

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth  
Legislature*

OF THE

STATE OF MAINE

1969

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**HOUSE**

Wednesday, January 22, 1969

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

Prayer by the Rev. Mr. Harold Rowley of Augusta.

The journal of yesterday was read and approved.

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

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

**Papers from the Senate**

From the Senate: The following Order:

ORDERED, the House concurring, that the State Controller supply for the use of the Legislature 200 copies of a list of State Employees with their salaries paid during January 1969, 160 of the said copies to be deposited in the Office of the Clerk of the House and 40 of the said copies to be deposited in the Office of the Secretary of the Senate; and be it further

ORDERED, that said list be distributed one to each member of the House of Representatives and the Senate and the balance to the Clerk of the House and Secretary of the Senate for such distribution as they may see fit. (S. P. 82)

Came from the Senate read and passed.

In the House, the Order was read.

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: I rise this morning not to make a motion that this order be indefinitely postponed, unless somebody else wants the pleasure of doing that. But somehow or other I have got to express the feeling of quite a few members of this House that there is absolutely no useful purpose derived from the compilation of salaries of state employees in what we normally used to call the "pea

green book." It is my feeling that any member of this House that wishes to know what an employee in this state is getting for a salary would more readily be accommodated by calling the Comptroller's office and finding out what the salaries are of those that he is particularly interested in.

Now if this was going to be used for only the members of the House and the Senate I still fail to see the useful purpose behind the advertisement of all the salaries of the state employees in a book that stays probably in the House of Representatives or in the other branch for fifteen minutes and then is distributed state-wide to friends for other reasons.

So I raise these objections. If this was going to serve any useful purpose for any member of this House, for any reason whatsoever, I could see going through the expense of having these tabulated and distributed, but for my money there is absolutely no good rhyme or reason why this kind of public advertisements of the salaries of each and every employee in the state should be done. Now I say this in all sincerity, that in the years that I've been here this book has served to me and to many members of this House absolutely no useful purpose. Thank you.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I was wondering if the gentleman from Cumberland, Mr. Richardson might have any opinions on this order.

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

Mr. RICHARDSON: Mr. Speaker and Members of the House: Of course I would want to thank the gentleman from Lewiston, Mr. Jalbert for giving me an opportunity to speak this morning, I have been waiting anxiously.

I as an individual, and not as the Majority Leader, do not really see that the snoop book as it is called or perhaps maligned does really serve any useful purpose, but I am not persuaded by the remarks of the gentleman from

Madawaska, Mr. Levesque. I think that if any member of this House wants the snoop book, wants an opportunity to see what the state salaries are, he should have the right to have that snoop book. I personally have no use for it, have never had occasion to use one, and don't intend to in the future. But those of you who feel that you want this information I think are entitled to have it.

I hope that answers the gentleman's request.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I want to thank the gentleman from Cumberland, Mr. Richardson for his usual generosity. I knew that he was very anxious to get up and give his opinion and I thought I would give him the opportunity to do so.

In all the years — I have not made any motion in all the years that this order has come before us. I have opposed it. I have not made any motion. I certainly would concur wholeheartedly with the remarks of the gentleman from Madawaska, Mr. Levesque. I would concur wholeheartedly with the personal remarks of the gentleman from Cumberland, Mr. Richardson.

I feel, one, that certainly there are over two thousand other state employees at our teachers' colleges and the University of Maine that I might like to hear from, and this is not involved in this order. Number two, I assure you that within hours after the so-called snoop book is distributed they will be reproduced, given away or even sold for fifty cents or a dollar.

I wholeheartedly concur with the thinking that it is our business to see and look, and we can see and look, we have that privilege, by going to any departments or any departmental heads. But this order just restricts itself to the state employees themselves; the order does not broaden up, if we are to have it, by having it include the employees, high or low, top brackets or low brackets, of our educational institutions.

Those are the two reasons that I am opposed to this order.

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

Mr. ROSS: Mr. Speaker and Members of the House: I concur with the remarks of the gentlemen this morning. I have never used the book. I feel that it does more harm than good as far as our entire state employees go, and I move that the order be indefinitely postponed.

The SPEAKER pro tem: The Chair recognizes the gentleman from Durham, Mr. Hunter.

