

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

Thursday, April 3, 1969

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

Prayer by the Rev. Mr. William Burger of Farmington.

The journal of yesterday was read and approved.

On the disagreeing action of the two branches of the Legislature on

Bill "An Act relating to Annual Review of All Applications for Liquor Licenses" (H. P. 827) (L. D. 1066) the Speaker appointed the following Conferees on the part of the House:

Messrs. HUBER of Rockland
DONAGHY of Lubec
CAREY of Waterville

Papers from the Senate

From the Senate:

Bill "An Act Establishing the Auburn-Lewiston Airport Authority" (S. P. 424) (L. D. 1420)

Came from the Senate referred to the Committee on Legal Affairs.

In the House, referred to the Committee on Legal Affairs in concurrence.

Reports of Committees Leave to Withdraw

Report of the Committee on Agriculture on Bill "An Act relating to Bonding of Potato Brokers" (S. P. 373) (L. D. 1283) reporting Leave to Withdraw.

Came from the Senate read and accepted.

In the House, the Report was read and accepted in concurrence.

Ought to Pass

Report of the Committee on Liquor Control reporting "Ought to pass" on Bill "An Act relating to Prohibiting Furnishing Liquor to Certain Persons" (S. P. 211) (L. D. 620)

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

In the House, the Report was read and accepted in concurrence, the Bill read twice and tomorrow assigned.

Ought to Pass with Committee Amendment

Report of the Committee on Education on Bill "An Act relating to School Lunch Programs" (S. P. 236) (L. D. 709) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House, the Report was read and accepted in concurrence and the Bill read twice. Committee Amendment "A" (S-57) was read by the Clerk and adopted in concurrence, and tomorrow assigned for third reading of the Bill.

Divided Report

Majority Report of the Committee on Inland Fisheries and Game on Bill "An Act relating to Hunting Muskrat, Mink and Otter in Cumberland and Sagadahoc Counties" (S. P. 222) (L. D. 662) reporting same in a new draft (S. P. 421) (L. D. 1416) under title of "An Act relating to Hunting Mink in Cumberland, Lincoln, and Sagadahoc Counties" and that it "Ought to pass"

Report was signed by the following members:

Messrs. HOFFSES of Knox
ANDERSON of Hancock
MARTIN of Piscataquis
— of the Senate.
Messrs. GAUDREAU of Lewiston
ROCHELLEAU of Auburn
BOURGOIN of Fort Kent
KELLEY of Southport
LEWIN of Augusta
— of the House.

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

Report was signed by the following members:

Messrs. PORTER of Lincoln
THOMPSON of Belfast
— of the House.

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

In the House: Reports were read. On motion of Mr. Lewin of Augusta, the Majority "Ought to pass" Report in new draft was ac-

cepted in concurrence, the New Draft read twice and tomorrow assigned.

Non-Concurrent Matter

Bill "An Act relating to Rehabilitative Programs in State Penal and Correctional Institutions" (H. P. 818) (L. D. 1057) which was passed to be engrossed as amended by House Amendment "A" in the House on March 18.

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

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

Non-Concurrent Matter Tabled and Assigned

Resolve Proposing an Amendment to the Constitution Providing for Annual Legislative Sessions (S. P. 1) (L. D. 15) which failed of final passage in the House on April 1.

Came from the Senate finally passed in non-concurrence.

In the House: On motion of Mr. Jalbert of Lewiston, tabled pending further consideration and specially assigned for Tuesday, April 8.

Messages and Documents

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA

March 25, 1969

Honorable David Kennedy
Speaker

House of Representatives
State House
Augusta, Maine

Dear Mr. Speaker:

I hereby submit my resignation as a Member of the 104th Legislature effective Wednesday, March 26, 1969, at midnight for personal reasons.

Sincerely,
(Signed) LORENZO GAUDREAU
Lewiston
State Representative

The Communication was read and ordered placed on file.

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

Mr. JALBERT: Mr. Speaker and Members of the House: Speaking as Chairman of our delegation, it was with regret that I learned of the resignation of the Honorable Lorenzo Gaudreau, a Representative to the Legislature from my city. It had not been my pleasure to know Representative Gaudreau intimately until such time as he became a member of this Legislature. I've grown to know him quite well since then. I've seen him work from early morning until very late at night. I've seen him put through one of his children successfully through one of our Maine colleges. I know of another one who visited us recently here from another Maine college.

It is unfortunate for him that he saw fit to resign at this time. I'm sure that in the long run it was to better himself. I'm sure we all are with him in his coming endeavors. I think that an individual such as Larry Gaudreau can certainly feel within himself he has served the Legislature well as a credit to his city and to his State.

