

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

Volume II

May 9, 1969 to June 17, 1969

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Tuesday, May 13, 1969

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

Prayer by the Rev. Mr. Stanley Harding of Portland.

The journal of yesterday was read and approved.

Papers from the Senate

From the Senate: The following Communication: (S. P. 456)

STATE OF MAINE

DEPARTMENT OF EDUCATION

Augusta

To the Members of the 104th Legislature:

The State Board of Education herewith submits the sixth biennial report on school district organization. This report has been compiled to provide you with complete information on the progress of school district organization. We hope you will seriously consider the implications of school district organization on the educational programs and the fiscal limitations of state and local governments. Our recommendation appears on the second page and we urge full statewide discussion of the issues as legislative action is considered.

Respectfully submitted,
State Board of Education

(Signed)

CHARLES F. BRAGG, II
BERNAL B. ALLEN
CHRISTO ANTON
KENNETH F. WOODBURY
MARGARET McINTOSH
FRANK S. HOY
ERNEST C. MARRINER
CARROLL L. McKUSICK
PAUL V. HAZELTON
LINCOLN T. FISH
WILLIAM T. LOGAN, JR.,

Commissioner

Came from the Senate read and with accompanying Report ordered placed on file.

In the House, the Communication was read and with accompanying Report ordered placed on file in concurrence.

Conference Committee Report

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on

Bill "An Act Permitting Employment of State Prison and Reformatory Inmates on County and Municipal Public Works Projects" (H. P. 497) (L. D. 651) reporting that the Senate recede from passage to be engrossed as amended by Senate Amendment "A"; that the Senate recede from adoption of Senate Amendment "A"; that Senate Amendment "A" be indefinitely postponed; that the Bill be passed to be engrossed; that the House recede and concur with the Senate.

(Signed)

PEABODY of Aroostook

CONLEY of Cumberland

MARTIN of Piscataquis

— Committee on part of Senate.

MacPHAIL of Owls Head

LEWIN of Augusta

RICHARDSON

of Stonington

— Committee on part of House.

Came from the Senate with the Report read and accepted, Senate Amendment "A" indefinitely postponed and the Bill passed to be engrossed without Amendment.

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

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Create Traffic Violations Bureaus in the District Courts (H. P. 768) (L. D. 988) which was passed to be enacted in the House on May 9 and passed to be engrossed on April 30.

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

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

Non-Concurrent Matter

Bill "An Act relating to Tuition Charges for Special Education Classes" (H. P. 1154) (L. D. 1476) which was passed to be engrossed in the House on April 29.

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

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

Orders

Mr. Emery of Auburn presented the following Joint Order and moved its passage:

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the rising cost of medicine; the cost of nursing home care; the rising cost of health and hospitalization insurance; the cost of hospital care; the ever increasing cost of prescription drugs and the effects of such costs upon the population of Maine; and be it further

ORDERED, that the Committee report its findings and recommendations to the 105th Legislature.

The SPEAKER: The Chair understands that the gentleman from Auburn, Mr. Emery requests permission to speak to his order. The Chair recognizes that gentleman.

Mr. EMERY: Mr. Speaker, Ladies and Gentlemen of the House: I presented this order today because I am convinced of the desperate need for a study of this type. If we as Legislators are to face up to the responsibilities of our office, we should see to it that this order receives passage. Over the years, the costs of medicine, drugs, nursing and hospital costs have steadily increased.

It is estimated by some sources that these various costs have increased approximately 25 per cent over and above the rising costs of living. The need for a study of this type is obvious. Many of the people in need in this State are suffering, or walking a tight-rope, hoping that they will not be the next one to get hit by these rising costs. Our elderly, our young, and many in all walks of life are not receiving basic medical needs and treatment, because they cannot afford the high prices demanded today for these vital necessities of life. Many of us in this House today are cognizant of many such cases.

In asking for the favorable passage of this order, I believe that we are only attempting to shoulder and study the burden forced upon us. I believe that we will, together with the citizens of this great

State, benefit from the results obtained. Thank you.

Whereupon, on motion of Mr. Benson of Southwest Harbor, tabled pending passage and specially assigned for tomorrow.

House Reports of Committees Ought Not to Pass Tabled and Assigned

Mr. Benson from the Committee on Appropriations and Financial Affairs reported "Ought not to pass" on Bill "An Act Providing for a Bond Issue in the Amount of Seven Hundred and Fifty Thousand Dollars for Terminal and Parking on Portland Waterfront for Casco Bay Islands" (H. P. 918) (L. D. 1179)

Report was read.

(On motion of Mr. Temple of Portland, tabled pending acceptance of Report and specially assigned for tomorrow.)

Mr. Bragdon from the Committee on Appropriations and Financial Affairs reported "Ought not to pass" on Bill "An Act to Provide for Modifications of State Owned Landing Terminals at Long Island and Chebeague Island and to Allow for Vehicle Ferry Service" (H. P. 1019) (L. D. 1327)

Report was read and accepted and sent up for concurrence.

Ought to Pass with Committee Amendment

Mr. Williams from the Committee on Public Utilities on Bill "An Act to Expand the Territory of the Portland Water District" (H. P. 832) (L. D. 1070) 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-309) 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 Purchasing Law" (S. P. 253) (L. D. 793)

Bill "An Act Providing Funds for Construction of Garage and Storage Facility for Aroostook

Association for Retarded Children (S. P. 287) (L. D. 929)

Bill "An Act relating to Publication of Foreclosure Notices" (S. P. 348) (L. D. 1214)

Bill "An Act to Empower County Commissioners to Contract for Dumps in the Unorganized Territory" (S. P. 395) (L. D. 1348)

Bill "An Act relating to Orders of Care Pending Hearing in Child Custody Cases" (H. P. 554) (L. D. 735)

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

Amended Bills

Bill "An Act to Clarify the Right to Know Law" (S. P. 215) (L. D. 796)

Bill "An Act relating to Suspension of Motor Vehicle Operator's License for Nonappearance in Court" (S. P. 398) (L. D. 1350)

Bill "An Act relating to Adoptions" (S. P. 399) (L. D. 1353)

Bill "An Act Granting a Council-Manager Charter for the Town of Bucksport" (H. P. 605) (L. D. 786)

Bill "An Act relating to Contracts for Support" (H. P. 863) (L. D. 1105)

Bill "An Act Revising Probate Fees" (H. P. 1083) (L. D. 1404)

Bill "An Act to Change the Time of Apportionment of Educational Subsidies to Administrative Units" (H. P. 1144) (L. D. 1468)

Were 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

An Act relating to Use of Cable Traps to Trap Bear (S. P. 165) (L. D. 537)

An Act relating to Parole Eligibility Hearing in Life Imprisonment and Other Long Term Cases (S. P. 167) (L. D. 541)

An Act to Provide for the Registration of Professional Social Workers (S. P. 346) (L. D. 1212)

An Act relating to Annual Reports of Counties (H. P. 109) (L. D. 117)

Were 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.

An Act relating to Retirement of Chief Liquor Inspector (H. P. 943) (L. D. 1204)

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

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: As you have probably read in the paper over the last few weeks or few months and even more clearly today, I see of absolutely no value to the people of the State of Maine and even to people that are very much concerned with the liquor laws and the liquor enforcement.

As I indicated earlier before the members of this House, that certainly there are state employees that are very deserving. They are very deserving because of their long tenure in office and because of the dedication that they have had towards the State of Maine as a whole. In good conscience I do not see that this particular bill is going to help solve the problems of the State of Maine by increasing the tenure of office by an additional five years. I think that if we want to help the state employees, I think that if we want to help those dedicated people, we should encourage them to take an earlier retirement so that they will be able to enjoy the fruits of their labor after retirement.

Now in my effort to have other state employees, other deserving state employees to come under the same provisions of the law as the Chief Liquor Inspector, it was turned down by the members of the House. There seemed to be something in the background as to the reason why this Legislature would want this type of legislation.

I fail to see the need, I fail to see that the State of Maine as a whole is going to gain one bit of evidence that is going to be beneficial to the State of Maine by having this in our laws.

So for this reason and many others that are not and probably could not be brought before the members of the House or the other branch, I now move that this bill and all its accompanying papers be indefinitely postponed.

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

Mr. DENNETT: Mr. Speaker and Members of the House: I find myself this morning rather forced to stand in opposition to the motion made by my good friend from Madawaska, Mr. Levesque. I would and I could not question the motives of any person in this House on their feelings on any bill. I know that they are sincere and I know that they are well meaning. But I am fearful that there are outside influences that seek to defeat this bill whose motives are not as altruistic as those of members of this House. We have argued this bill; the opposition has been persistent in every stage, from the acceptance of the report right up to the enactment stage, to endeavor to defeat this bill.

As stated before, and I think you are all aware that certain enforcement agencies in the State of Maine, such as the State Police, have had their tenure of office extended to seventy years. There are even at this moment people serving in various departments who have passed the age of sixty-five and have been permitted to retain their office because they were good men.

I feel this morning that perhaps we have entered into a battle of those on the outside of this body who would seek to deter the prosecution of the enforcement agencies in the State of Maine. We all know that this particular agency has been very very effective. I don't think that if the gentleman who is the subject of this morning's debate was ninety years old and in his dotage and was ineffective at prosecuting the law

there would be much objection to him. I think that the objection to this gentleman stems from the fact that he is effective, he is effective in enforcement, and there are many who would like to see this enforcement lessened.

I certainly hope that this House will not go along with the motion made by the gentleman from Madawaska, Mr. Levesque, and when the vote is taken I ask that it be taken by the yeas and nays.

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: As you as well as I have watched this document come through the halls of the Legislature, in every individual instance the gentleman under question here this morning beyond any doubt whatsoever in anybody's mind has done an outstanding and effective job that he was selected to do. I also feel by the same token that other state employees have been effective in carrying out the laws that they were hired to do, and I don't think that one person is so irreplaceable that we need to extend his tenure because he has done the job that he was hired to do.

As the gentleman from Kittery, Mr. Dennett has pointed out this morning, there seemed to be outside influences or outside forces behind this bill. I have no doubts or reservation that there are outside forces for the simple matter that last week if you people were cognizant of what happened in the other branch you would know very well that there are outside forces behind this document; and that is one of the reasons why I would like to see it go down the drain as a bad piece of legislation, not because of the individual but because of doing something for only one person when there are so many that are deserving.

So this is why I stand behind the motion of the gentleman from Kittery, Mr. Dennett, that when the vote is taken it be taken by the yeas and nays, so that we can actually point the fingers as to who these outside forces may be this morning. Because I see no parti-

cular effective merit in this individual piece of legislation, if it is going to be promoted by the outside forces that were in the other branch last week.

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

Mr. JALBERT: Mr. Speaker and Members of the House: In answer to the gentleman from Madawaska, Mr. Levesque, who I know is speaking in his individual capacity and not as floor leader of my party, I might say that I am an inside force with a vote inside the railing. There have been no sinister outside forces that have approached me in the least. Furthermore, the gentleman from Madawaska, Mr. Levesque persists in saying that this is special legislation. The Chief of the State Police and the Deputy Chief of the State Police enjoy this same situation.

As I have stated before, this is the only recourse that anyone has who is under enforcement, who is under the situation that Mr. Murphy is under. It must come through the Legislature. All of the other members — and I would like to, if I don't register with the other members of the Legislature, and I am sure that I do, I would particularly like to be able to register with the gentleman from Madawaska, Mr. Levesque. When even you reach the age of seventy, when even you reach the age of seventy, let alone sixty-five, let alone sixty-five, you can by the signature of a departmental head, you can by the signature of a departmental head, enjoy the privileges if you care to of working beyond the age of seventy. You can enjoy the privileges if you care to of working beyond the age of seventy.