Mr. HUNTER: Mr. Speaker and Ladies and Gentlemen of the House: I want to snoop! You know if we're going to have a democracy we've got to have all the facts known, and all that is part of the trouble why people don't get out and vote is we don't tell them what's going on. Now here a few years ago the Legislature took the vital statistics out of the town report, so we don't know about marriages and births any more. And now there's a lot of people that would like to take out of the town report how much the school teachers get for salary. We know what the President of these United States receives and we know what the members of the Legislature receive for salary, and I think we ought to know exactly what's going on — it makes us a fairer kind of a citizen, Mr. Speaker.

The SPEAKER pro tem: The Chair recognizes the gentleman from Sanford, Mr. Jutras.

Mr. JUTRAS: Mr. Speaker and Ladies and Gentlemen of the House: Yesterday I opposed a bill calling for an extravagant appropriation for a celebration, a sesquicentennial celebration in the State of Maine; and I took a shot in the dark. I had done my homework. I had asked the people in my area what they felt about this and they all answered: We're all for this Maine sesquicentennial celebration, we want to participate, but we cannot see this high price tag. And I voiced their opinion yesterday; I was practically the sole dissenter before the Appropriations Committee yesterday. Even members of my party I know are not happy or would

not be happy with me this morning, but that is not what I am here to discuss.

The taxpayers are getting restive and they look to the legislators to ask questions and to get some of the answers. I agree with Mr. Jalbert that we should have a complete list of all the professors down to the lowest instructor in all our higher teaching institutions included in this so-called snoop book. I would like to very much see that, but I don't think that it is possible at this time. However, a half of loaf is better than none, and I think it should be published for the availability of all members of this Legislature; and I think that these members are responsible enough, they have a lock and key and they can keep it here in their office or they can keep it as they guard their stamps and their credit cards, if they so desire.

And then, one more thought. There was an order passed in 1961, as I recall, demanding that the treasurer of the University of Maine make available two hundred copies of the salaries of all people who were in the University of Maine system at that time. I would request that some member of the Majority Party put in such a request in the future. Thank you.

The SPEAKER pro tem: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker and Members of the House: I arise in total opposition to doing away with the snoop book. I was here in the 102nd Legislature and with the snoop book I was able to keep track of what the employees were doing in Washington County, without having to make telephone calls to Augusta which I would be paying at my own expense. Washington County doesn't have that available money down there and it's expensive to call Augusta to find out, if you can get somebody in authority to answer your questions. I am firmly in favor of each and every member of the Legislature having a snoop book for his own personal reference in his own home territory.

The SPEAKER pro tem: The question before the House is on the motion of the gentleman from

Bath, Mr. Ross, to indefinitely postpone this order.

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

Mr. LEVESQUE: Mr. Speaker and Members of the House: Because of the nature of the motion that has been made, I would like to request a division on the motion.

The SPEAKER pro tem: A division has been requested. All of those in favor of the motion to indefinitely postpone this Order will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken.

39 having voted in the affirmative and 89 having voted in the negative, the motion did not prevail.

Thereupon, the Joint Order received passage in concurrence.

Bills and Resolves from the Senate requiring reference were disposed of in concurrence.

#### Non-Concurrent Matter

House Joint Order relative to Amendment to Joint Rules re Joint Rule 17-B (H. P. 84) which was passed in the House on January 8.

Came from the Senate indefinitely postponed in non-concurrence.

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

#### Petitions, Bills and Resolves Requiring Reference

The following Bills and Resolves were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

##### Agriculture

Bill "An Act relating to Duties of Sheriffs in Enforcement of Dog Laws" (H. P. 204) (Presented by Mr. Hunter of Durham)

Bill "An Act relating to Length of Time in Boarding Stray and Abandoned Dogs" (H. P. 205) (Presented by same gentleman)

Bill "An Act relating to Age of Dogs for Licensing Purposes" (H. P. 206) (Presented by same gentleman)

Bill "An Act relating to Method of Sale of Commodities and Liquefied Petroleum Products" (H.

P. 207) (Presented by Mr. Rideout of Manchester)  
 (Ordered Printed)  
 Sent up for concurrence.

**Appropriations and Financial Affairs**

Bill "An Act relating to State Employees' Suggestion Awards Board and Providing Funds to Activate the Awards Program" (H. P. 208) (Presented by Mr. Lund of Augusta)

Bill "An Act Providing Funds for Indian Affairs" (H. P. 209) (Presented by Mr. Martin of Eagle Lake)  
 (Ordered Printed)  
 Sent up for concurrence.

**Public Utilities**

Bill "An Act relating to Financial Responsibility of Water Carriers of the People's Ferry Company" (H. P. 210) (Presented by Mr. Rand of Yarmouth)

Committee on Reference of Bills suggested that the Bill be referred to the Committee on Business Legislation and printing.