The SPEAKER: The Chair understands that the gentleman from Lewiston, Mr. Jalbert, moves that the resignation be accepted. Is this the pleasure of the House? The motion prevailed.

Mr. Benson of Southwest Harbor presented the following Order out of order and moved its passage:

WHEREAS, the resignation of the Honorable Lorenzo Gaudreau as a member of the House of Representatives of the 104th Legislature has been accepted: now, therefore, be it

ORDERED, that the House of Representatives declares a vacancy to exist in the representation in this House of the City of Lewiston, and be it further

ORDERED, that a copy of this Order, certified by the Clerk of the House, be sent to the Governor, the Secretary of State, and the Chairman of the City Council of the City of Lewiston.

The Order received passage.

Petitions, Bills and Resolves Requiring Reference

The following Bill, approved by a majority of the Committee on

Reference of Bills for appearance on House Calendar, was received and referred to the following Committee:

Towns and Counties

Bill "An Act Increasing Compensation of Councillors of Town of Mechanic Falls" (H. P. 1105) (Presented by Mr. Foster of Mechanic Falls)

(Ordered Printed)

Sent up for concurrence.

**House Reports of Committees
Leave to Withdraw**

Mr. Soulas from the Committee on Health and Institutional Services on Bill "An Act relating to Use of Plastic Containers for Gasoline Fuel" (H. P. 812) (L. D. 1051) reported Leave to Withdraw.

Report was read.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. Porter.

Mr. PORTER: Generally when I see on the calendar a leave to withdraw, I've figured some legislator has goofed, he has either sponsored a bad bill or he has been a poor salesman before his Committee and felt his bill was going to get clobbered so he asked to withdraw. This is not the case this morning.

It happens that I spend October and November in the woods and I need to take a little surplus gasoline with me so I have a plastic container, five gallons. I came down here last January thinking I could have the rule waived or changed somewhat but I ran into a classic example of bureaucracy. It has taken me three months to have a simple rule, a regulation, changed that could have been done in ten minutes.

I think we make a mistake when we pass a bill and give part of our authority to some department to draw up the rules and regulations, because we take the blame for something that the department does. As an example of that is that snowmobile bill that we passed last year. You would hardly recognize the bill today and the Legislature has been severely criticized for it. I think it is wrong for us to delegate that authority. We pass a bill giving that authority; the

bill doesn't go into effect until sometime in the fall. I think those rules and regulations could be drawn up in the fall and come back to the Legislature for a study and approval.

If I were ever going to vote for annual sessions I think I would use this as an excuse so that we could review and approve regulations by these departments. Mr. Speaker, I move we accept the Report.

Thereupon, the Report was accepted and sent up for concurrence.

Ought Not to Pass

Mr. Binnette from the Committee on Health and Institutional Services reported "Ought not to pass" on Bill "An Act relating to Conjugal Visitation at State Penal Institutions" (H. P. 896) (L. D. 1157)

Report was read and accepted and sent up for concurrence.

**Ought to Pass in New Draft
New Drafts Printed**

Mr. Henley from the Committee on Election Laws on Bill "An Act relating to the Requirement for a Board of Registration" (H. P. 722) (L. D. 940) reported same in a new draft (H. P. 1103) (L. D. 1421) under same title and that it "Ought to pass"

Mr. Soulas from the Committee on Health and Institutional Services on Bill "An Act relating to Incurables at Juvenile Training Centers" (H. P. 409) (L. D. 520) which was recommitted, reported same in a new draft (H. P. 1104) (L. D. 1422) under same title and that it "Ought to pass"

Reports were read and accepted, the New Drafts read twice and tomorrow assigned.

**Ought to Pass
Printed Bill**

Mrs. Boudreau from the Committee on Election Laws reported "Ought to pass" on Bill "An Act relating to Residence of Write-in Candidates on Ballots" (H. P. 889) (L. D. 1148)

Report was read and accepted, the Bill read twice and tomorrow assigned.

**Ought to Pass with
Committee Amendment**

Mr. Carey from the Committee on Transportation on Bill "An Act relating to Turn Signals" (H. P. 1059) (L. D. 1390) 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-148) was read by the Clerk and adopted, and tomorrow assigned for third reading of the Bill.

Mr. Immonen from the Committee on Transportation on Bill "An Act relating to Trailers Being Securely Fastened" (H. P. 51) (L. D. 52) which was recommitted reported "Ought to pass" as amended by Committee Amendment "B" submitted therewith.