Now I hope that my message there is to a certain degree clear. As far as I am concerned I don't see anybody here entertaining legislation that you should stop voting beyond sixty-five or seventy. As far as I am concerned, being one who is crawling towards the upper brackets of age, I don't think that as one member elsewhere has suggested that when you get to be forty you start going down hill.

Because there are those who tell me that I started to get wise to myself beyond the age of fifty, and I have still got a whale of a lot to learn, and for fear of being wiped out for indifference, Mr. Speaker, I know that you know my language could be a might stronger.

Now as far as I am concerned, any outside influences should not show their situation, or should not decide or tell the public or us what they are going to do. And I mean outside influences, anybody who is not a voting member of either branch. When an indication comes to us as to what is going to be done when a measure hits somewhere that is a different story altogether. Until such time as that happens, however, I feel as a free individual voting and speaking that I hope that I can go along with my thinking.

Now we can get Mr. Murphy at reduced rates, if he retires we hire somebody at top prices, whereas he will be drawing half the salary. This man is of sound body, he is of sound mind, he is of fine triple-A character. And just let me tell you of the character of Mr. Murphy for a moment. The very next day after I spoke and lauded him to the clouds, to the skies, I called him up to tell him that an organization that I belonged to was going to have a little affair, and he stopped me dead. He said, "I know what the affair is, I know what it is, if you do it you're in violation, and I will be down to visit you. That's the end of it." Eight hours before I am standing here praising him! That is why I am doing it.

Now I have some correspondence here that believe me if I distributed, some members of the House knows about this piece of vile attack, vile attack, upon the man's character. If I spread this around and had it distributed I wouldn't even want to affix my name to this and I am sure I wouldn't want to ask anybody else to affix their name to it. But anybody who wants to see this letter can see it even after we vote, and I promise you that anyone who would vote who would read this

letter would think twice before they voted for indefinite postponement.

And Mr. Speaker, it is with pride and privilege that I will vote for the ayes and nays against the motion to indefinitely postpone this fine piece of legislation.

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

Mr. JUTRAS: Mr. Speaker, a question through the Chair directed to Mr. Jalbert once again, would he have any objection to have the illustrious Mr. Murphy, whom I respect very much, be hired as a consultant or as an advisor in the event that this bill is defeated?

The SPEAKER: The gentleman from Sanford, Mr. Jutras, poses a question through the Chair to the gentleman from Lewiston, Mr. Jalbert, who may answer if he chooses; and the Chair recognizes that gentleman.

Mr. JALBERT: Mr. Speaker and Members of the House: If it would not have been, would not be it still would be for my avid opposition to contractual workers, and if it would not be my complete and thorough aversion to consultants, particularly those on our Indian reservations, I might entertain his thinking.

As it is now — the answer is no.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Sheltra.

Mr. SHELTRA: Mr. Speaker and Ladies and Gentleman of the House: It is not my intent this morning to combat the eloquence of my good friend Mr. Dennett from Kittery as far as oratory is concerned, or the fiery delivery of another colleague Mr. Jalbert, but as I stand before you I feel an inner strength that justice must be served and I strongly feel, for instance in the case of the Chief of State Police and his deputy, who were permitted to remain in office because of the inadequacies of our retirement laws of that time, how do you think that their subordinates felt? Do you realize that when a man is retired or declines from office at a high age or for—actually this could be for

any given reason, that there is a chain reaction that takes place that many subordinate officers and people are promoted? This is what hurts.

I work for a company myself that I will be forced to retire at age sixty-five, and I put my performance on a parallel with Mr. Murphy as far as workwise is concerned, but far be it for me to want to force myself on my company for me to continue to work for them. I feel this way, that there are many many behind me who are equally qualified to do this work and who have been waiting steadfastly and patiently to come to the folds. As a matter of fact, any department head who hasn't been training an understudy has failed in the performance of his duties. He should be glad to step aside.

I want to leave you with one more thought. When Mr. Murphy came before our Retirements and Pensions Committee, he came before us as a witness on one particular bill, and this bill was to lower the age of retirement for the state liquor inspectors; and he went on to cite that these officers, that their job is as hazardous as the state police.

Eight years ago I used to be able to do a hundred setups every morning when I got up and forty pushups on my fingertips. I am down half that number now. What I am trying to say is that, this is not only a mental hazard, this occupation of which we speak, but this man has to be physically fit; and you can't tell me that a man at the age sixty-five can be compared with a young state trooper as far as physical fitness is concerned.

I think, by your actions here today — and this is in closing, I wish you would bear this in mind. This is a fine gentleman, let us do him a favor. He has served with integrity. Would you like to have it on your conscience that by your actions here today that if this man is continued to be in service, should he become injured, should he become injured, the guilt would lie upon your heads? Thank you.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Bernier.

Mr. BERNIER: Mr. Speaker and Members of the House: Just about everything has been said it seems this morning. Mr. Murphy has been lauded to the high heavens. I have nothing personal against Mr. Murphy but I do believe that anyone who will vote to perpetuate him in office, to make another Mr. Hoover out of him, five years now, five years hence another five years, and so on indefinitely, that is wrong, that is a bad bill, the whole principle is wrong. You are by your actions, by the way the vote has been going, you are favoring one man, you are elevating one man, you are thinking of one man at the expense of the rest of the office. That is wrong.

I am obstinately against favoring one at the expense of the many. Before you vote think seriously of your obligation. Your power is strong, you are the one to decide whether the common good will be served or whether you will serve the ego of one man. Think with your head, think with your heart, think with your soul, and please be honest with yourself. Do not use the workers of this state, the faithful workers of this state as pawns in a political game.

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

Mr. MEISNER: Mr. Speaker and Members of the House: I suppose considering my age it would be presumptuous for me to stand up here and say anything this morning. I did say a few words in favor of Mr. Murphy when this bill first came in. In spite of the fact that I may be a sinner I still stand behind my testimony at that time. I am very glad that somebody did not compel me to retire at sixty-five. If they had, I'm sure I wouldn't be here today. As I said at that time, a man is capable of doing his best work at sixty-five. As he looks back over the years he realizes that he has made some mistakes perhaps but at that time he is better able to size up

himself, how he is carrying on his duties, and is able to do a better job.

If I had been hesitating I think before which of course I wasn't, but this letter came to my desk, my righteous indignation rises up within me and I am more conscientious than ever in voting in favor of continuing Mr. Murphy for the next five years, and I hope that you will vote against the motion for indefinite postponement.

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

Mr. TEMPLE: Mr. Speaker and Ladies and Gentlemen of the House: I do not intend to take your time to debate this question this morning. I just would like to stand up on my two feet to defend my position as a signer of the Majority "Ought not to pass" Report of the Retirement and Pensions Committee.

This was debated in committee very thoroughly and it was felt by the majority of the Committee that the State Retirement System should not be opened further, especially for law enforcement officials. So therefore I hope you will vote for the indefinite postponement of this bill. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Alton, Mr. Barnes.

Mr. BARNES: Mr. Speaker, Ladies and Gentlemen of the House: I was one of the signers of the Minority Report on this bill and I am perfectly willing that anybody should point their finger at me after the vote is taken. However, I am going to oppose the motion of Mr. Levesque that this be indefinitely postponed. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Bernier.

Mr. BERNIER: Mr. Speaker and Members of the House: One last word please, just a little patience. I know that the average age in the House is probably well approaching the retirement age and it is just possible that maybe you favor Mr. Murphy because of that very fact that you are in that age group. May I remind you once

more that I am already retired; I am nowhere near the age of sixty-five. I retired at fifty-six and I am glad of it. I know I am repeating myself but please think of the younger set. Be nice to the young people, you've had your day. Now give them a chance to get somewhere, the same chance that you had or maybe you did not have the chance, but this is regressive legislation. If you vote for this you are voting the wrong way. The retirement age is being lowered, not elevated.

The SPEAKER: For the Chair to order a roll call vote it must have the expressed desire of one fifth of the members present and voting. All of those desiring a roll call vote will vote yes and 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 on the motion of the gentleman from Madawaska, Mr. Levesque, that An Act relating to Retirement of Chief Liquor Inspector, House Paper 943, L. D. 1204, be indefinitely postponed. If you are in favor of indefinite postponement you will vote yes; if you are opposed you will vote no. The Chair opens the vote.

ROLL CALL

YES — Allen, Bernier, Binnette, Boudreau, Bourgoin, Brown, Bunker, Burnham, Carey, Carrier, Carter, Casey, Coffey, Cox, Crommett, Croteau, Dam, Emery, Fecteau, Fortier, A. J.; Fortier, M.; Fraser, Gauthier, Gilbert, Giroux, Hichens, Hunter, Jameson, Jutras, Kelley, R. P.; Keyte, Kilroy, Lawry, Lebel, Levesque, MacPhail, Marquis, Martin, Mills, Mitchell, Nadeau, Norris, Ouellette, Pratt, Ricker, Rocheleau, Sheltra, Tanguay, Temple, Watson, Waxman, Williams.

NO — Baker, Barnes, Bedard, Benson, Berman, Birt, Bragdon, Brennan, Buckley, Chandler, Chick, Clark, C. H.; Clark, H. G.; Corson, Cote, Cottrell, Couture, Crosby, Curran, Curtis, Cushing, Dennett, Donaghay, Dudley, Durgin, Dyar, Erickson, Eustis, Evans, Farnham, Faucher, Finemore,

Foster, Good, Hall, Hanson, Hardy, Harriman, Haskell, Hawkens, Henley, Hewes, Huber, Immonen, Jalbert, Johnston, Kelleher, Kelley, K. F.; Lee, Leibowitz, LePage, Lewin, Lewis, Lincoln, Lund, Marstaller, McKinnon, McNally, Meisner, Millett, Moreshead, Morgan, Mosher, Noyes, Page, Payson, Porter, Quimby, Rand, Richardson, G. A.; Richardson, H. L.; Rideout, Ross, Sahagian, Scott, C. F.; Scott, G. W.; Shaw, Snow, Starbird, Stillings, Thompson, Trask, Tyndale, Vincent, Wheeler, White, Wood.

ABSENT — Cummings, D'Alfonso, Danton, Drigotas, Heselton, Laberge, McTeague, Santoro, Soulas, Susi, Wight.

Yes, 52; No, 87; Absent, 11.

The SPEAKER: Fifty-two having voted in the affirmative and eighty-seven in the negative, the motion does not prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act relating to Mental Examination of Persons Accused of Crime (H. P. 1113) (L. D. 1437)

An Act Permitting the Establishment of an Indian Township Passamaquoddy School Committee (H. P. 1119) (L. D. 1439)

An Act relating to Amount Retained by Town Clerks from Fish and Game License Fees (H. P. 1171) (L. D. 1493)

An Act relating to Size of Conibear Traps for Trapping Animals (H. P. 1172) (L. D. 1494)

Finally Passed

Resolve Authorizing Construction of Connecting Building Between Shops at Maine State Prison from Prison Industries Account (H. P. 621) (L. D. 809)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, Bills passed to be enacted, Resolve finally passed, all 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:

SENATE REPORT—"Ought to pass" as amended by Committee Amendment "A" S-121 — Commit-

tee on Judiciary on Bill "An Act relating to Discrimination on Account of Race or Religion" (S. P. 397) (L. D. 1349) (In Senate, Report accepted and Bill passed to be engrossed as amended by Committee Amendment "A")

Tabled — May 9, by Mr. Crosby of Kennebunk.

Pending — Acceptance in concurrence.

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

Mr. BERMAN: Mr. Speaker, Members of the House: All ten members of your Committee which heard the bill considered the evidence very carefully. Not a single person from the length and breadth of the State of Maine came down to our committee room to oppose this measure, which we consider a very fine piece of legislation. I therefore move that the House accept the unanimous committee report in concurrence.