On motion of Mr. Williams of Hodgdon, referred to the Committee on Public Utilities, ordered printed and sent up for concurrence.

**Claims**

Resolve to Reimburse Mrs. Magna O. Fielding of Scarborough for Property Damage by Escapees from Boys Training Center (H. P. 211) (Presented by Mr. LePage of Scarborough)

Resolve in Favor of Louis L. Doyle of Pownal for Automobile Damage Sustained Through Wrongful Act of State Ward (H. P. 212) (Presented by Mr. Marsteller of Freeport)

Resolve to Reimburse Gordon Medcoff of Dixfield for Well Damage by Highway Construction (H. P. 213) (Presented by Mr. Scott of Wilton)  
 (Ordered Printed)  
 Sent up for concurrence.

**Education**

Bill "An Act relating to Confering Degrees by Unity College" (H. P. 214) (Presented by Mrs. Cummings of Newport)

Bill "An Act Providing Full Reimbursement for High School Diploma Programs in Maine's General Adult Evening Schools" (H. P. 215) (Presented by same member)

Bill "An Act Permitting Partial Payments at Times other than August and December for Operation of Regional Vocational Technical Centers" (H. P. 216) (Presented by same member)

Bill "An Act relating to Expanding the Community School of Boothbay-Boothbay Harbor School District to Include Grades Kindergarten Through Grade 6" (H. P. 217) (Presented by Mr. Kelley of Southport)

Bill "An Act to Incorporate the Town of Palermo School District" (H. P. 218) (Presented by Mr. Lee of Albion)

Bill "An Act relating to Tuition for Pupils Attending School Outside of State" (H. P. 219) (Presented by Mr. Lewis of Bristol by request)

Bill "An Act to Incorporate the Town of Dresden School District" (H. P. 220) (Presented by same gentleman)

Bill "An Act relating to Sick Leave for Teachers Assistants and Aides" (H. P. 221) (Presented by Mr. Millett of Dixmont)

Bill "An Act Creating the Professional Practices Act for Teachers" (H. P. 222) (Presented by Mr. Tyndale of Kennebunkport)

Bill "An Act Providing Preservice and In-Service Educational Activities for Teachers of General Adult Education" (H. P. 223) (Presented by Mr. Waxman of Portland)  
 (Ordered Printed)  
 Sent up for concurrence.

**Election Laws**

Bill "An Act relating to Applications for and Marking of Absentee Ballots" (H. P. 224) (Presented by Mr. Ross of Bath)  
 (Ordered Printed)  
 Sent up for concurrence.

**Health and Institutional Services**

Bill "An Act Increasing Compensation of Examiners of Podiatrists" (H. P. 225) (Presented by Mr. Lewin of Augusta)

Bill "An Act to Revise the Laws Relating to Vocational Rehabilitation" (H. P. 226) (Presented by Mr. Rideout of Manchester)

Bill "An Act Increasing Compensation of Members of Board of Hairdressers" (H. P. 227) (Presented by Mr. Ross of Bath)

Bill "An Act Increasing Fees under State Nursing Law" (H. P. 228) (Presented by Mrs. Wheeler of Portland)

(Ordered Printed)  
Sent up for concurrence.

#### Highways

Bill "An Act Providing for Maintenance of a Certain Road Leading to Baxter State Park" (H. P. 229) (Presented by Mr. Birt of East Millinocket)

Bill "An Act Providing for Maintenance of Certain Roads in Baxter State Park" (H. P. 230) (Presented by same gentleman)

Bill "An Act to Make Allocations from the General Highway Fund for the Fiscal Years Ending June 30, 1970 and June 30, 1971" (H. P. 231) (Presented by Mr. Dudley of Enfield)

Bill "An Act to Allocate Money from the General Highway Fund for State Aid Construction" (H. P. 232) (Presented by Mr. Nadeau of Biddeford)

(Ordered Printed)  
Sent up for concurrence.

#### Inland Fisheries and Game

Bill "An Act to Repeal Certain Bag Limits on White Perch" (H. P. 233) (Presented by Mrs. Cummings of Newport)

Bill "An Act relating to Taking Smelts for Bait Purposes" (H. P. 235) (Presented by Mr. Lewin of Augusta)

Resolve relating to Fly Fishing and Bag Limit on Robbins Pond, Aroostook County (H. P. 234) (Presented by Mr. Good of Westfield)

(Ordered Printed)  
Sent up for concurrence.

