. President and Members of the Senate: In answer to the question of the Senator from Androscoggin, Senator Couturier, there were several members absent from the Senate this morning who did want to vote for this bill. As you know, it is up for enactment, and this is the reason I want to get it back on the floor of the Senate again for a vote.

The PRESIDENT: The pending question is on the motion of the Senator from Oxford, Senator Ferguson, that the Senate reconsider its action whereby this bill was indefinitely postponed.

As many as are in favor of reconsideration will stand and

remain standing until counted. Those opposed will stand and remain standing until counted.

A division was had, 22 Senators having voted in the affirmative, and eight Senators having voted in the negative, the motion to reconsider prevailed.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Mr. FERGUSON of Oxford: Mr. President, I move now that this bill be passed to be enacted.

The PRESIDENT: The pending question is on the passage of the bill to be enacted.

The Chair recognizes the Senator from Cumberland, Senator Hildreth.

Mr. HILDRETH of Cumberland: Mr. President, sometimes it is the acoustics, and sometimes it is the manner in which the good Senator from Oxford, Senator Ferguson, speaks, but I thought I understood him to say something about an amendment when he asked for the bill to be reconsidered. Is that true?

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Mr. FERGUSON of Oxford: Mr. President and Members of the Senate: I am sorry if I was understood to say that; I didn't. This bill here is all right. At one time we thought we might have to offer an amendment, but the ruling or the opinion of the Attorney General is that this is a good bill and it is correctly drafted. It is a good bill for all the counties in the State of Maine. I would ask for a division when the vote is taken.

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

Mr. BERRY of Cumberland: Mr. President, I move this bill be indefinitely postponed, and I request a division.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Ferguson.

Mr. FERGUSON of Oxford: Mr. President and Members of the Senate: I think that the remarks of the Senator from Cumberland, Senator Berry, could have been partly responsible for the defeat of this bill this morning. He spoke

about the 10 per cent deviation in the population. As you know, the bill calls for a revision at the next session of the Legislature immediately following the census. Certainly we only have four years before the census, and we will have one election. It gives you 10 per cent variance or tolerance. I suppose he might have been thinking about Portland, the population is 72,566. Checking back through the records, the City of Portland, with its fast growth, hasn't had a 10 per cent population increase in ten years, neither has South Portland, nor Oxford County or any of the counties. We are well within the range of the 10 per cent. I hope that you will defeat the motion of the Senator from Cumberland, Senator Berry.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Lund.

Mr. LUND of Kennebec: Mr. President and Members of the Senate: I am going to apologize first for debating this today, and I don't plan to speak long. However, there have been a number of questions that have come up in this body recently in which the core issue has been what you might call the county traditionalists versus people who are looking to change. I am quite surprised to see what appears to be the county traditionalists, at least some of them, getting up in support of this bill, because we have heard debate about the importance of keeping the county candidates on the ballot, and so on, and it seems to me that nobody has pointed out that this is going to take one more county candidate off the ballot. As it is now, in every election there is a candidate running countywide for county commissioner, for whatever value that may be. If this bill passes, in each voting precinct only once in every six years will there be a candidate for county commissioner. I just want to point out that those who are concerned about county traditionalism are certainly pulling the blocks out of the county courthouse if they pass this bill.

The PRESIDENT: The Chair

recognizes the Senator from Oxford, Senator Ferguson.

Mr. FERGUSON of Oxford: Mr. President and Members of the Senate: I am rather surprised at the remarks of the Senator from Kennebec, Senator Lund, because he wasn't too much concerned about taking the clerk of courts off the ballot just ten minutes ago. I certainly hope you will discount his remarks.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: The passage of this measure on a straight majority vote raises the spectre of the passage of legislation at some future legislature on a straight majority vote repealing this act. This is another objection to playing with the county commissioner election system as set up. I don't want to belabor the practical problems here, but I think they are extremely significant. If we were to have a change of heart two years from now, when we abolish this system, or after the first legislature after it has been put into effect, it seems to me we would have a chaotic situation. I urge you to maintain the solidarity of your very good vote this morning.

The PRESIDENT: Is the Senate ready for the question? The pending question is on the motion of the Senator from Cumberland, Senator Berry, that this bill be indefinitely postponed.

As many as are in favor of indefinite postponement will stand and remain standing until counted. Those opposed will stand and remain standing until counted.

A division was had, 12 Senators having voted in the affirmative, and 19 Senators having voted in the negative, the motion to indefinitely postpone did not prevail.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Couturier.

Mr. COUTURIER of Androscoggin: Mr. President, I move that this matter lay on the table until the next legislative day.

The PRESIDENT: The Senator from Androscoggin, Senator Couturier, moves that this item lay

on the table, pending its passage to be enacted, and be specially assigned for the next legislative day.

The Chair recognizes the Senator from Oxford, Senator Ferguson.

Mr. FERGUSON of Oxford: Mr. President, I request a division on the tabling motion.

The PRESIDENT: As many as are in favor of the motion to table will rise and remain standing until counted. Those opposed will rise and remain standing until counted.

A division was had. 15 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the tabling motion did not prevail.

Thereupon, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Mr. Ross of Piscataquis,

Adjourned until ten o'clock tomorrow morning.