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

Mr. CROSBY: Mr. Speaker and Members of the House: Last Friday I asked this House to table this bill because I had some questions that I wanted to clear up in my own mind. For some unknown reason I was accused because of this action of being a bigot and if this makes me a bigot, so be it.

Over the weekend I did find through some investigation that there is a possibility that there is a question of the legality of part of this bill and it is being researched at the present time, and because of this I would hope that somebody might table this matter until an amendment might be offered.

Whereupon, on motion of Mr. Dennett of Kittery, tabled pending the motion of Mr. Berman of Houlton to accept the "Ought to pass" Report in concurrence and specially assigned for Thursday, May 15.

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

HOUSE REPORT — Committee on Transportation on Bill "An Act

Repealing the Motor Vehicle Dealer Registration Board" (H. P. 881) (L. D. 1124) reporting "Ought to pass" in new draft (H. P. 1180) (L. D. 1500) under title of "An Act relating to the Motor Vehicle Dealer Registration Board"

Tabled — May 9, by Mr. Lebel of Van Buren.

Pending — Acceptance.

On motion of Mr. Lebel of Van Buren, the "Ought to pass" in new draft Report was accepted.

The New Draft was given its two several readings and tomorrow assigned.

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

Bill "An Act Creating Aroostook County Commissioner Districts" (H. P. 49) (L. D. 50)

Tabled — May 9, by Mr. Levesque of Madawaska.

Pending — Passage to be engrossed.

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: This item 3, An Act Creating Aroostook County Commissioner Districts, and another document which is on the calendar this morning, relates to the creating of Commissioner Districts for County Commissioners, and I have some serious reservations that this is an avenue that we would want to pursue in the area of creating Commissioner Districts in two of our counties and not the rest of the counties. I think if we are going to have Commissioner Districts we should do it in all counties so that we would have some uniformity of acceptance state-wide rather than to do it on local area basis as far as counties are concerned.

So the only reservation that I have on this document, that we are creating Commissioner Districts in two of our counties and the other counties will be elected at large. So I certainly don't feel that we are reaching towards the establishing of Commissioner Districts if we are going to do it in only two counties and leaving the rest of the state County Commissioners at large. So I thought I

would table it to express my views and opinions on this that, if we are going to do it, by all means let's do it for all counties, not for only two counties.

Thereupon, on motion of Mr. Finemore of Bridgewater, passed to be engrossed and sent to the Senate.

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

Bill "An Act relating to Defenses of Family Relationships in Civil Actions" (H. P. 168) (L. D. 207)

Tabled — May 9, by Mr. McTeague of Brunswick.

Pending — Motion of Mr. Scott of Wilton to indefinitely postpone.

On motion of Mr. Foster of Mechanic Falls, retabled pending the motion of Mr. Scott of Wilton to indefinitely postpone and specially assigned for tomorrow.

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

Bill "An Act relating to Appointment of Town Clerk of Jay" (H. P. 363) (L. D. 471)

Tabled — May 9 by Mr. Dyar of Strong.

Pending — Passage to be engrossed.

Thereupon, the Bill was passed to be engrossed and sent to the Senate.

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

Bill "An Act relating to Vacating of Street Locations on Plans" (H. P. 495) (L. D. 649)

Tabled — May 9, by Mr. Hewes of Cape Elizabeth.

Pending — Passage to be engrossed.

On motion of Mr. Hewes of Cape Elizabeth, retabled pending passage to be engrossed and assigned for later in today's session.

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

Bill "An Act Creating Waldo County Commissioner Districts" (H. P. 586) (L. D. 771)

Tabled — May 9, by Mr. Levesque of Madawaska.

Pending — Passage to be engrossed.

Thereupon, the Bill was passed to be engrossed and sent to the Senate.

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

Bill "An Act to Grant Adult Rights to Persons Twenty Years of Age" (H. P. 1162) (L. D. 1484)

Tabled — May 9, by Mr. Corson of Madison.

Pending — Passage to be engrossed.

On motion of Mr. Marquis of Lewiston, retabled pending passage to be engrossed and specially assigned for Thursday, May 15.

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

Bill "An Act Making Supplemental Appropriations for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1970 and June 30, 1971" (S. P. 449) (L. D. 1483)

Tabled — May 9, by Mr. Martin of Eagle Lake.

Pending — Passage to be engrossed.

On motion of Mr. Benson of Southwest Harbor, retabled pending passage to be engrossed and specially assigned for Thursday, May 15.

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

Bill "An Act to Reconstitute School Administrative Districts Numbers 31, 32, 40, 41 and 54" (H. P. 513) (L. D. 684)

Tabled — May 9, by Mr. Richardson of Stonington.

Pending — Passage to be engrossed.

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

Mr. RICHARDSON: Mr. Speaker, I present House Amendment "A" under filing number H-313 and move its adoption.

Thereupon, House Amendment "A" (H-313) was read by the Clerk

and adopted and the Bill passed to be engrossed as amended and sent to the Senate.

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

Bill "An Act to Reconstitute School Administrative Districts Numbers 60, 65, 66, 67, 68, 69, 70, 71 and 72" (H. P. 514) (L. D. 685)

Tabled — May 9, by Mr. Richardson of Stonington.

Pending — Passage to be engrossed.

On motion of Mr. Richardson of Stonington, retabled pending passage to be engrossed and specially assigned for tomorrow.

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

Bill "An Act relating to Welfare Assistance" (H. P. 687) (L. D. 918)

Tabled—May 9, by Mr. Birt of East Millinocket.

Pending — Passage to be engrossed.

On motion of Mr. Birt of East Millinocket, retabled pending passage to be engrossed and specially assigned for Thursday, May 15.

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

Bill "An Act relating to Harness and Running Horse Races on Sunday" (H. P. 1069) (L. D. 1398)

Tabled — May 9, by Mr. Kelleher of Bangor.

Pending — Passage to be engrossed.

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

Mr. KELLEHER: Mr. Speaker, I would now move for indefinite postponement of this bill and all its papers and I would like to speak briefly on my motion.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves the indefinite postponement of L. D. 1398.

The gentleman may proceed.

Mr. KELLEHER: Mr. Speaker and Ladies and Gentlemen of the House: I rise this morning in opposition to L. D. 1398. This could

create seven days of racing per week but this might not be exactly so. Tuesday is the poorest day in the current week for racing because of small attendance and mutual handle. This is not only true in Maine but everywhere in the nation. I believe that if this bill is passed we would still have a six-day week of racing, that the tracks would eliminate Tuesday's racing for Sunday racing. I have received mail concerning this bill and have talked to people back home and their feeling is that Sunday is a family day and not another day to be spent at the track, but at home or at camp or at the seashore — in short, it's a family day.

The racing here in Maine is getting longer each year. Not long ago racing started in the middle of May and ended in October. Racing started this year in March and will end in the middle of November. We have enough racing days now without including Sundays.

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

Mr. HARRIMAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise in opposition to this bill and also I would like to comment on the paper that was put on our desk by a lobbyist. I resent the fact that lobbyists bring into this House papers of this type, this paper is full of inaccuracies. I am surprised when I realize the man who signed this was the man who wrote the book and I am one of the guys who read it, but I read it a lot different than he wrote it. For instance, item No. 2, horse racing in Maine is now a \$25,000,000 sport. All you got to do is pick this up and see that we've bet \$21,000,000. He intimates that we had a million and a half dollars paid into the State Treasury, about a million and a half dollars. According to the State Treasurer last year just slightly over a million dollars. It provides hundreds of people with employment. I question that.

I resent a little bit item 9, where it says it is a sport where the whole family can go on a Sunday after-

noon after church and watch the races. I don't happen to be a church member but I have plenty of Christian friends. I think this is an insult to them. I also think it is an insult to the intelligent people in the State of Maine.

Now we get down to number 12, they say an important feature would be to increase money for agricultural premiums, 4-H Clubs, livestock exhibitors, grange exhibitors and so forth and it would provide added funds for agricultural fairs to improve their grounds and buildings. Now look at this book again. The only people that benefit from the improvement of the agricultural fairs, from harness racing, are the people who run the harness races. The other twelve fairs will have harness racing if what little they get which is only about \$19,000 from the General Fund which is created by a tax of three cents on every inhabitant of the State of Maine.

It is my belief that this is strictly a commercial bill because the fairs of themselves do not want it. Sunday racing, that as usual the racing interests are trying to tell you that the only reason they want this is for the benefit of the fairs, the benefit of the State. Again I say this is for the racing interests, strictly commercial interests, and I hope it gets buried.

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

Mr. HICHENS: Mr. Speaker, I rise in favor of the motion to indefinitely postpone this bill. A few weeks ago as I sat here conversing with a member of the third group, so-called, I was approached by a fellow member of the House who asked me what I felt about Sunday racing. With tongue in cheek I answered that with everything else going on these days on Sunday I didn't know that racing would add any problems. Then as he looked at me in rather an unbelieving way I added, of course I mean just racing, no betting. In a news column sometime later the reporter stated that racing without betting was as exciting as watching wet paint dry. I would point out that even watching wet paint dry

can be exciting at times as portrayed often on the comic pages, on TV or in movies when someone inadvertently sits on a newly painted park bench or some similar situation exists.

I requested the Attorney General's office to give me a statement on just what is implied by Sunday racing and received the following communications:

"You have orally requested an opinion concerning Legislative Document 1398, i.e., whether that bill, if enacted, would permit harness and running horse races on Sunday together with attending betting thereon. Because the proposed amendment utilizes the words 'running horse races or meets as used in Title 8, Chapters 11 and 13, such races or meets could be conducted on Sunday after the hour of 1 p.m. as is authorized by said Title and Chapters. The answer to your question is in the affirmative."

And then the following letter from the Attorney General's office:

"I have your letter of April 24, 1969 asking whether or not the enactment of Legislative Document 1398 would be establishing a precedent relative to gambling on Sundays.

"As you know, gambling is prohibited on any day with two exceptions, i. e., Beano (regulated by the State Police by Statute) and parimutuel betting at horse races."

A paper was distributed on our desks last week which has already been referred to by the gentleman from Hollis listing arguments in favor of Sunday racing. I believe that many of these arguments prove just why Sunday racing should be prohibited. For example, number one: "Every other sport allowed on Sunday: automobile racing, baseball, football, skidoo, hockey, etc., substantiates my reasons for not opposing racing as such as a sport."

Number nine — this has already been referred to: "It is a sport where a whole family could go on a Sunday afternoon after Church and watch the races." I do not believe that parimutuel racing is family entertainment. If most men and women don't take their young-

sters to the races during the week, why would they take them on Sunday? This only adds to the breaking up of family ties on what is usually recognized as a family day.

And finally number ten. It says, "You don't have to bet to watch racing." This takes us right back to where I started, and this is where I sit down.

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

Mr. RIDEOUT: Mr. Speaker and Ladies and Gentlemen of the House: First may I make it perfectly clear to this House that I am not a horse player, and I'm not sponsoring this bill in order to find a way to while away my Sunday afternoons. My primary concern is the revenue aspect of this legislation.

It is estimated that this measure should bring in an additional \$500,000 dollars in this biennium. This figure does not include the additional sales tax monies generated from food sales, of gasoline sales, nor monies included for the stipend fund for the state fairs.

There are many other L. D.'s with price tags on them that may not pass because of lack of funding. This estimated \$500,000 looks very good and useful to me for this State of Maine. I have seen so many worthy L. D.'s which can do so much general good die on the appropriation table at the end of the session, and I feel that this \$500,000 would help.