#### Judiciary

Bill "An Act Revising the Uniform Reciprocal Enforcement of Support Act" (H. P. 236)

(Presented by Mr. Hawkens of Farmington)

(Ordered Printed)  
Sent up for concurrence.

#### Legal Affairs

Bill "An Act relating to Expiration and Renewals of Certificates of Registration for Land Surveyors" (H. P. 237) (Presented by Mr. Carey of Waterville)

Bill "An Act Reestablishing the Town Line Between the Town of Jay, Franklin County, and the Town of Canton, Oxford County" (H. P. 238) (Presented by Mr. Scott of Wilton)

Bill "An Act Repealing an Act Setting Off Lands from Hartland to Pittsfield" (H. P. 239) (Presented by Mr. Susi of Pittsfield)

(Ordered Printed)  
Sent up for concurrence.

#### Public Utilities

Bill "An Act relating to Valuation of Public Utility Property for Fixing Rates" (H. P. 240) (Presented by Mr. Emery of Auburn)

Bill "An Act Increasing Borrowing Capacity of Mars Hill Utility District" (H. P. 241) (Presented by Mr. Good of Westfield)

(Ordered Printed)  
Sent up for concurrence.

#### Retirements and Pensions

Bill "An Act relating to Disability Retirement and Retirement Allowances under State Retirement System" (H. P. 242) (Presented by Mr. LePage of Scarborough)

(Ordered Printed)  
Sent up for concurrence.

#### Sea and Shore Fisheries

Bill "An Act relating to Taking of Alewives in Dyer River, Town of Jefferson, Lincoln County" (H. P. 243) (Presented by Mr. Clark of Jefferson)

(Ordered Printed)  
Sent up for concurrence.

#### State Government

Bill "An Act relating to Salary of Commissioner of Education" (H. P. 244) (Presented by Mr. Waxman of Portland)

(Ordered Printed)  
Sent up for concurrence.

#### Taxation

Bill "An Act Exempting Water Supplied to Members of a Consumer Cooperative from the Sales Tax" (H. P. 245) (Presented by Mr. Chick of Monmouth)  
(Ordered Printed)  
Sent up for concurrence.

#### Transportation

Bill "An Act to Clarify Certain Motor Vehicle Laws" (H. P. 246) (Presented by Mr. Carey of Waterville)

Bill "An Act Providing for Transportation of Passengers in Units of Trucking Equipment on a Test Basis" (H. P. 247) (Presented by Mr. Lund of Augusta)

(Ordered Printed)  
Sent up for concurrence.

#### Public Utilities

Bill "An Act relating to the Transportation of Refuse" (H. P. 248) (Presented by Mr. Rand of Yarmouth)

Committee on Reference of Bills suggested that the Bill be referred to the Committee on Transportation and printing.

On motion of Mr. Williams of Hodgdon, referred to the Committee on Public Utilities, ordered printed and sent up for concurrence.

#### Transportation

Bill "An Act to Provide that Motor Vehicle Operators' Licenses be Issued on a Staggered Basis of Odd and Even Birth Years" (H. P. 249) (Presented by Mr. Stillings of Berwick)

(Ordered Printed)  
Sent up for concurrence.

#### Veterans and Military Affairs

Bill "An Act relating to Renewals of Certain Occupational Licenses by Veterans" (H. P. 250) (Presented by Mr. Henley of Norway)

(Ordered Printed)  
Sent up for concurrence.

At this point, Speaker Kennedy returned to the rostrum.

**SPEAKER KENNEDY:** The Chair thanks the gentleman from Southwest Harbor, Mr. Benson, for serving as Speaker pro tem.

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

#### Orders

On motion of Mr. Clark of Wells, it was

ORDERED, that Rev. Wilbur E. Hogg of Portland be invited to officiate as Chaplain of the House on Tuesday, February 4, 1969.

Mr. Payson of Union presented the following Joint Order and moved its passage:

WHEREAS, the State of Maine, through the State Pomological Society, annually selects a Queen to represent its apple industry and has done so since 1936; and

WHEREAS, Her Highness, Sarah Walker, daughter of Dr. and Mrs. Arnold C. Walker of Union, has achieved that time-honored distinction and title of Maine Apple Queen for 1969; and

WHEREAS, Queen Walker now reigns over a regal domain valued in excess of five million dollars, her accomplishment becomes not only a personal victory but one shared by all Maine citizens; now, therefore, be it

ORDERED, the Senate concurring, that we the Members of the 104th Maine Legislature, extend to her gracious majesty, Sarah Walker, our high personal regards for her outstanding achievement along with our firm allegiance to a successful reign; and be it further

ORDERED, that a duly authenticated copy of this Joint Order be immediately transmitted to Madam Queen and her parents in token of our esteem. (H. P. 252)

The Joint Order received passage and was sent up for concurrence.