Report was read and accepted and the Bill read twice. Under suspension of the rules, the House reconsidered its action of February 19 whereby Committee Amendment "A" was adopted, and Committee Amendment "A" was indefinitely postponed.

Committee Amendment "B" (H-149) was read by the Clerk and adopted, and tomorrow assigned for third reading of the Bill.

Passed to Be Engrossed

Bill "An Act Revising the State Board of Pesticides Control Law" (H. P. 1097) (L. D. 1415)

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

Amended Bill

Bill "An Act Increasing Maine Forestry District Taxes" (H. P. 875) (L. D. 1118)

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.

**Passed to Be Enacted
Emergency Measure**

An Act Extending Time for Relocating of Maine Central Railroad Tracks in Livermore Falls (H. P. 668) (L. D. 855)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Repealing the Porter's Landing Water District (H. P. 1091) (L. D. 1383)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act Amending the Application of the Occupational Safety Law and the Reporting Requirements (H. P. 337) (L. D. 446)

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

At this point the Chair laid before the House the Special Order of the Day assigned for 9:30 this morning:

An Act Providing for Payment of the 1969 Education Subsidies to Municipalities (S. P. 414) (L. D. 1379)

Pending question — Passage to be enacted.

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

Mr. BENSON: Mr. Speaker and Members of the House: Just to take a moment to remind you that this bill was referred to the Joint Standing Committees on Education and Appropriations and Financial Affairs. This is a compromise report representing the best thinking of the majority of those two committees. A unanimous report in the case of Appropriations, and a sev-

en-three report in the case of Education.

I just hope that we can act as statesmen this morning and pass this bill to be enacted and provide the several communities of our state with some tax relief, which we feel they so richly deserve. Mr. Speaker, I request that this vote be taken by roll call.

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

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read a letter for the record: "The City of Bangor will receive, under Report A, the subsidy bill signed by the majority of the Education and Appropriation members, \$842,186.74, plus all monies from the Federal Government under Public Law 874." Signed, Asa A. Gordon, State Department of Education, dated 8/2/69.

The amount of subsidy in question does not mean that Bangor is getting a major increase. It only means we won't get less than the amount previously mentioned. However, we Representatives from Bangor have been authorized, through our local constituents, that we do not want to go on record of depriving the smaller communities from their share of the subsidy. I feel we should go along with plan A, and I urge all representatives in our area to vote in the affirmative.

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: With regards to this document, the school subsidy that's before us this morning, and fully understanding the remarks that I made on the Floor of this House a week ago, or a little bit better than a week ago, the pitfalls in the document and the possibilities of being able to eliminate these pitfalls, it is our common understanding that some of these might be able to be corrected, and by all means should be corrected, in the second year of the biennium.

Although this is not the point presently before us this morning,

and I would urge every possible member in this House that this is probably the best possible solution that can be arrived at at this time, knowing full well that we're still going to have to do something and get our heads together for the second year of the biennium. It is also our common understanding that we will be able to get our heads together and come up with something that will eliminate some of the inequities in the second year of the biennium. For this reason, and others that may come up, it is my sincere hope this morning that the House will vote firmly in adopting a school subsidy for the first year of the biennium. Thank you.

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

Mr. RICHARDSON: Mr. Speaker and Ladies and Gentlemen of the House: We have discussed and debated, and discussed again and again this legislation. But I think it's important to recognize that this is the only real opportunity we have at this time to correct the reevaluation impact that's affecting so many small communities.

I urge you to follow the lead of Representative Soulas of Bangor and the other Representatives from that area, who have put aside narrow parochial regional considerations and are going to vote for the bill which is going to do the most for the most people in the State of Maine. And I'd like to commend the gentleman from Madawaska, Mr. Levesque, for his courageous stand on this legislation, for being willing to have an open mind and to review it in good faith, and to arrive at the decision that I believe the majority of the House has, that is, that this is the best legislation which we have available to us.

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

Mr. JALBERT: Mr. Speaker and Members of the House: As a signer of the Report A, "Ought to pass," my community suffers quite a few thousand dollars in difference as to Report B. However, I feel, as the other speakers have men-

tioned, that this is the best measure that we can come up with at this time, so for that reason I'm going along with the measure. My second reason, of course, that any time that the gentleman on my far right, and the gentleman on my far left, the leaders in both parties agree, it's good enough for me.

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

Mr. WAXMAN: Mr. Speaker and Ladies and Gentlemen of the House: As one of the original signers of Report B I am now going to sign the Majority Report A at the loss of \$86,000 for my own community. I would just stand to make one brief point. I would hope that the members of the House would comply with this request—that as the Education Committee considers the second year of the biennium, if you have any ideas or suggestions as to the best way to approach the state subsidy problem, that you come to the Committee and make your views known. This is a particularly difficult problem and we would appreciate all the help we can get. Thank you.