I call your attention to this morning's Senate calendar. There are eighty-two L. D.'s on the special appropriation table. There'll be more. Those who were here in the 103rd remember when in the closing minutes of the session the special appropriation table was cleared for lack of funding. Those who don't remember this, let me tell you that this is a heartbreaking experience to see so many good L. D.'s which you have shepherded like your own children through the legislative maze die an ignoble death because of the lack of money, is almost agonizing. And I'm afraid history will repeat itself in the 104th. This \$500,000 would certainly ease some of the agony,

and it would certainly promote the common weal.

Now Sunday racing is not unusual. There are ten other states which now have Sunday racing. Also, Canada and most European countries have it. Colorado has just this term adopted this measure. Vermont is the nearest state to us which allows racing on Sunday.

I have letters from other states which do allow Sunday racing, and they clearly indicate that this day is not only the most profitable, but also the most popular, and it would be here in Vacationland, Maine. Let me just quote from a couple of them:

Montana—"The Sunday average mutuel handle increase over a weekday handle at Great Falls in '68 was 33 9/10% greater, and at Billings 37%. If it were not for Sunday racing in Montana, some race meets would not be able to operate."

From Arizona—"The parimutuel handle on Wednesday averages \$479,000; Friday, \$448,000; and on Sunday, \$815,000." Arizona indicates the same thing. I could quote you statistics from these letters.

New Mexico says—"Our tracks could not operate profitably if we did not have Sunday racing."

At the present time on Sunday we have theaters open, we have football games, we have baseball games, bowling alleys open, amusement centers and many other forms of recreation on Sunday. Sports are a way of life to the general American public. Parimutuel betting is legal in this state, and if extended to Sunday would certainly not be earthshattering.

I hope this bill will meet with your approval and you will defeat the motion to indefinitely postpone it. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Lawry.

Mr. LAWRY: Mr. Speaker and Members of the House: I would support the motion of the Representative from Bangor, Mr. Kelleher. It may seem a little late to speak on behalf of Sunday, but the fact remains that what we have left of it is, and should be, a family day. Perhaps the rest of you here have heard from your

constituents demanding Sunday racing; but such has not been the case with me.

It seems to me that we have done nearly enough for every special interest group during this session, and I hope that we consider the average citizen of the state and go along and vote for indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Hall.

Mr. HALL: Mr. Speaker and Members of the House: I too would like to go along with my good friend, Mr. Kelleher from Bangor, in opposing this Sunday racing bill. I do not think we will gain any more revenue by having it on Sunday, because the rest of the week will drop down in our handle and by that we'd drop out probably one day through the week, which would probably be Monday or Tuesday. So I hope the House will go along with indefinitely postponing it.

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

Mr. MEISNER: Mr. Speaker, Ladies and Gentlemen of the House: I'm sorry to have to oppose my dear seatmate here, but I feel that in my position I cannot sit here and not say a word against this bill. I don't think you can accuse me of ever trying to preach to you since I've been down here these four times. But the situation as we have it in our communities, and in our state and in our country is a situation that is very serious to me, serious to everybody.

Last night the former Vice President, Mr. Humphrey, making a speech said that we as a nation were in a very serious condition—very serious, and I think that his words have great meaning for us. We're whittling away at all these sacred things that have been here in the history of our nation, and Sunday, the Sacred Day, is being whittled away at all the time, no different than any other day. I think there are some things that we should adhere to. All the arguments since this bill has been presented, I cannot add any more to them, but I just hope you will go

along with the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. LePage.

Mr. LePAGE: Mr. Speaker and Members of the House: I rise to speak in favor of this bill. Where would Maine be without our tourist trade? Maine is called Vacationland. It seems to me that we should try a little bit to live up to Vacationland. I can't see any more harm in Sunday racing than drag racing. I know of people who bet on football games, we bet on the World Series. I'm sure the State would benefit from this Sunday racing and certainly my town would.

I represent Scarborough; I'm in favor of this bill. I hope you will vote for it.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Marstaller.

Mr. MARSTALLER: Mr. Speaker and Members of the House: I want to support the motion for indefinite postponement. My friend from Manchester, Mr. Rideout, told how much money this was going to bring into the State of Maine. I have had a little to do with tourists and know that tourists spend money on various things, and if they are not spending on racing they will spend it on something else. And I also know that many of the people that will be spending money on this racing are the ones that can least afford to spend it. And I feel also that much of the money that is going to be spent on this Sunday racing will also go outside of the State of Maine to people that own the tracks. And therefore, we will also be losing money outside the State of Maine that might be spent in the State of Maine for something here. I also oppose this because it is extending other things on Sunday which I think we ought to save as much of Sunday as possible. Thank you.

The SPEAKER: Is the House ready for the question? The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this Bill "An Act relating to Harness and Running

Horse Races on Sunday," House Paper 1069, L. D. 1398 be indefinitely postponed. If you are in favor of indefinite postponement you will vote yes; if you are opposed you will vote no. The Chair opens the vote.

A vote of the House was taken. 93 having voted in the affirmative and 34 having voted in the negative, the motion to indefinitely postpone did prevail.

Sent up for concurrence.

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

Resolve Proposing an Amendment to the Constitution Pledging Credit of State and Providing for the Issuance of Bonds not Exceeding, at Any One Time Issued and Outstanding, Twenty-Five Million Dollars for Loans to Private Colleges for Construction and Expansion of Facilities (S. P. 261) (L.D. 865)

Tabled May 9, by Mr. Farnham of Hampden.

Pending — Passage to be engrossed.

Thereupon, the Bill was passed to be engrossed and sent to the Senate.

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

Resolve Proposing an Amendment to the Constitution to Reduce the Voting Age to Twenty Years (H. P. 614) (L. D. 802)

Tabled—May 9, by Mr. Corson of Madison.

Pending—Final Passage.

On motion of Mr. Marquis of Lewiston, retabled pending final passage and specially assigned for Thursday, May 15.

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

An Act relating to Municipal Park and Conservation Commissions (H. P. 749) (L. D. 967)

Tabled—May 9, by Mr. Casey of Baileyville.

Pending—Passage to be enacted.

On motion of Mr. Casey of Baileyville, under suspension of the rules, the House reconsidered its

action on May 1 whereby the Bill was passed to be engrossed.

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

House Amendment "A" (H-298) 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 seventeenth tabled and today assigned matter:

HOUSE REPORT — "Ought not to pass"—Committee on Towns and Counties on Bill "An Act relating to Fees of Local Sealers of Weights and Measures" (H. P. 879) (L. D. 1122)

Tabled—May 9, by Mr. Dyar of Strong.

Pending—Acceptance.

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

Mrs. KILROY: Mr. Speaker and Members of the House: I would like to substitute the bill for the report. This particular bill pertains to the City of Portland concerning weights and measures and at a later time I would present an amendment.

Thereupon, the Bill was substituted for the "Ought not to pass" Report, given its two several readings and tomorrow assigned.

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

HOUSE REPORT — "Ought not to pass"—Committee on Education on Bill "An Act relating to Secondary Education in the Town of Islesboro" (H. P. 509) (L. D. 680)

Tabled—May 9, by Mr. Richardson of Stonington.

Pending—Acceptance.

On motion of Mr. Richardson of Stonington, the Bill was substituted for the "Ought not to pass" Report, given its two several readings and tomorrow assigned.

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

Bill "An Act relating to Mediation Authority of State Employees Appeal Board" (H. P. 1035) (L. D. 1345)

Tabled—May 9, by Mr. Huber of Rockland.

Pending — Passage to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Huber.

Mr. HUBER: Mr. Speaker, this bill has been on the table now for a week and there's a rather serious question that has been brought about as far as the bill is concerned, and rather than let it lie around here I now move that we recommit it to the Committee on Labor.

Thereupon, the Bill was recommitted to the Committee on Labor and sent up for concurrence.

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

Bill "An Act relating to Hunting, Fishing and Trapping by Indians" (H. P. 1155) (L. D. 1477)

Tabled—May 9, by Mr. Mills of Eastport.

Pending — Passage to be engrossed.

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

Mr. MILLS: Mr. Speaker, a question of illegality has arisen on this bill. I recommend tabling for one legislative day.

Thereupon, on motion of Mr. Rideout of Manchester, retabled pending passage to be engrossed and specially assigned for tomorrow.

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

REPORT "A" (5) — "Ought to pass"—Committee on Taxation on Bill "An Act Providing for a State Income Tax" (H. P. 615) (L. D. 803) —Report "B" (5)—"Ought not to pass"

Tabled—May 9, by Mr. Levesque of Madawaska.

Pending — Acceptance of either Report.

On motion of Mr. Levesque of Madawaska, retabled pending acceptance of either Report and specially assigned for Thursday, May 15.

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

MAJORITY REPORT (6) — "Ought not to pass"—Committee on Taxation on Bill "An Act Imposing an Individual and Corporate Income Tax" (H. P. 448) (L. D. 657) and MINORITY REPORT (4) reporting "Ought to pass"

Tabled—May 9, by Mr. Levesque of Madawaska.

Pending—Motion of Mr. Susi of Pittsfield to accept Majority Report.

On motion of Mr. Levesque of Madawaska, retabled pending the motion of Mr. Susi of Pittsfield to accept the Majority Report and specially assigned for Thursday, May 15.

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

HOUSE REPORT — "Ought to pass"—Committee on State Government on Bill "An Act to Establish the State Racing Commission" (H. P. 1047) (L. D. 1375)

Tabled—May 9, by Mr. Johnston of Fort Fairfield.

Pending—Acceptance.

On motion of Mr. Dennett of Kittery, the "Ought to pass" Report was accepted, the Bill read twice and assigned for third reading tomorrow.

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

Bill "An Act Redefining the Bounds of Merrymeeting Bay Game Sanctuary" (H. P. 815) (L. D. 1054)

Tabled — May 9, by Mr. Curtis of Bowdoinham.

Pending — Passage to be engrossed.

On motion of Mr. Curtis of Bowdoinham, retabled pending passage to be engrossed and specially assigned for Thursday, May 15.

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

Bill "An Act Amending the Charter of Portland Relating to Title of Chairman of the City Council" (H. P. 998) (L. D. 1300) (In House, passed to be engrossed) (In Senate,

recommitted to Committee on Legal Affairs)

Tabled — May 9, by Mr. Shaw of Chelsea.

Pending—Further Consideration.

On motion of Mr. Shaw of Chelsea, the House voted to recede and concur in recommitting the Bill to the Legal Affairs Committee.

The Chair laid before the House the twenty-sixth tabled and today assigned matter:

MAJORITY REPORT (8) — “Ought to pass” — Committee on Labor on Bill “An Act relating to Weekly Benefits for Total Unemployment under Employment Security Law” (H. P. 694) (L. D. 894) and MINORITY REPORT (2) reporting “Ought not to pass”

Tabled—May 9, by Mr. Huber of Rockland.

Pending—His motion to accept Majority Report.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Huber.

Mr. HUBER: Mr. Speaker and Ladies and Gentlemen of the House: I find I can't resist the temptation to point out the irony of the two bills that follow in succession. They've been on the calendar now for a week. This first one that we're going to debate rather extensively, I suspect, increases the weekly benefits to the worker who becomes unemployed, and the next bill, the so-called Minimum Wage Bill, will decrease the chances of some of the young, the new and others to find employment during the summertime.

Suffice to say, I signed the “Ought to pass” Report on this L. D. 894. I did so because I think it is fair, and I do believe that it is necessary at this time.

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

Mr. JALBERT: Mr. Speaker and Members of the House: In speaking in favor of the Majority “Ought to pass” Report, I feel that this is a humble request of five dollars per week. There has been no raise since 1964, and I wholeheartedly support the Majority Report “Ought to pass.”

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, I move that we accept the “Ought to pass” Report.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker and Ladies and Gentlemen of the House: I wish to speak against this bill and would call to your attention many of the facts and reasons why I think you should oppose it.