#### Ought to Pass in New Draft New Draft Printed

Mr. Lewis from the Committee on Sea and Shore Fisheries on Bill "An Act Prohibiting the Taking of Striped or Sea Bass in Tidal Waters Except by Hand Line or



Rod and Reel" (H. P. 7) (L. D. 7) reported same in a new draft (H. P. 251) (L. D. 241) under same title and that it "Ought to pass."

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

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**House Reports of Committees  
Ought to Pass  
Printed Bills**

Mr. Dennett from the Committee on State Government reported "Ought to pass" on Bill "An Act relating to Membership and Expenses of Maine Recreation Authority" (H. P. 70) (L. D. 70)

Mr. Rideout from same Committee reported same on Bill "An Act relating to United States Property and Fiscal Officer under Military Law" (H. P. 71) (L. D. 71)

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

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**Ought to Pass with  
Committee Amendment**

Mr. Bragdon from the Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating Moneys to Carry Out Duties of the Attorney General" (H. P. 111) (L. D. 127) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was read and accepted and the Bill read twice.

Committee Amendment "A" (H-4) was read by the Clerk and adopted, and the Bill assigned for third reading tomorrow.

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**Passed to Be Engrossed**

Bill "An Act relating to Closed Season on Wild Hares in Lincoln County" (H. P. 17) (L. D. 20)

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

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**Third Reader  
Amended**

Resolve Proposing an Amendment to the Constitution Providing for Convening of the Legislature at Such Times as the Legislature Deems Necessary (H. P. 21) (L. D. 24)

Was reported by the Committee on Bills in the Third Reading and

read the second time.

Mr. Ross of Bath offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-3) was read by the Clerk.

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

Mr. ROSS: Mr. Speaker and Members of the House: This is a technical amendment emanating from the Attorney General Department. As they reviewed the suggested legislation, it was their opinion that original proposed language was not clear and would indicate that the President of the Senate and the Speaker of the House would have to have a majority vote of the Legislature in order to call them into session. In other words, we would have to have a special session to call a special session. This was pointed out to the Committee, and I understand that it was the intention of the six members of the State Government Committee who signed the ought to pass report, that the report be ought to pass as amended; but somewhere along the line, probably since this is the first part of the session, this was overlooked and this is why I present the House Amendment this morning.

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: I think each member of this House and most likely other Legislatures before have recognized the needs for the Legislature to be able to reconvene itself into a session or a special session. Somehow or other in reading this amendment and reading the document, I think probably it brings back to my mind some discussion in the Legislative Research Committee regarding the Legislature reconvening itself at the call of the President of the Senate and the Speaker of the House.

By the same token, I still remember in the discussion when this was proposed, and mind you we were all in favor that the Legislature should be able to call

itself in session, that it would be a meeting of the leadership with the President of the Senate and the Speaker of the House to decide the needs, the necessities and the feasibility of calling a special session.

Now in the amendment proposed by the gentleman from Bath, Mr. Ross, this morning, I find that at such time — at such other times on the call of the President of the Senate and the Speaker of the House as the Legislature may prescribe by joint rules. Now it may very well be that the joint rules will include the meeting of the leadership with the President of the Senate and the Speaker of the House, but this has not been written to my knowledge, and I feel that if the Speaker of the House and the President of the Senate only by their own discretion would call the Legislature in session, might cause quite a bit of conflict on a statewide basis, so I would like to ask the gentleman from Bath, Mr. Ross, if he has any reservations as to what this 'as prescribed by joint rules' may include at this time.

The SPEAKER: The gentleman from Madawaska, Mr. Levesque, poses a question through the Chair to the gentleman from Bath, Mr. Ross, who may answer if he so chooses, and the Chair recognizes that gentleman.

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen of the House: In answer to the question of the gentleman from Madawaska, Mr. Levesque, that really is what the amendment does do, it says by joint rule. We don't have that rule now, but I would think that the President of the Senate and the Speaker of the House certainly would want to have their leadership in for both parties by calling a special session.