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

Mr. ROSS: Mr. Speaker and Members of the House: Like the gentleman from Bangor, Mr. Soulas, the City of Bath would get \$16,000 a year more under Report B, but for the overall interest of our State and number of communities affected I am happy to support Report A.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I don't arise this morning to debate this bill. I think that both committees have done as good a job as possible under the circumstances. However, I don't feel as though I can wholeheartedly support a measure of this nature, not knowing some of the things that nobody seems to want to talk about. Namely, how much more does this cost than it did last year, and how do we propose to pay for it?

Here is what I have seen happen down through the years. I don't want to deceive my people from where I come. I have seen good legislation pass both branches and lay on the other branch's table and there the last day fade away for lack of funds.

Now for this reason I don't want to vote for something this morning not knowing how I am going to pay for it, what method or how much it's costing. These are some of the things that I would have to know before I vote for this piece of legislation this morning. Thank you.

The SPEAKER: Is the House ready for the question? The yeas and nays have been requested. For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. All of those desiring a roll call will vote yes; those opposed will vote no. The Chair opens the vote.

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

The SPEAKER: The pending question is that An Act Providing for Payment of the 1969 Education Subsidies to Municipalities, Senate Paper 414, L. D. 1379, be passed to be enacted. It being an emergency measure under the Constitution it requires a two-thirds affirmative vote for its passage.

All of those in favor of enacting this Bill will vote yes; those opposed will vote no. The Chair opens the vote.

ROLL CALL

YEA — Allen, Barnes, Bedard, Benson, Berman, Binnette, Birt, Bourgoin, Bragdon, Brown, Buckley, Bunker, Burnham, Carrier, Carter, Casey, Chandler, Chick, Clark, C. H.; Clark, H. G.; Coffey, Corson, Cote, Cottrell, Couture, Cox, Crommett, Crosby, Croteau, Cummings, Curtis, Cushing, Dam, Danton, Dennett, Donaghy, Drigotas, Durgin, Dyar, Emery, Erickson, Evans, Farnham, Faucher, Finemore, Fortier, A. J.; Foster, Fraser, Gauthier, Gilbert, Good, Hall, Hanson, Hardy, Haskell, Hawkens, Henley, Heselton, Hichens, Hunter, Immonen, Jalbert, Jameson, Johnston, Jutras, Kelle-

her, Kelley, K. F.; Kelley, R. P.; Keyte, Kilroy, Laberge, Lee, LePage, Levesque, Lewin, Lewis, Lund, MacPhail, Marquis, Marstaller, Martin, McKinnon, McNally, McTeague, Meisner, Millett, Mills, Moreshead, Morgan, Norris, Noyes. Ouellette, Page, Payson, Porter, Pratt, Quimby, Richardson, G. A.; Richardson, H. L.; Rideout, Ross, Scott, C. F.; Shaw, Snow, Soulas, Starbird, Stillings, Susi, Tanguay, Temple, Thompson, Trask, Tyndale, Watson, Waxman, Wheeler, White, Williams, Wood, The Speaker.

NAY — Baker, Bernier, Boudreau, Brennan, Carey, Dudley, Eustis, Fecteau, Fortier, M.; Giroux, Hewes, Huber, Lawry, Lebel, Lincoln, Mitchell, Mosher, Nadeau, Rand, Rocheleau, Scott, G. W.; Sheltra, Vincent.

ABSENT — Curran, D'Alfonso, Harriman, Leibowitz, Sahagian, Santoro, Wight.

Yes, 120; No, 23; Absent, 7.

The SPEAKER: One hundred and twenty having voted in the affirmative, and twenty-three in the negative, the Bill is passed to be enacted as an emergency measure, it will be signed by the Speaker and sent to the Senate.

Orders of the Day

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

An Act to Correct Errors and Inconsistencies in the Maine Insurance Code (H. P. 1071) (L. D. 1252)

Tabled—March 28, by Mr. Scott of Wilton.

Pending—Passage to be enacted.

On motion of Mr. Scott of Wilton, under suspension of the rules, the House reconsidered its action whereby on March 18 the Bill was passed to be engrossed.

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

House Amendment "A" (H-150) was read by the Clerk and adopted and the Bill passed to be engrossed as amended in non-concurrence and sent up for concurrence.