The gentleman from Lewiston, Mr. Jalbert, just stated that there has not been any increase in benefits under this bill for a number of years. I would call to your attention that in 1964 the maximum benefit amount under this bill was \$34 a week; in 1965 it was raised to \$43; 1966, \$45; 1967, \$47; 1968, \$49; for an increase in the last five years of roughly fifty percent.

I would also remind you that as of June 1 by law this will automatically increase to either \$51 or \$53 per week. So if this group took no action whatsoever, there is built into the law an automatic escalator clause which will and does increase benefits every year. The benefits which a man receives are based upon, at present, a fraction of his earnings in his highest quarter. In other words, we take one twenty-fifth of his high quarter wages, which in effect gives you a little more than half pay, and his benefits are determined that way. Now wages have been going up steadily each year five to six percent, so this in itself is an automatic increase.

Now the proposed legislation proposes to change this figure from one twenty-fifth of the high quarter to the figure of one twenty-second of the high quarter. And this in itself is an additional 13½% increase over what the present law calls for in its automatic escalator clause.

During this same period wages, average weekly wages, have increased from \$86 a week to well over \$100, the increase in wages being somewhat around twenty-one or twenty-two percent increase, the increase in benefits being over 50%.

Now I would call to your attention that the argument may be used that there are some 42 or 43 or \$44 million now in the unemployment fund, and it will be very safe for us to give this very very substantial increase in benefits without affecting the fund whatsoever. Now the fund is not at its highest level. The highest level was a number of years ago, and during one of those bad years over \$18 million came out of the fund in one year. Now if we have another year like that, and of course it's possible, with benefits to be increased, have already increased over fifty percent since this bad year, it would mean that some 27 to \$30 million could come out of this fund in one year. Now I ask you if you are serious in wanting to protect labor? Do you want to see this fund completely dissipated and nothing left for the unemployed individual?

This bill is a strange one. I think the gentleman from Kennebunkport is the sponsor, but he is not the author, and as is true and typical in so-called labor-management negotiations, the boys on the labor side, and I've sat on both sides of the table, come in asking for the moon, they expect a slice of it. In this case, the author of the bill rightly came in asking for the moon. He rightfully assumed that the Committee in its deliberations would find out what was an appropriate slice and come out with a slice. Instead of that, the Committee, for reasons unknown to me and immaterial to the subject probably, gave him the whole moon.

In other words, we have three built-in increases into this bill, and which would increase the weekly benefit amount by changing the divisor from one twenty-fifth to one twenty-second, another increase by raising the percentage to be given from not to exceed 50% of average weekly wages to 55%. So you have a 10% increase there. The change from twenty-five to twenty-two is a 13.6% increase, and then where the law now says, where the figures come out in odd pennies that they will be converted to the nearest dollar. This proposal says we'll raise them to the next highest dollar.

So if the figure came out to \$36.01 it would go to 37%.

Now in my book this whole increase is completely unjustified. The law, as it is now written, requires that every year the commission determine the average weekly wage in covered employment and set a new maximum for benefits, and this should automatically take care of the problem itself. This to me constitutes a raid on a fund, and certainly when this so-called war boom — and it is a war boom, ends, we are going to have greater unemployment. It is inevitable, and I would still like to see a fund there so that when there is unemployment, those who richly deserve this amount of money will get it. I hope the order fails of passage.

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

Mr. HASKELL: Mr. Speaker and Members of the House: I signed the Minority "Ought not to pass" Report on this bill for one reason. I feel that this becomes a matter of judgment in the size of the weekly benefit amounts.

But now the unemployment compensation bill is a complicated piece of legislation. My colleague, Mr. Farnham, made mention of the fact that in our bill we do have an escalator clause. This clause ties the weekly benefit amount to the average wage. In other words, as the wage levels in the state increase, the weekly benefit amount increases correspondingly. And as Mr. Farnham indicated, the weekly benefit amount has increased rather substantially over the last few years.

In this bill we do have built in some very substantial increases. The Unemployment Compensation Commission calculated that if this formula had been in effect in the last year that they had complete figures, it would have meant an increase in overall expenditures out of the fund of something in the area of \$1,400,000. Now I submit that in the period characterized by very high employment that an increased drain on the fund of \$1,400,000 is a substantial amount of money, and I think if you'll project that to a period when we might have substantial unemploy-

ment, you can see that we are indeed liberalizing the expenditures from the fund more than seems warranted.

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

Mr. JALBERT: Mr. Speaker and Members of the House: Possibly the gentleman from Hampden, Mr. Farnham, either misunderstood or I did not explain myself properly. I just made the statement that we have not voted an increase since 1964. Due to escalation there might have been increases within, but we in the Legislature have not voted any extension since 1964. I stand on that statement.

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

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen of the House: I served three terms on the Labor Committee. I served as both House chairman and Senate chairman. We used to have specific amounts for unemployed benefits, and now as you have heard it is based on an earnings formula. I was always a very firm believer that we should be fair to both segments of our industrial economy, both Labor and Management. I always favored moderate increases for both the Employment Security Law coverage and Workmen's Compensation.

The gentleman from Hampden, Mr. Farnham, mentioned that with the wage increases lately automatically they have had increased unemployment benefits. But I ask you, what about the thousands of workers in this state who have not had substantial increases lately? I for one have compassion for them and support this bill wholeheartedly.

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

Mr. MILLS: Mr. Speaker and Members of the House: Being a retired person I am not familiar with this thing, but I would like to pose a question through the Chair to anybody who cares to answer. And that is, how long do these people draw, the average person

draw on this unemployment, and how many of these people draw per year?

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 Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, in answer to the gentleman from Eastport, Mr. Mills, the maximum length of time that they may draw is twenty-six weeks. It averages out around eleven weeks during the year. As to the number who draw, that all varies each year with the general employment situation.

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

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: First I might say that I am not a newcomer to this type of legislation. I spent fifteen years in management and industry and know whereof I speak, and on management's side in many cases, I assure you, but always with compassion in my heart for the guy that produces.

I sponsored this bill after much soul searching and research in this matter. I realize that the unemployment law is a complicated law, yet with all its complications it is designed to do simple things. First to insure workers against the dread of unemployment and carry them over to the next job, their families against possible hunger and the need to call on their towns for help. The second and equally important, it is designed to keep the economy going—that is to keep money in circulation by seeing that the landlord gets his rent, the grocer gets paid, the insurance is kept in force, and in turn the grocer pays the farmer for his produce, the merchant pays the manufacturer for his goods. It helps pay everyone's taxes so that the services that our communities and State offer us are kept available.

Another important factor is it helps keep our work force intact. In these days there are more jobs than workers, competition for

workers is intense. Some may say that wages keep workers in a locale. That is not always so. The reluctance to leave home and family, the necessary monies to move, and many other factors.

In this competition for workers we find that all the other New England states give greater amounts to the unemployed worker than Maine. For instance, Connecticut, \$70; Massachusetts, \$57; Rhode Island, \$53; little Vermont, up in the country, \$53; New Hampshire, \$54; and Maine tops \$49.

Another comparison in the total amount of money that the unemployed worker may draw is as follows: Connecticut, \$1820; Massachusetts, \$1710; Rhode Island, \$1378; Vermont, \$1378; New Hampshire, \$1404; and Maine, \$1274.

Does it cost less to live in Maine than in New Hampshire or in Vermont? We all know that isn't so.

Some may say that the present law has an escalation built into it—that is when the average wage goes up, benefits go up. That is true, but does it go up enough to offset the rising cost of living, the drop in the value of the dollar? As an example of the dollar of 1957 is worth 82c, according to the Bureau of Labor Statistics, U. S. Department of Labor, and the cost of living has been going up year after year 21.9% in the last ten years.

Arguments may be made that the unemployment fund may be adversely affected. Ladies and gentlemen of the House, the Trust Fund set up to pay benefits is at present approximately \$45,000,000 and growing steadily. If we use 1968 figures the Employment Security Commission estimates that the program I advocate will cost a little over a million dollars, still leaving a good cushion for the growth of the fund of nearly a million a year.

Ladies and gentlemen of this House, I sincerely ask that you go along with me in committing ourselves to this little bit of justice for the man or woman who may find him or herself out of work. It is a small weekly amount that this bill allows. Realize that the aver-

age payment to the unemployed is only \$37 per week, and we must deal with averages because benefits vary in accordance with one's earnings. Some may receive \$10 per week, the minimum, while others receive the maximum amount of \$49 per week, and they are in the minority.

Is it too much to ask \$5.00 per week more for a man out of work?

The cry of warning oftentimes that the fund is going to decrease—don't let them kid you. This fund will increase with this little increase and might every year just the same. It is a small amount that they are asking you to give to the man that produces with his hands. Management, the fatted calf, is always saying to the opposite that he might be drawing too much, but I assure you this is not true. The figures prove otherwise. I hope that you will support the majority "ought to pass."

And one other thing that I may say, that when these people went before the Labor Committee and I presented this bill, and these gentlemen of this Labor Committee are one of the finest groups that we have on a committee in this House, and some of them are the most conservative. And if they did not send this out 8 to 2 or somewhere in there "ought to pass" I wouldn't be on my feet today. I hope that you will support this Committee's long deliberations of several weeks and support the majority "ought to pass."

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: With all the debate on this bill this morning and the favorable committee report of 8 to 2 in favor of this measure, and in checking with the Employment Security Commission the fund presently is around \$45 million, and I do not see that this bill would jeopardize the fund in any way whatsoever, I appeal that the House this morning in its good judgment should support the Majority "Ought to pass" Report and when the vote is taken I request that it be taken by the yeas and nays.

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

Mr. McNALLY: Mr. Speaker, I would like to pose a question through the Chair to Mr. Tyndale. Will this bill correct the situation now that you know that people are unemployed and you offer them a job and they say—we're very sorry, we cannot go to work because we've got to collect our check tomorrow.

The SPEAKER: The gentleman from Ellsworth, Mr. McNally poses a question through the Chair to the gentleman from Kennebunkport, Mr. Tyndale, who may answer if he chooses, and the Chair recognizes that gentleman.

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: This is somewhat always been said, but to me it is a serious indictment of every man and woman that works for a living, and I have never come in contact with a man yet who wasn't willing or ready to go back to work when he had the opportunity. And I will stand by that. Sure there are abuses. There are abuses in everything. There are abuses in management and there are abuses in employees. But we have to abide by the majority. And I believe that the majority of Maine workers are the best workers in this country, and I will stand by them every time.

The SPEAKER: The Chair recognizes the gentleman from Albion, Mr. Lee.

Mr. LEE: Mr. Speaker, and Ladies and Gentlemen of the House: Much has been said here today. Far be it from me to object to too much of it. I believe that this particular bill is unnecessary at this time. Much has been said about the worker. This is true. Nothing has been said about the small businessman. The small business man pays the highest rate of unemployment insurance there is. We depend on seasonal workers at times and keep what men we can afford to keep. I believe that this unemployment fund is abused to some extent. I am not arguing that. It's a good thing to have. Employees benefit from it. They get an automatic rise every year.

In light of these things I have heard today, I wish to make the motion that this bill and all its accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the gentleman from Raymond, Mr. Durgin.

Mr. DURGIN: Mr. Speaker and Ladies and Gentlemen of the House: As a member of the Labor Committee who signed the "Ought not to pass" Report, I happen to think that what the Legislature adopted in 1965, a new approach to unemployment benefits—I happen to think that was a good approach.

Now the Legislature adopted the maximum benefit amount, applied to the annual average weekly wage. This made the benefits flow with the economy of the state, and I think that is good. I think it's enough. Industry is going to be faced, I understand, with a possible corporate tax. Now with the rising cost in doing business, and this corporate tax being mentioned along with a personal income tax, I think we are putting too much of a burden on our small businessmen, and I go along with the motion to indefinitely postpone this bill and both reports.