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

Mr. RIDEOUT: Mr. Speaker, if I can add to the general hilarity on this amendment in answer to Mr. Levesque, this is a report from the Research Committee subcommittee on rules and procedures, and it was intended that this be written into the legislation,

but the Research Office and the Attorney General's Office advised us not to write it into the legislation but to adopt it as a joint rule, and it is the full intention of the Procedures Committee that this be handled as the gentleman suggests.

The SPEAKER: Is the House ready for the question? Is it the pleasure of the House that House Amendment "A" be adopted?

The motion prevailed, the Resolve passed to be engrossed as amended and sent to the Senate.

#### Amended Bill

Bill "An Act relating to Settlement Status of Persons Residing in Rest Homes and Nursing Homes" (H. P. 36) (L. D. 37)

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

#### Orders of the Day

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

HOUSE REPORT "A" (5)—Ought not to pass—Committee on Judiciary on Bill "An Act relating to Notice Requirement under Tenancy at Will by New Owner or Lessee" (H. P. 64) (L. D. 66)

—REPORT "B" (4)—Ought to pass—REPORT "C" (1) Ought to pass as amended by Committee Amendment "A" (H-2)

Tabled—January 21, by Mr. Berman of Houlton.

Pending—Acceptance of any Report.

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

Mr. MORESHEAD: Mr. Speaker, I move that we accept Committee Report "A."

The SPEAKER: The gentleman from Augusta, Mr. Moreshead, moves that the House accept Report "A." Is this the pleasure of the House?

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

Mr. BRENNAN: Mr. Speaker, I would oppose the acceptance of Committee Report "A" and would like to speak on my motion.

The SPEAKER: The gentleman may proceed.

Mr. BRENNAN: Mr. Speaker, under the present law at first reading, it is provided that 30-day notice must be given to a tenant to vacate if he doesn't have a lease. However, there is a loophole in the law and it works something like this. The landlord can have his lawyer draft a conveyance of the property from the landlord to the lawyer's secretary or somebody else as a sham. When this is done, according to a decision of the Maine Supreme Judicial Court, the result is that the 30-day notice provision of the statute does not apply, or if the property is sold, the statute provision of 30 days doesn't apply. I submit that in this day and age when it is tough to find a place to live, particularly for someone with a family, that we ought to give these people 30 days at least to find some place. I submit that this is the age old conflict between property rights and human rights, and I feel that I think human rights should get the first priority, and we ought to give these people at least 30 days to find a place and the dignity of having the 30 days without having a Court do it for them. I oppose that motion.

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

Mr. MORESHEAD: Mr. Speaker, I would like to speak in favor of my motion.

The SPEAKER: The gentleman may proceed.

Mr. MORESHEAD: Mr. Speaker, under the present law, we have a situation where if property is sold or leased, the 30 day notice to the tenant at will is not required. However, this does not mean that this person is immediately put out in the street as certain people would lead us to believe.

Under present law if somebody is a tenant at will in property that is sold or leased, he is given a 5 day notice and if within 7 days he is not out, a Court action is instituted against him. There is a requirement that there has to be at least a 5 day notice before this matter can be heard in Court.

Usually, if the party contests, the matter is set for hearing in Court, and there will be a period of a few more days before a hearing date is set. If, at the date of hearing, the Judge feels that a Writ of Possession should issue, this Writ would not issue for another period of 7 days, which is the appeal period. At that time, which would be probably at least now two weeks from the date that the party was notified that the property he was living in had been sold or leased, at this time, a Writ of Possession would issue, it would be given to a deputy sheriff. Generally speaking, a deputy sheriff would not rush out and put the person out. He usually goes to the person to see whether or not they are making arrangements to move, or if they are not, to give them some time to make these arrangements.

So what we have here is a situation where it takes at least another month in addition to the proposed 30-day notice, so these people aren't put out in the street the day that this property is leased or sold.

In regard to the argument that it is the old argument or theory of the property owner against human rights, property rights versus human rights, most of these situations we have a situation where the property has been sold to a new owner. Certainly this new owner is a human being and he has human rights. He may have bought a house that the previous owner was renting. He wants to move into his new house, but under this proposed bill, he would have to wait 30 days before he could even start proceedings to evict the person, and usually in these situations where an eviction is brought, it is a situation where the person who is living there as a tenant is in default anyway, he hasn't been paying his rent, because if the person who bought the property is buying it with the idea that he is going to rent it, if there is a good tenant in there, ninety-nine per cent of the time he will leave a good tenant in. It would be just the tenant that is not paying his rent that he would want out, and

I submit to you that in my practice, and I have checked around the area in Kennebec County, we have not run into the situation where these sham deeds or these sham leases are drawn up, and maybe even if this happens a small amount of times, I think we must realize that most of the time there is a genuine lease or a genuine sale of the property, and I think we must consider the rights of these new owners and not always be concerned with the rights say of the tenant or the person who is being put out, because he won't be put out the day this property is sold. It is for that reason, sir, that I oppose this bill and move that it ought not to pass in compliance with the Committee Report "A."