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

Resolve in Favor of Robert Huntington and Floyd Richardson of Turner for Damage by Bears (H. P. 717) (L. D. 935) (Committee Amendment "A" H-133)

Tabled—April 1, by Mr. Evans of Freedom.

Pending—Passage to be enacted.

Thereupon, the Resolve was passed to be engrossed as amended by Committee Amendment "A" and sent to the Senate.

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

Resolve in Favor of Dan S. Webb of Wilton (H. P. 57) (L. D. 59) (Committee Amendment "A" H-132)

Tabled—April 1, by Mr. Richardson of Cumberland.

Pending—Motion of Mr. Evans of Freedom to reconsider passage to be engrossed.

Thereupon, Mr. Evans of Freedom asked consent of the House to withdraw his motion to reconsider, which the House granted.

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

HOUSE REPORT — "Ought not to pass" — Committee on Judiciary on Bill "An Act to Provide for Forfeiture of Vehicles Used to Transport Narcotics" (H. P. 734) (L. D. 952)

Tabled — April 2, by Mr. Hewes of Cape Elizabeth.

Pending — Motion of Mr. MacPhail of Owls Head to Substitute Bill for the Report.

The SPEAKER: The Chair recognizes the gentleman from Owls Head, Mr. MacPhail.

Mr. MacPHAIL: Mr. Speaker, Ladies and Gentlemen of the House: I feel that this House should know some of the reasons for this bill and what it will do. The purpose of the bill is to allow forfeiture of any vehicles used to transport narcotics as defined by Chapters 557 and 558 of our Maine Law. These narcotics are illegal to possess and are deemed contraband under Maine law. It has been held by courts across the country that when vehicles are transporting contraband of any kind they are considered by law

to be instrumentalities of the crime; that is, without the vehicles, the transportation of these substances, illegal to possess and sell, would be impossible.

The philosophy behind the federal forfeiture law and comparable state laws as applied to the transportation of narcotics is as follows: It is a serious crime to possess narcotics and harmful drugs. It is even more serious to sell or even give away narcotics. It is by far the most serious offense to transport such drugs into the state illegally to start with. In the latter case, the most offensive, there is no increased penalty. In short, before narcotics sale or possession can occur, someone has to take it upon himself to transport such substances as marijuana and the like from larger cities, usually Cambridge or Boston, into Maine so that others can distribute it locally and it can finally be put into use.

Hence, since the greatest offense of the drug problem is the initial supplying of the drugs, it seems only logical that this offense should require the greatest penalty. And since the transporter of illicit narcotics is usually the person who intends to make a large profit from his activity, it seems only reasonable to (1) reduce his profit to the extent of his equity in his vehicle or instrumentality of the crime, and (2) by totally prohibiting his engagement in such activity by taking from him the tool of his trade.

Forfeiting the vehicle of one who initiates the supply of narcotics into our state and throughout the various parts of our state admittedly increases the penalty for such activity. It, however, increases the penalty against the most despicable type of individual. He is far more dangerous than the tragic user of narcotics. He is even more dangerous than the hated distributor or so-called "pusher" of narcotics; indeed, without his services, there would be no narcotics problem in our state.

Besides the obvious deterrent effect to the transporter, and the increased economic penalty to him when he makes efforts to carry on his trade, there is a practical side

to this bill and comparable bills in sister states and in the federal jurisdiction. Vehicles which are ultimately forfeited to the state are turned over to the Maine State Police and can be immediately utilized for various types of undercover investigation. These vehicles are not "marked" in any way and are totally unfamiliar to the criminal element in our state. Accordingly, they can be used for intensive investigation of other narcotics activities and other activities which require undercover detectives of the Maine State Police to be unrecognizable in order to be effective.

This bill does not cost the State of Maine one single penny. Its effect is to levy an economic penalty to those who very sorely deserve it and to utilize the fruits of that economic penalty in the investigation of further crime.

This bill does not in any way purport to allow the Maine State Police, the Attorney General or the courts to take anyone's automobile, or any person who has any financial interest in any automobile, without every safeguard.

Paragraph three insures in the last sentence of that paragraph that if, for example, someone takes the owner's car without authority, or without the owner's "knowledge or consent" and transports any narcotics, the owner is in no way subject to any forfeiture of his vehicle.

This bill further provides that in any forfeiture proceeding, all parties at all interested in any automobile will be notified prior to a hearing and will be heard and their rights protected — see (C-1) as amended in Judiciary Committee. Note that this means that the burden is on the state to check county and town or plantation offices and locate all parties who have a financial interest in the automobile and notify them sufficiently in advance that a forfeiture hearing will be scheduled.