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

Mr. BINNETTE: Mr. Speaker and Ladies and Gentlemen of this House: After hearing the eloquent speech made by my good friend from Kennebunkport, Mr. Tyndale, giving us a comparison of what the unemployed receive in various states, I can assure him that it costs just as much to live in the State of Maine as it does in these other states. And I disagree with my good friend from Hampden, Mr. Farnham, and I believe that we should here this morning vote for the yeas and nays in regard to the indefinite postponement of this bill, and I so request it.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Hardy.

Mr. HARDY: I don't have my glasses with me this morning but I have been noting down a few figures on my journal as they have

been going around the House, and I would like to direct a question to our House Chairman, Mr. Huber, from Rockland. I understand that at present we have a top weekly benefit of \$49 and that this \$5 increase would give us a top benefit of \$54, and the average weekly collections, I mean the average collections from unemployed is 11 weeks, and am I right in assuming that the 11 weeks at \$54 makes a total of \$594, which added to our \$12.74 makes a grand total of \$18.68 where we are now paying \$12.74?

The SPEAKER: The gentleman from Hope, Mr. Hardy, poses a question through the Chair to the gentleman from Rockland, Mr. Huber, who may answer if he chooses.

The Chair recognizes that gentleman.

Mr. HUBER: Mr. Speaker and Ladies and Gentlemen of the House: I am rather slow, but I always have confidence in Representative Hardy's figures.

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

Mr. TYNDALE: Mr. Speaker, you know my good seatmate and I have been getting along wonderfully well all session and I know we always will regardless of our positions on bills. But in this place you note that he took the top benefit. I leave that to your judgment.

The SPEAKER: The pending question is the motion of the gentleman from Albion, Mr. Lee, that both Reports and Bill be indefinitely postponed. The yeas and nays have been requested. For the Chair to order a roll call vote, it must have the expressed desire of one fifth of the members present and voting. All members desiring a roll call vote 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 a desire for a roll call vote, a roll call vote was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Albion, Mr. Lee, that both Reports and Bill "An Act

relating to Weekly Benefits for Total Unemployment under Employment Security Law," House Paper 694, L. D. 894, be indefinitely postponed. If you are in favor of the motion you will vote yes; if you are opposed you will vote no. The Chair opens the vote.

ROLL CALL

YEA — Allen, Baker, Benson, Bragdon, Buckley, Bunker, Chick, Clark, H. G.; Crosby, Cummings, Dennett, Donaghy, Durgin, Dyar, Erickson, Farnham, Fortier, A. J.; Foster, Hanson, Hardy, Harriman, Haskell, Henley, Hewes, Immonen, Jameson, Kelley, K. F.; Kelley, R. P.; Lee, Lewis, Lincoln, MacPhail, McNally, Meisner, Millett, Moreshead, Mosher, Page, Payson, Pratt, Quimby, Scott, G. W.; Shaw, Snow, Thompson, Trask, White, Wight, Williams.

NAY — Barnes, Bedard, Berman, Bernier, Binnette, Birt, Boudreau, Bourgoin, Brennan, Brown, Burnham, Carey, Carrier, Carter, Casey, Chandler, Clark, C. H.; Coffey, Corson, Cote, Cottrell, Couture, Cox, Crommett, Croteau, Curran, Curtis, Cushing, D'Alfonso, Dam, Danton, Drigotas, Dudley, Emery, Eustis, Evans, Faucher, Fecteau, Finemore, Fortier, M.; Fraser, Gauthier, Gilbert, Giroux, Good, Hall, Hawkens, Heselton, Huber, Hunter, Jalbert, Johnston, Jutras, Kelleher, Keyte, Kilroy, Laberge, Lawry, Lebel, Leibowitz, LePage, Levesque, Lewin, Lund, Marquis, Marstaller, Martin, McTeague, Mills, Mitchell, Morgan, Nadeau, Norris, Noyes, Ouellette, Porter, Rand, Richardson, G. A.; Richardson, H. L.; Ricker, Rideout, Rocheleau, Ross, Sahagian, Santoro, Scott, C. F.; Sheltra, Starbird, Stillings, Tanguay, Tyndale, Vincent, Watson, Waxman, Wheeler, Wood.

ABSENT — Hichens, McKinnon, Soulas, Susi, Temple.

Yes, 49; No, 96; Absent, 5.

The SPEAKER: Forty-nine having voted in the affirmative and ninety-six in the negative, the motion does not prevail.

Thereupon, the Majority "Ought to pass" Report was accepted, the Bill read twice and tomorrow assigned.

The Chair laid before the House the twenty-seventh tabled and today assigned matter:

MAJORITY REPORT (7)—Committee on Labor on Bill "An Act Revising the Minimum Wage Law" (H. P. 864) (L. D. 1106) — Ought to pass" in new draft (H. P. 1166) (L. D. 1487) under same title and MINORITY REPORT (3) reporting "Ought not to pass"

Tabled — May 9, by Mr. Huber of Rockland.

Pending — Motion of Mr. Good of Westfield to accept Majority Report.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Huber.

Mr. HUBER: Mr. Speaker and Members of the House: At a time when other people around the country are trying to encourage the employment of teenagers, older people, and others who are outside the general area of what we consider the majority of the labor force, we here are now considering a law to make it a little more difficult for the small businessman particularly to be able to hire those potential full and part-time workers on both sides of the age scale. The combination in this document, L. D. 1487, the combination of an increase in the minimum wage plus the removal of some of the exemptions is bound, bound to have some adverse effect on potential jobs and certainly it is obvious that some of those potential jobs are in the area of summertime employment.

I am opposed to this legislative document as it stands right now. Under the minimum wage chapter, Title 26 of the Labor Laws, Section 663, now lists eleven exemptions. One of those exemptions is the first listed under Section 1 of Title 1497 and reads in the document in the Statutes right now. Exempted any individual "who is engaged in the activities of a public-supported nonprofit organization or in a program controlled by an educational nonprofit organization." Now the L. D. has inserted the qualifying phrase any individual "who is under the age of 19 and is regularly enrolled in an educational institution or is on

vacation therefrom." Now this covers the areas such as Y.M.C.A.s who traditionally hire younger people to do work for them. It does however begin to exempt people who may wish to work in the areas, conceivably possibly in the church areas, people who will work —secretarial work, and this is almost on a semi-voluntary basis in some areas. I question if we should remove this particular exemption.

The next one listed, L. D. 1487 is the one that covers summer camps, boys and girls camps in the State of Maine. As it stands in the law book today, it reads, and these are exemptions from the minimum wage law, it reads, "Those employees who are counsellors or junior counsellors at summer camps for boys and girls; and employees of said summer camps, other than counsellors or junior counsellors, who are under the age of 19 and are regularly enrolled in an educational institution or are on vacation therefrom." Now the last three lines have been stricken from the document and it now reads, "Those employees who are counsellors or junior counsellors at summer camps for boys and girls" and no longer exempts those who are under the age of 19 and have traditionally been hired by our summer camps not only for work but also for the enjoyment that goes with the summer camp activity. I don't think that really needs too much explanation. It's not a dramatic number of people but it certainly is a dramatic instance of individual cases where boys and girls living in the areas of summer camps were able to do some work and also enjoy some of the benefits.

Then the minimum wage section, I personally question the wisdom of raising the minimum wage, per hour wage to \$1.60 at this time, though presently it reads \$1.50 in the Statutes and went into effect October of 1968. The requirements for overtime have been reduced from 48 hours to 44 hours and this section of the law contains some exemptions from the overtime provision. The present law includes at the end of the paragraph which lists overtime exemptions from the overtime provision, which are rath-

er obvious, but it includes at the present moment nursing homes, hospitals, hotels, motels, and restaurants.

Now it is my understanding that the hospitals and possibly even the nursing homes are no longer concerned with the state law as far as the overtime provision is concerned. However, I am sure that the hotel and motel people are—and particularly the restaurant people are concerned with the overtime provision. Now when we are talking overtime provisions in areas like the restaurant operators, you and I are not talking about the minimum wage plus time and a half. We are talking about considerably higher hourly wage rates than that because of the nature of the job in the kitchen particularly—the chefs you hire, the cooks you hire, and the people who work out back.

Now my personal reaction is that I would like to see some of those exemptions restored to this bill. As I said I am opposed to the document as it stands right now and I will vote against the pending motion.

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

Mr. LEVESQUE: Mr. Speaker, in view of the importance of this document and that we must maintain somewhat of a level with the rest of the country in supporting these workers of a minimum wage, I would request that when the vote is taken that it be taken by the yeas and nays.

The SPEAKER: The gentleman from Madawaska, Mr. Levesque, moves that when the vote is taken it be taken by the yeas and nays. For the Chair to order a roll call vote it must have the expressed desire of one fifth of the members present and voting. All of those desiring a roll call vote 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 Chair recognizes the gentleman from Portland, Mr. Cottrell.

Mr. COTTRELL: Mr. Speaker and Members of the House: I must agree with Representative Huber's thinking in regard to those under 19 that are working in hotels and motels, and girls and boys in summer camps. I think that anyone in that line of work or who has had experience in that line of work realize that these people should be exempted. The summer business is a very short business; it's a very risky business. Much money is invested in it. It depends upon the weather. The people working in a summer place like that are not always fully employed. On rainy days they may work harder than they do on fair days because people are checking out. It's a very mobile type of guest today. In the beginning of the season you are on duty but you are not working because your hotels don't fill up. I think that you get full occupancy in your hotels only for about six weeks out of the summer and yet they have got to be fully staffed. And then too, it supplies a great many jobs for the young people that are earning money to go to college. I would hope that this exemption could still stay in our minimum wage setup and if it doesn't, I will have to vote against this bill.

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

Mr. HASKELL: I rise to support Representative Huber. I signed the Minority "Ought not to pass" on this bill for two reasons: Number one, I feel that almost nobody quarrels with the concept of minimum wages. However, if the minimum wage concept is extended too far, I feel it becomes self-defeating because of the fact that in our total labor force we do have people who are handicapped by reason of age or by physical or mental handicaps that must have opportunities for employment. We also find in our labor markets the teenagers who are entering the labor market for the first time and again in the exemptive areas they do find opportunities for employment. I think that we create more social problems than we solve if we extend the minimum wage coverage to try to blanket the whole labor market

area. There is an additional factor which has not been mentioned here today that I think does deserve some consideration. One of the most acute national problems that we have at the present moment—I believe everybody will agree, is inflation. Inflation feeds on two things: rising prices and rising wages. I consider it a little bit irresponsible on the part of the state government to pass a bill which would in effect create almost an automatic five percent wage increase by reason of the fact that the hours are reduced from 48 to 44, at which point the time-and-a-half provision takes effect. If this vote is favorable for the passage of this legislation, we are in effect adding fuel to the inflationary fires.

The SPEAKER: All who are in favor of accepting the Majority "Ought to pass" Report on Bill "An Act Revising the Minimum Wage Law," House Paper 864, L. D. 1106, will vote yes; those opposed will vote no. The Chair opens the vote.

ROLL CALL

YEA — Bedard, Bernier, Binnette, Birt, Boudreau, Bourgoin, Brennan, Bunker, Carey, Carter, Casey, Chandler, Coffey, Cote, Couture, Cox, Croteau, Curran, Cushing, Drigotas, Faucher, Fecteau, Fortier, M.; Fraser, Gilbert, Giroux, Good, Hewes, Hunter, Jalbert, Kelleher, Keyte, Kilroy, Laberge, Lawry, Lebel, LePage, L e v e s q u e, Martin, McTeague, Mitchell, Morgan, Nadeau, Noyes, Ouellette, Porter, Ross, Santoro, Sheltra, Starbird, Tanguay, Vincent, Watson, Waxman, Wheeler, Wood.