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

Mr. VINCENT: Mr. Speaker, in reference to the 30 days notice on sales of properties it would seem to me if a person was seriously considering his property instead of leasing or using a sham that he would be considering selling his property over a period of time which would give him adequate time to notify the tenants. He would be negotiating with a second party to buy this property which would provide opportunity for him to let his preference be known about tenants. It would behoove the landlord to inform the new owner as to the conditions or status of the present tenants.

And in reference to L. D. 66, there is no reason why a person shouldn't be given 30 days notice on evictions and in reference to the sham, it is quite common in Portland and the surrounding areas of Cumberland County. I don't know about the present status of other large cities in the area, but this has been a problem. In most cases, it is not taken to the Courts. In the Portland area the cases I have run into it's been more or less a bluff. I realize that ignorance of the law is no excuse, but ignorance of the law does prevail and people have been evicted in less than 30 days, sometimes in less than a week, and we are

not necessarily talking about one or two people living in an apartment, we are talking about families of six, seven or eight people. There is a housing problem in most of the areas of this state which most people recognize. On top of this, it is difficult to find a place to rent within 30 days, let alone exceeding 30 days, and I would like to move that Report "B" be accepted.

The SPEAKER: The Chair would advise the gentleman that Report "A" has priority. Should this be defeated, another motion would be in order.

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

Mr. HEWES: Mr. Speaker and Ladies and Gentlemen of the House: I support the motion of the gentleman from Augusta, Mr. Moreshead, that Report "A" be accepted, the pending motion on the Floor.

At the hearing before the Judiciary Committee there was in addition to the sponsor, only one proponent of the bill, and as I understood his testimony, he knew of no experience, no particular time in his law practice when a family had been put out of their home under the existing law. In other words, as I understood his testimony, there was no need for the change of the existing law. The existing law, as Mr. Moreshead said, provides at least a 12 day safeguard, and then it takes additional time to have the existing law go into effect.

It seems to me that a landlord usually wants to have his rents occupied, occupied by people who are paying their rent and keeping the property up. In this — under the present law, after a notice to evict is sent to a tenant, there is still a several days lapse, and from that time forward the landlord doesn't often receive his rent, and sometimes the tenant does not keep the property up.

In the case of a new buyer, as Mr. Moreshead mentioned, obviously a new buyer wants to use his property, and it seems to me that in view of the fact there is no immediate need for the

change in the law, that we should follow the motion of Mr. Moreshead, that Report "A" be accepted.

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

Mr. VINCENT: Mr. Speaker, in reference to the statement made whereby it was stated that he knew of no incidents where people were evicted within the 30 days notice, this was due to the fact that the person saw to it that the clients that he was handling found adequate housing in some other quarters, and this pertained to poor families since the cases come under the Pine Tree Legal Association. Not all cases come under this jurisdiction and not all people would be rendered the assistance the Pine Tree Legal Association renders.

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

Mr. FOSTER: Mr. Speaker and Ladies and Gentlemen of the House: I was on the Judiciary Committee that heard the testimony and this case is now before us. I think I can say at the outset that each and everyone of us are sympathetic toward a tenant. We also, being members of the Bar, are pretty much in accord that these sort of cases are isolated. From my experience, I have never seen a person evicted from a tenancy.

I think what we are concerned with primarily in our support of this Committee Report "A" is that the effect that it has upon the contractual right. If we have property to sell, we could very well lose a sale if the buyer didn't want to, as he might say, buy a law suit. He has a tenant on his hands, it might be a stubborn tenant, and there are people that have horrors of being compelled to take the initiative to evict somebody and pursue the — wait the 30 day period and so forth.