In the event that any claimant shows that forfeiture is not in order, then the judge shall direct the vehicle to be returned to that claimant. Even if the district court decides that the vehicle should be forfeited, any claimant

may appeal to the Superior Court for a reconsideration of the issue of forfeiture. Any person, firm or corporation may be a claimant in such actions.

In summary, this bill is directed solely at the transporter of drugs and whatever equity he has in the tool of his trade, namely, his vehicle. It in no way penalizes anyone who has a financial interest in the vehicle nor does it affect anyone's vehicle who is unaware of its illicit use. In my view, the bill's clear effect is to turn instrumentalities of crime into instrumentalities of law enforcement.

We have an Attorney General of the State who is considered to be a chief law enforcement agent and I think we should give him every assistance in his endeavor to stamp out this narcotics trade. Thank you.

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

Mr. HEWES: Mr. Speaker and Ladies and Gentlemen of the Jury: I regret to have to—

The SPEAKER: The Chair would request the gentleman to confine his remarks to the Members of the House.

Mr. HEWES: I thank you. I regret to have to oppose my good friend from Owls Head, Mr. MacPhail in this, but I feel that this bill can be dangerous to the general public in that property of the general public can be seized, in fact shall be seized, under the terms of this proposed bill. I wish you would look with me at paragraph 3 of L. D. 952, I would like to read with you: Paragraph 3, "Seizure and delivery to the State. Any law enforcement officer"—that includes the sheriff's department, State Police, constables and local policemen of the State, "shall seize"—it doesn't say may, it's mandatory—"shall seize any vehicle subject to forfeiture," and then turned over to the State Police and "held as evidence until forfeiture has been declared or a release ordered," which could be several days or even several weeks into the future.

As I understood the gentleman from Owls Head, Mr. MacPhail,

he said that the last sentence of paragraph 3 provides ample safeguards. I would like to have you look at that sentence with me if you would please and see if this provides safeguards for the owner of the car or could his car be taken. This bill as I read it does not hit necessarily the person with the narcotics on him. I am opposed to people carrying narcotics, pushing narcotics, selling narcotics, but it hits the person who owns the car or the boat or the plane in which the person that has the narcotics is riding.

The last sentence: "No vehicle shall be subject to forfeiture under this section by reason of any act or omission as established by the owner thereof to have been committed or omitted by any person other than such owner and without such owner's knowledge or consent." Now I ask you, does that protect the innocent owner of a car or a plane or a boat in which someone is riding that has narcotics on him? Actually at first blush, I would even interpret this proposed bill to allow a Northeast airplane landing at a Maine airport to be seized because some passenger has narcotics on him. I appreciate that is not the intent of the bill, but that's as I read it.

It seems to me that this bill does not help capture in any manner the person with narcotics, and although I am firmly opposed to pushing narcotics and will vote in favor of Chapter 558, which is another bill, and 558 as you will note in the first paragraph is mentioned here, I do not think that this particular L. D. 952 is necessary, and I therefore, Mr. Speaker, move indefinite postponement of this bill and all its accompanying papers.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I spent thirty years as a police officer down in another state. Back in 1924 this law was enacted on the books, the statute law books of the State of Massachusetts; it is also in Connecticut, Rhode Island, Vermont and New Hamp-

shire. Why it was never enacted into the State of Maine Statute criminal law books I don't know, but I do say this, for the man who is trying to enforce the law against one of the most despicable things that can happen as narcotics, I think it is one of the greatest assets that we can hand over to our law enforcement officers in the State of Maine. There is no question but what there is a lot of abuse goes to the police officer who tries to enforce this type of law, but there is an allowance in this bill where the Judge has discretionary powers on what constitutes a forfeiture or not. I wholeheartedly support Mr. MacPhail in his endeavors here this morning.

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

Mr. RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: As an individual and as an attorney, I respectfully disagree with the members of the Judiciary Committee who have reported this bill out as ought not to pass. Mr. Hewes from Cape Elizabeth asked a question, does the bill protect the innocent owner whose vehicle is used without his knowledge for an illegal act, the transportation of narcotic drugs, and I say yes, the bill does protect him, because it specifically provides in the language that Mr. Hewes from Cape Elizabeth asked you to read along with him, the owner is not to be liable where it can be shown that the acts were not committed with his knowledge or were without his knowledge or without his consent.

The vice that we are trying to prohibit is the vice that permits mobility to join with the narcotics traffic in order to move drugs. This is the nature of the vice that we are trying to prohibit, and this bill does exactly that. The man who is transporting narcotics must be able to transport it in order to sell the filthy material that he has to the young people who want to buy it. This gets at the distributor of illegal narcotics, and I think that we should put this statute on the books and rely on the Judges and Justices of the Courts of this State

to properly enforce the law. Thank you.