NAY — Allen, Baker, Barnes, Benson, Berman, Bragdon, Brown, Buckley, Burnham, Carrier, Chick, Cottrell, Crommett, Crosby, Cummings, Curtis, D'Alfonso, Dam, Clark, C. H.; Clark, H. G.; Corson, Dennett, Dudley, Durgin, Dyar, Emery, Erickson, Eustis, Evans, Farnham, Finemore, Fortier, A. J.; Gauthier, Hall, Hanson, Hardy, Harriman, Haskell, Hawkens, Henley, Heselton, Huber, Immonen, Jameson, Johnston, Jutras, Kelley, K. F.; Kelley, R. P.; Lee, Leibowitz, Lewin, Lewis, Lincoln, Lund, MacPhail, Marquis, Marstaller, McNally, Meisner, Millett,

Mills, Moreshead, Mosher, Norris, Page, Payson, Pratt, Quimby, Rand, Richardson, G. A.; Richardson, H. L.; Ricker, Rideout, Rocheleau, Sahagian, Scott, C. F.; Scott, G. W.; Shaw, Snow, Stillings, Thompson, Trask, Tyndale, White, Wight, Williams.

ABSENT — Danton, Donaghy, Foster, Hichens, McKinnon, Soulas, Susi, Temple.

Yes, 56; No, 86; Absent, 8.

The SPEAKER: Fifty-six having voted in the affirmative and eighty-six in the negative, the motion does not prevail.

Thereupon, the Minority "Ought not to pass" Report was accepted and sent up for concurrence.

The Chair laid before the House the twenty-eighth tabled and today assigned matter:

An Act Revising the Maine Mining Law (H. P. 339) (L. D. 448) Tabled — May 9, by Mr. Rideout of Manchester.

Pending — Motion of Mr. Lund of Augusta to reconsider passage to be engrossed.

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

Mr. LUND: Mr. Speaker, may the House now take action on the pending motion.

The SPEAKER: Is it the pleasure of the House to reconsider its action whereby this bill was passed to be engrossed?

The motion prevailed.

The SPEAKER: The question now is passage to be engrossed.

Thereupon, on motion of Mr. Rideout of Manchester, tabled pending passage to be engrossed and specially assigned for Thursday, May 15.

The Chair laid before the House the twenty-ninth tabled and today assigned matter:

An Act Prohibiting the Expenditure of Public Funds to Promote or Oppose Measures to be Voted on at Elections (S. P. 412) (L. D. 1368)

Tabled — May 9, by Mr. Rideout of Manchester.

Pending — Passage to be enacted.

On motion of Mr. Martin of Eagle Lake, retabled pending

passage to be enacted and specially assigned for Thursday, May 15.

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

MAJORITY REPORT (8) — “Ought to pass” — Committee on Judiciary on Resolve Proposing an Amendment to the Constitution to Provide for Temporary Assignments of Justices of the Superior Court to the Supreme Judicial Court (S. P. 171) (L. D. 545) and **MINORITY REPORT (2)** reporting “Ought not to pass” (In Senate, Majority Report accepted, and Bill passed to be engrossed)

Tabled — May 12, by Mr. Berman of Houlton.

Pending — Acceptance of Either Report.

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

Mr. **BERMAN**: Mr. Speaker and Members of the House: This matter concerns the Constitution and therefore this legislative document, L. D. 545, concerns an extraordinary proposition. My good friend and colleague, the gentleman from Cape Elizabeth, Mr. Hewes, and myself considered that there was insufficient evidence presented to justify changing our Constitution in this particular regard. In fact there is strong reason not to take any superior court judge away from his present work load, have him put it aside, and sit even temporarily on the Law Court.

Mr. Hewes and I felt that when justice on the trial level is delayed, it can often mean that justice would be denied. The federal Constitution does not allow the Federal Chief Justice, Mr. Warren to call up a circuit judge or a district court judge to sit on the Supreme Court temporarily, and I do not think that Maine should change its Constitution in this respect.

I, therefore, move the acceptance of the “Ought not to pass” Report.

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

Mr. **BRENNAN**: Mr. Speaker, Ladies and Gentlemen of the House: I am very reluctant to dis-

agree with my good friend from Houlton, Mr. Berman, for I supported the “Ought to pass” Report.

Presently we have a six-man Supreme Court. Oftentimes one member is disqualified from hearing a matter because of previous association with the litigation. Occasionally a member is sick. Also we have times when a relative or a judge is counsel before the court. This results in the judge disqualifying himself.

Well when two or more of these disqualifying situations occur, coupled with an illness, the court is down to three men. It is in situations like this, and I suspect there will be very few, that the provisions of this resolve, if it's passed by the people, could be used, and the superior court judge or a district court judge could sit with the Supreme Court. This concept, I understand, has the support of the Chief Justice of the Maine Supreme Court.

I oppose the motion of the gentleman from Houlton, Mr. Berman.

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

Mr. **MORESHEAD**: Mr. Speaker and Members of the House: I rise this morning to oppose the motion of the gentleman from Houlton, Mr. Berman. The committee heard the testimony regarding this matter, and there was no opposition before the committee to this bill. I think it's good legislation because it is demeaning of the court when only three judges sit on our Supreme Court of the State of Maine and decide matters that are utmost important to the citizens of the State of Maine. What this bill would allow is that when we have three or four of the six judges sitting, it would allow the Chief Justice to appoint one of the superior court judges to come up and sit for that limited purpose on the Supreme Court. This would not be an assignment to the Supreme Court but just a temporary stay with the Supreme Court to hear the matter before the court on the particular day when there are only three or four judges available at the Supreme Court level.

This is done at the federal level, not by the Supreme Court of the United States, but it is done. Judge Gignoux here in Portland will go and sit on Circuit Court of Appeals cases and it is accepted practice in the federal system.

I do not feel that this will at all place any great burden on our superior court judges. I think many of the superior court judges would be honored to have the opportunity to sit from time to time on the Supreme Court, and if a particular judge on the superior court is tied up in actual trial work I am sure the Chief Justice is not going to appoint this man who is tied up in court to take time off to go to the Supreme Court to sit. So I do hope that you will oppose the motion before the Floor and vote to pass this legislation. Mr. Speaker, I ask for a division.

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

Mr. DENNETT: Mr. Speaker, Members of the House: I rise this morning, as you all know, simply a humble layman when it comes to questions of law. Despite the fact that this is a Constitutional amendment and proposes a change in that document, this was heard by the Committee on Judiciary. The Committee on State Government usually deals with the Constitutional questions, but in this particular instance it went to the Committee on Judiciary.

I feel quite strongly, I have felt for years that it might be well if the Committee on Judiciary had a layman or two. I think that the attorneys at many times are apt to be lost in their own legal complexities, and I sometimes think that a layman's opinion might clarify the atmosphere.

I oppose this because I feel that it is a Constitutional change, a wide departure from the accepted form. I also feel that it might give rise perhaps to jealousies amongst those members on the superior court bench to feel that one of the members was chosen to sit in the higher body, that they might feel that they themselves were not capable and that one man was superior to the others. I don't think that we should change our Constitution in

any manner so as to give rise to a situation such as this.

Ladies and gentlemen of the House, I strongly urge that you go along with the gentleman from Houlton, Mr. Berman, in the acceptance of the Minority Report.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I am one of those people that is reluctant to change a document that has worked so well over so many years, and my people when they go to the polls are getting quite concerned with the number of referendums we sent out to them that they know very little about. In the area that I come from, in most cases, they know very little about these referendums, and we keep sending them out to them in great numbers, and I am sure that they would appreciate it if we didn't send out only the ones that seem real necessary, and I declare that this one is not real necessary—it's worked so good over so many years that I hope you will go along with the motion before the House so these people won't have to vote on unnecessary referendums.

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

Mr. HEWES: Mr. Speaker and Members of the House: I support the motion of the gentleman from Houlton, Mr. Berman. In addition to the reasons of possible jealousy among the members of the court, I want to point out that when Maine became a State our supreme court had only three judges and gradually it's built up to six. I want to point out also that the court of appeals in Boston, the one in which Judge Coffin is a member, has only three men. I think that three men can render fair appeal results.

Also, the superior court judges are the only jury judges we have in the state. I feel that they are overworked. In fact there is a bill now that is passing through the halls of the Legislature to provide for two additional jury judges, and I feel that these present judges, although they are willing to tackle any assignment that is given to them, for their own

health point of view they should not have to sit on—as a member of the appellate court.

And lastly, perhaps not least, is the packing of the court theory. At the present time we have a very wonderful, judicious Chief Justice, but who knows what the situation will be a century from now or two centuries from now. Back in the depression years we heard about the president packing the court, what if a chief justice should want to appoint certain judges of the superior court to sit in the appellate court, certain judges that he knew felt as he did on particular issues. I can see a possibility of packing of the court in the future. So I respectfully suggest that you go along with the Representative from Houlton, Mr. Berman.

The SPEAKER: All in favor of accepting the "Ought not to pass" Report on Resolve Proposing an Amendment to the Constitution to Provide for Temporary Assignments of Justices of the Superior Court to the Supreme Judicial Court, Senate Paper 171, L. D. 545, will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken. 92 having voted in the affirmative and 35 having voted in the negative, the "Ought not to pass" Report was accepted in non-concurrence and sent up for concurrence.

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

An Act relating to Compensation for Full-time Deputy Sheriffs and Chief Deputies (H. P. 494) (L. D. 648)

Tabled—May 12, by Mr. Marquis of Lewiston.

Pending—Passage to be enacted. On motion of Mr. Dam of Skowhegan, retabled pending passage to be enacted and specially assigned for Thursday, May 15.

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

Bill "An Act to Provide that Nine Jurors May Return a Verdict in Civil Suits" (S. P. 88) (L. D. 278) (In Senate, passed to be engrossed)

Tabled—May 12, by Mr. Berman of Houlton.

Pending — Passage to be engrossed.

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

Mr. RICHARDSON: Mr. Speaker and Ladies and Gentlemen of the House: I move that this bill be indefinitely postponed, and I would speak to that motion.

The SPEAKER: The gentleman from Cumberland, Mr. Richardson, moves that Item 32, Bill "An Act to Provide that Nine Jurors May Return a Verdict in Civil Suits", L. D. 278, be indefinitely postponed in non-concurrence. The gentleman may proceed.

Mr. RICHARDSON: Mr. Speaker and Ladies and Gentlemen of the House: As a personal matter, I find this bill objectionable, and I want to tell you as briefly as I can why I find it objectionable. Before I do, I would like to make a comment about the present atmosphere that exists here in the House and attempt to respond on the record to inquiries from lawyers all over the State of Maine about some of the bills that are before this Legislature, "How do they get through."

Now, as you know, as I have told you before, my lot in life is as an attorney, and I am a trial lawyer and I defend cases. I defend insurance companies, and I also represent plaintiffs' cases, and even though that has been true, I have supported in past sessions and in this session liberalization of our law.

I supported the abolition of the wrongful death limit which placed a limit of \$30,000 on a man's life because I thought it was an unreasonable, unworkable, archaic rule. I supported earlier in the session, in this session, a bill to increase the amount recoverable in an action from a wrongful death of a minor from five to ten thousand dollars. I supported in this session of the Legislature abolition of privity as a defense in contract actions — and that's a legal phrase but what it did basically was liberalize our law and take out some of the deadend streets that prevented people who had been injured as a

result of a negligently or defectively manufactured product from recovering from the injury done as a result of that negligent or defective manufacture.