Now from a practical matter, and I have been around a long time, the way these things work out, the landlord or the buyer, and let us say in opposition to the Committee Report "B", first of all,

before this sham business and all these illegal acts are resorted to, we have got to presuppose that we have got some dishonest people, we have got some dishonest landlords, we have got some dishonest lawyers. Now that is presupposing a lot, but we don't have any in our county that I have ever recognized or seen, and for the most part, a person owning property is a responsible person. He certainly isn't going to do a dishonest act or a buyer buying a home or buying some place to renovate, he is not going to do a dishonest act for the sake of getting somebody out. What we are doing if we pass this law, you are forcing upon a buyer a relationship of landlord and tenant. Now that relationship of landlord and tenant carries certain responsibilities that the buyer doesn't bargain for. How can we sit in judgment and say well, you have to do it, if you are going to buy that property, it is occupied, you have got to assume the relationship of a landlord and have certain responsibilities as such. I can see wherein it was seeking to end one perhaps injustice, and you are creating several in trying to eliminate one. I don't believe it is necessary.

The young man, a very bright young lawyer who represents the Pine Tree Legal Aid Society, said that his practice in the past two years had been concentrated on these type of cases, but in spite of that, there had not been any case where a tenant was put out. The Courts are very sympathetic with tenants the same as every member of the Judiciary Affairs are sympathetic with tenants, and their needs and their human rights. A deputy sheriff, I don't know where anyone would go to find a deputy sheriff that is going to put a family out. I have seen them have these Writs, they make periodical calls on a tenant and have them for six weeks or more before the tenant would take it upon himself to move. From a practical point of view, it isn't a thing taking place, at least in my experience and the experience in our county. I don't know of course and cannot speak for Cumberland County where they have all these dishonest

landlords and attorneys who are supposed to do the will and bidding of them. I doubt very much, I think it is exaggerated and I think it is unfair to the Cumberland members to even suggest that. I certainly don't believe it. I believe that the law as it is today and the way it is carried out from a practical point of view that we leave well enough alone and for an isolated or a rarity, rather than go and legislate a regulation and control of all these other people, there is property changing hands every day, and certainly you don't find anybody a victim every day or probably twice a year in the whole State of Maine. I should doubt it. I have only known of one case, and he brought that up, and that was in Portland some two years ago. I subscribe to the previous speakers that have adopted — want to adopt Report "A."

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, I am somewhat confused here sir in regard to these procedures on eviction of tenants. I would like to inquire of any one of our learned brothers if there is such a thing as a stay of eviction issued by the Courts in the State of Maine?

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

The Chair recognizes the gentleman from Augusta, Mr. Moreshead, who may answer the question.

Mr. MORESHEAD: Mr. Speaker, in answer to that question, there is a procedure in the State of Maine which is called a Writ of Forceable Entry whereby if it is a regular tenancy at will situation you give a 30 day notice to the tenant irrespective of whether he is current on his rent obligation. At the end of that 30-day notice, if he hasn't left, then you have to bring an action in Court, and as I explained before, you have to give him about a 5 day notice before the Court hearing, and then as I mentioned, if he comes in and contests it, it is usually

continued another three or four days before an actual hearing date. At the end of the hearing, if the Court feels he should be evicted, the Court will issue a Writ of Possession. The Writ of Possession will not issue for approximately 7 days after the Court hearing. This would entitle him if he wants to appeal the decision of the District Court to the Superior Court. If there is no appeal, the Writ of Possession issues, you then give the Writ of Possession to a deputy sheriff, this entitles the deputy sheriff to put the person out of the premises, but as has been mentioned, this happens very seldom, and what they mean by eviction is and what happens very seldom is that the person is very seldom actually placed out on the street. Usually somewhere in this proceeding the person will usually then move on or find another place, and what we are talking about —

The SPEAKER: The gentleman will confine himself to answering the question and not debate the merits of the bill.

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

Mr. BRENNAN: Mr. Speaker and Ladies and Gentlemen of the House: Very simply, if you believe a tenant should have 30 days in order to find a place, vote against the pending motion, and if that motion is defeated, you can then vote on the acceptance of Report "B" which would assure a tenant the dignity and the time for him and his family to find another place. Thank you.

The SPEAKER: Is the House ready for the question? The pending question is the motion of the gentleman from Augusta, Mr. Moreshead, that the House accept Report "A", "Ought not to pass" on Bill "An Act relating to Notice Requirement under Tenancy at Will by New Owner or Lessee," House Paper 64, L. D. 66. The Chair will order a vote. All those in favor of accepting Report "A" "Ought not to pass" will vote yes; those opposed will vote and the Chair opens the vote.

A vote of the House was taken.

76 having voted in the affirmative and 48 having voted in the

negative, the motion prevailed.  
Sent up for concurrence.

                      
(Off Record Remarks)

On motion of Mr. Berman of  
Houlton,

Adjourned until ten o'clock  
tomorrow morning.