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

Mr. BRENNAN: Mr. Speaker, Ladies and Gentlemen of the House: This bill makes a motor vehicle contraband if there are narcotics in it. Even if a person is found innocent under this bill, he would forfeit his car. I think this is clearly unfair. The purpose of this bill is in effect to increase the penalty for trafficking in drugs.

Now we have two bills in the Judiciary Committee dealing with just that matter, which haven't come out as of this time, and I would remind the House that this bill was carefully considered, there was a unanimous "ought not to pass" committee report. I urge you to vote against the motion of the gentleman from Owls Head, Mr. MacPhail, and to support the motion of the gentleman from Cape Elizabeth, Mr. Hewes.

The SPEAKER: The Chair would advise the House that the motion of priority is the motion of the gentleman from Cape Elizabeth, Mr. Hewes, that the report and bill be indefinitely postponed.

Mr. MacPhail of Owls Head requested a roll call vote.

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

Mr. BERMAN: Mr. Speaker and Members of the House: I doubt very much if anyone in the House, least of all the ten members of the Committee on Judiciary, in any way, shape or manner approve the distribution illegally of narcotics in this State. I, for one, wish that during this term of the Legislature the members of the Judiciary Committee would have had the very valuable assistance of a former member, my good friend from Cumberland, Mr. Richardson.

L. D. 952 is a document which upon careful analysis really cannot stand the light of day. I, for one, cannot vote for a piece of legislation which is as ineptly drawn as L. D. 952, even though I am sincerely in favor of what the bill is trying to accomplish. For that reason, I, and I suspect other members

of the Committee on Judiciary shall vote 'no.' However, if the House in its judgment wants to pass out a bill on probably as important a subject as will come before this Legislature, wishes to put its stamp of approval on an inept piece of legislation, so be it, but I should tell each and every member of the House that when we are dealing with a technical, a complicated piece of legislation, that in my humble opinion it is far better to pass out no legislation than to pass out an inept piece of legislation on a very important subject.

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

Mr. RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: I recognize the lateness of the hour, but there is a statement that has been made which I think must be challenged. I would inquire of the gentleman from Portland, Mr. Brennan, what authority he has within the limits of this legislation for the statement that a person found innocent of the charge of the possession and transportation of narcotics would still stand to have his vehicle forfeited?

The SPEAKER: The gentleman from Cumberland, Mr. Richardson poses a question through the Chair to the gentleman from Portland, Mr. Brennan who may answer if he chooses, and the Chair recognizes that gentleman.

Mr. BRENNAN: Mr. Speaker, Ladies and Gentlemen of the House: There is a separate hearing in regard to the forfeiture. The forfeiture could be declared at the District Court level and sometime later at a trial in regard to a charge of transporting drugs the person could be found innocent, but the previous action taken by the Judge in the lower Court forfeiting the vehicle would be final.

Mr. Richardson of Cumberland was granted unanimous consent to speak a third time.

Mr. RICHARDSON: Mr. Speaker and Ladies and Gentlemen of the House: It is an understatement to say that I am unconvinced by the answer. Section 9 of this legislation specifically provides the party aggrieved by the order of the Dis-

trict Court the right to appeal to the Superior Court in order to determine whether or not his vehicle has been improperly seized and ordered subject to forfeiture, and I think that if the vehicle is worth having you may rest assured that the owner aggrieved by such an order is going to pursue these appellate remedies.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I would like to pose a question to any member of the Judiciary Committee that can answer if they see fit. The other two pieces of legislation that are now in committee happen to be mine. Do these two pieces of legislation deal with this problem, and if not, would this problem be incorporated in these two pieces of legislation?

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

Mr. MORESHEAD: Mr. Speaker, I would say that this problem will be definitely taken care of by Mr. Jalbert's legislation because it is the intent of this bill to penalize the person who is using or bringing into the State narcotics, and I think it is the intent of Mr. Jalbert's bill to penalize these people also, perhaps in a different fashion; namely, imprisonment rather than forfeiture of the vehicle.

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

Mr. BERMAN: Mr. Speaker and Members of the House: Lest there be any misapprehension as to the attitude of the Committee on Judiciary with respect to narcotics, let me say that it is my understanding that the Committee on Judiciary is working to come out with a very very solid and we hope lawyer-like bill penalizing the commerce of narcotics in the State of Maine. 952 in our opinion is not an answer to the problem, it complicates the problem.

I would hope that you would have reasonable confidence in the Committee on Judiciary which sometime during this session is going to report a bill which really goes to the heart of the problem, and for that reason I hope that you will go along this morning with the very reasonable request of the gentleman from Cape Elizabeth that this particular bill be indefinitely postponed.

The SPEAKER: Is the House ready for the question? The yeas and nays have been requested. For the Chair to order a roll call it must have the expressed desire of one fifth of the members present and voting. All of those desiring a roll call will vote yes, those opposed vote no, and the Chair opens the vote.

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

The SPEAKER: The pending question is on the motion of the gentleman from Cape Elizabeth, Mr. Hewes, that this Report and Bill "An Act to Provide for Forfeiture of Vehicles Used to Transport Narcotics," House Paper 734, L. D. 952, be indefinitely postponed. If you are in favor of the indefinite postponement motion you will vote yes, if you are opposed, you will vote no. The Chair opens the vote.

ROLL CALL

YEA—Barnes, Bedard, Berman, Bernier, Binnette, Boudreau, Bourgoin, Brennan, Burnham, Carrier, Carter, Coffey, Corson, Cote, Cottrell, Couture, Crommett, Cummings, Danton, Dennett, Donaghy, Drigotas, Dudley, Dyar, Faucher, Fecteau, Fortier, A. J.; Foster, Fraser, Gilbert, Good, Haskell, Hawkens, Henley, Hewes, Hunter, Immonen, Jameson, Jutras, Keyte, Kilroy, Laberge, Label, Lee, LePage, Levesque, Marstaller, McKinnon, McTeague, Moreshead, Norris, Noyes, Ouellette, Page, Rocheleau, Tanguay, Temple, Vincent, Waxman, Wheeler, White, Williams, Wood.

NAY—Allen, Baker, Birt, Bragdon, Brown, Buckley, Bunker, Carey, Casey, Chandler, Chick, Clark, C. H.; Cox, Crosby, Croteau, Curtis, Cushing, Dam, Durgin, Emery, Erickson, Eustis,

Evans, Farnham, Finemore, Hall, Hanson, Hardy, Heselton, Hichens, Huber, Jalbert, Johnston, Kelleher, Kelley, K. F.; Kelley, R. P.; Lawry, Lewin, Lewis, Lund, MacPhail, Marquis, Martin, McNally, Meisner, Millett, Mills, Mitchell, Mosher, Nadeau, Payson, Porter, Pratt, Quimby, Rand, Richardson, G. A.; Richardson, H. L.; Rideout, Scott, C. F.; Scott, G. W.; Shaw, Snow, Starbird, Stillings, Susi, Thompson, Trask, Tyndale, Watson.

ABSENT—Benson, Clark, H. G.; Curran, D'Alfonso, Fortier, M.; Gauthier, Giroux, Harriman, Leibowitz, Lincoln, Morgan, Ross, Sahagian, Santoro, Sheltra, Soulas, Wight.

Yes, 63; No, 69; Absent, 17.

The SPEAKER: The Chair will announce the vote. 63 having voted in the affirmative and 69 having voted in the negative, the motion does not prevail.

Thereupon, the Bill was substituted for the "Ought not to pass" Report, the Bill read twice and tomorrow assigned for third reading.

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

Bill "An Act relating to Biennial Elections of Penobscot Indians" (H. P. 415) (L. D. 526) (Committee Amendment "A" H-128 Adopted) (House Amendment "A" H-147 Adopted)

Tabled — April 2, by Mr. Starbird of Kingman Township.

Pending — Passage to be engrossed.

On motion of Mr. Binnette of Old Town, under suspension of the rules, the House reconsidered its action of March 27 whereby Committee Amendment "A" (H-128) was adopted.

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

Mr. BINNETTE: Mr. Speaker, Ladies and Gentlemen of this House: My reason for reconsideration is as follows: I believe everyone in this House agrees with me to upgrade our laws. I see by this amendment that we are lowering these standards. This amendment deletes the following lines on page 2 of House Paper 415, the

last sentence says: "Tribal members who have been convicted of a felony shall not be permitted to hold any tribal office, either elective or appointive." This amendment wipes out that sentence.

We all are trying to help the Indians to govern themselves properly, and I sincerely believe that if we accept this amendment we are doing them a great injustice. Therefore, I now move to indefinitely postpone this amendment.

The SPEAKER: The gentleman from Old Town, Mr. Binnette, now

moves the indefinite postponement of Committee Amendment "A." Is this the pleasure of the House?

The motion prevailed.

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

On motion of Mr. Donaghy of Lubec,

Adjourned until nine o'clock tomorrow morning.