Now if you pass this bill which will permit a verdict of nine jurors, a majority verdict, only nine out of twelve, just as sure as God made little apples you are going to increase the jury awards in this state very substantially because in a liability case, what is going to happen, is you are going to get the high nine. When the jury goes to the jury room, they sit down and they try to figure out what sum in damages will adequately compensate the injured plaintiff, and when they do that I suggest to you under this bill that the high nine will prevail. But even if that were not true, let's hear from the proponents of this legislation what reason they have to abolish our rule which has been in effect ever since Maine was a state that a jury of twelve people must unanimously agree on their verdict in both civil and criminal cases.

What is the reason? That there are hung juries? That is that juries are unable to agree after a long period of time? Not so. And I challenge any member of this House who is a trial lawyer to say that there has been any inordinate number of hung juries. Quite frankly, it just doesn't happen. Because if you put 12 people in a small room full of cigarette smoke and they will agree eventually.

I said nothing about the actions between husband and wife, and although I have practiced in the jurisdiction where those actions are permitted, and where I have seen collusive suits shot through with fraud and collusion, I took no position on that legislation. I didn't speak on it, and I didn't urge anybody in this House to vote against it, although I find it almost as repugnant as the bill that is before you today. But on this one single bill, I see no justification for abandoning a rule of law which has existed in this state ever since it became a state. And what is the reason we are doing it?

Now I am treading on thin ice, and I know it, but the reason many

members of the general public question what we are doing here with respect to liberalization of our laws is that the only reason for doing this is to increase the amount of awards that juries will give. There isn't any other reason. And I would remind you the compensation paid to an attorney representing a plaintiff is directly related to the amount of the verdict or settlement.

Standard practice in this state is for an attorney to take one-quarter right off the top of the amount recovered in settlement and one-third right off the top of any amount recovered in a verdict from a jury.

Now what this means is that in a \$30,000 verdict, the plaintiff's attorney takes \$10,000 right off the top. The plaintiff is then left with the responsibility for paying the court costs, the cost of expert witness fees insofar as they are not borne by the defense under our new law, and the other expenses, including hospital and medical expenses.

Now make no mistake about it, I stand to benefit by this legislation because as the jury verdicts go up my income goes up, be it defense or plaintiff lawyer, because the insurance companies that I happen to represent view cases on the question of the magnitude of the verdict of the jury. So you are not damaging the gentleman from Cumberland or the insurance industry or anybody else. You are damaging yourself, the premium paying public, when you pass legislation like this, which has no good reason for its adoption other than increasing the amount of awards given by juries and thereby increasing the amount of fees.

I am proud of the legal profession, and I am proud of the members of this Judiciary Committee. I take no exception to their actions or their motives, but I simply suggest to you that the general public in viewing this situation must certainly be alarmed by the rate which a small group of lawyers who represent plaintiffs exclusively, and who are dedicated to the advancement of the interest of that organization are able to come in

here and foist off on this Legislature legislation which is designed solely to increase the amount of verdicts.

I hope that you will vote for indefinite postponement. If you don't we will all go on and live, and I can assure you that those of us who defend in civil courts all over the State of Maine are going to live too. But take a look at your next premium payment and the one after that and the one after that.

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

Mr. BERMAN: Mr. Speaker and Members of the House: I stand this morning to propose to you that L. D. 278 is a very worthwhile piece of legislation. And I agree with my good friend from Cumberland, Mr. Richardson, that he is treading on very thin ice in this matter, in opposing it. I would further suggest that not only is he treading on very thin ice, but he is in cold water.

This bill calls for a nine man jury verdict which to me seems eminently fair and eminently satisfactory. This House of Representatives, when it deliberates on matters, doesn't call for a 75% majority such as this bill calls for. On most matters it calls for only a majority. Even on Constitutional matters this House takes action not on a 75% figure but simply on a two thirds of those present, and on the most essential matters that this House has to consider, it requires only two thirds of those elected to the House.

Now I suggest that our juries in the State of Maine are pretty sensible people and therefore it seems to me that we should not allow three people, two people or even a single person to hamstring a jury verdict. It seems to me that when people have heard the evidence and that three quarters of them have made up their minds to go one way or another that that should prevail. What happens at the present time when one, two or three jurors hold out so to speak? It means that the case must be tried over again. This I suggest is far more expensive than allowing the

jury in the first place to allow a nine-man verdict to stand.

Therefore I strongly urge you to go along with majority rule and pass L. D. 278.

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

Mr. McTEAGUE: Mr. Speaker, about twenty-four states now allow less than unanimous verdicts. The most common numbers are eight, nine and ten. This bill takes the middle road and proposes nine out of twelve for a civil verdict. We have all had distributed to us in the last week a list of the states which now allow less than a unanimous verdict and to my knowledge no state which has once adopted that system, allowing a verdict by eight, nine or ten, has ever returned to the old way.

As has been said, it is true that the majority of cases, indeed the vast majority, do not end up in hung juries. Eventually something is worked out. However a study by the University of Chicago which lasted over a two-year period and which covered both civil and criminal cases showed that there is a direct relationship between the chance of a hung jury, that is a jury unable to reach a verdict, and the length and importance of the trial. Overall, nation-wide roughly five percent of trials end in hung juries. However as the length of the trial goes on from a one or two-day trial to a week or two-week trial the chances of a hung jury increase very greatly.

Now once you have a hung jury in a case that has taken a day and a half or two to try you go back and it only costs you, that is the people involved on both sides of the case and the public, one or two days more trial. If you have a hung jury in a case that has gone on for a week or two weeks or three weeks, you are talking about immense cost to the people involved in the case and also significant cost to the public.

I have prepared a very rough estimate of the cost involved to the public in a case that ends in a mistrial because of the inability of the jury to reach a verdict that goes for five days, and a five-day trial certainly would be an im-

portant trial but I don't think trials of five day length are at all unheard of. The rough cost composed of the fees paid the jurors—these are costs by the way to the public not to the litigants, the fees paid the jurors for their time and mileage, the salary of the judge and court reporter, and the court officers involved, usually a deputy clerk is involved at least part of the time and perhaps a clerk in the smaller counties, and the jury officers, would be in the neighborhood of \$1440. This is cost to the public involved from a mistrial.

The trend is very much across this country to go to less than a unanimous verdict. The gentleman from Cumberland has alluded to the fact that he feels that if we do make this move in Maine that we will have the nine highest jurors. Well I say to you now that at least under certain circumstances we can have one man, the one lowest man dictate to the other eleven because of the requirement now that the verdict be twelve out of twelve. It does not seem necessarily so to me the nine highest men as they have been characterized would be less lacking in sense than the one lowest.

Even though the attorneys on both sides who make every effort to screen out members of a jury, it is certainly very possible when you are dealing with twelve men to be chosen that you are going to run across at least one out of the twelve who is a rather unusual person, who may not be subject to being convinced by logic. Why should this one man be allowed to hold up progress by the—to hold up the decision of the others? And you can run across two and the argument goes down. Again nine was chosen as a compromise figure.

I recall that our Lord chose twelve and even among those twelve there was one that did not prove true to his trust. I think it is immensely important that we have more than a majority verdict. I would not myself vote for a bill which would allow a verdict by say seven or six out of twelve. But as Mr. Berman has pointed out we do many things in this House and

in many other places by two thirds and sometimes in certain organizations by three quarters. Three quarters, requiring nine out of twelve, isn't going to mean that they go into the jury room and take a vote right off and decide it there. It is going to mean discussion and it is going to mean some compromise, but it is also going to mean that one man alone who may not be susceptible to persuasion by logic cannot block a decision by the majority of the jury.

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

Mr. OUELLETTE: Mr. Speaker and Ladies and Gentlemen of the House: I wholeheartedly concur with the remarks of the gentleman from Brunswick, Mr. McTeague, and those of the gentleman from Houlton, Mr. Berman, I submit to you that I know each member of the law firm personally who is responsible for the draft of this legislation. I also submit to you I can vouch for their honesty. They have no profit motives in mind whatsoever. This is a bill that would serve the best interest of the public.

One thing to mention is shorten the time in which jurors would be in service, therefore it would save the taxpayers money. There are many others that have been mentioned, many others that could be mentioned. My vote will be against the motion to indefinitely postpone.

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

Mr. RIDEOUT: Mr. Speaker and Members of the House: I am not an attorney and I can wade in cold water too. I stand forcefully behind the gentleman from Cumberland, Mr. Richardson. Having served on juries I maintain that one of the foundations of our jury system is the full jury report of twelve men, good and true. If you want to cut the cost, why not have just one juror; then there wouldn't be any hung juries. I maintain this bill should be killed.

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

Mr. MORESHEAD: Mr. Speaker and Members of the House: I would just like to point out that when a jury deliberates there are usually two questions before the jury, one as to whether or not there is liability, the other if there is liability the amount of damages. Now in both these questions in the case of the bill before us allowing three fourths of the members to decide, this could be decided either for or against either party. The three fourths of the people involved could decide on the lower amount and there could be one or two holding out for a higher amount, or the same in the case of liability, the three fourths could be holding out for no liability, whereas two or three could be saying there is liability.

So my point is that this works just as well for the plaintiff as it does for the defendant. If the plaintiff's attorneys and the plaintiff's bar is willing to take a chance and go with a nine-man jury for the expediency and because of the increased costs of hung juries, then I don't see why the defendant's bar does not go along with this also. I submit to you that it does work both ways and it is not a bill that would increase the insurance rates in the State of Maine, and when the vote is taken, Mr. Speaker, I request a roll call.

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

Mr. RICHARDSON: Mr. Speaker and Ladies and Gentlemen of the House: Very briefly, because I know that most of you have made up your minds on this legislation, I want to make absolutely clear the fact that this is a personal objection that I have as an attorney and as a citizen of this state—I am not speaking in any other capacity than that. As an attorney because I understand the situation, I think, because I work with it every day, and as a citizen of the State of Maine who has to pay insurance premiums.

Reference was made to the experience in Chicago. I have some background with respect to that. I practiced in Chicago for five years. The situation with respect

to hung juries in Maine is a vastly different situation than that which exists in Chicago. I have never tried a case to a hung jury, and I think the number of times when it happens in this state is very very very rare. I have heard of only two or three in the years that I have been practicing in the State of Maine.

Secondly, with respect to a five-day trial, the possibility of a hung jury isn't any greater there than it is anywhere else; not really. I have tried five-day cases. The jury that's out three or four hours—it's not an unusual thing for them to do, and I still would rather abide by the collective wisdom of those twelve people or a unanimous group, no matter what the number is. I don't care if you reduce the number to nine total jurors to reduce costs if that's your end.

I want to point out one more thing. In our system of justice the litigants, the people who are in court, through their attorneys, pick the jury. They can have an unlimited number of challenges for cause, and they have a number, depending on the number of litigants involved, of preemptory challenges. They can throw a man off the jury because they don't like the color of his tie, or because he has receding, sandy hair, or for any other reason. My point is that when the attorney picks the jury he doesn't put on the guy that is obviously going to vote against the majority just to be different. This system that we have operated with for these many many years is a good system. I ask that you very carefully consider the action today which asks you to reject it. I hope you will vote yes on the pending motion.

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Lawry.

Mr. LAWRY: Mr. Speaker and Members of the House: I am not a member of the legal profession, so my position quite likely would be either as a plaintiff or as a defendant, and as such I certainly would much prefer to have a verdict handed down by the full slate of twelve than any simple majority of nine. I shall vote for the motion for indefinite postponement.

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

Mr. McTEAGUE: Mr. Speaker and Members of the House: In our discussions of this bill today, we have assumed in the main that the type of cases which are tried are accident cases. Certainly these are a good number of the cases tried, but there are many other cases tried also, and they are also very important particularly to the people involved.

For example, it might be possible that a landlord would sue a tenant for damage done to his property or for failure to pay rent, and in spite of the exercise of challenges by the landlord's attorney there would come onto the jury a person who because of experiences with his own landlord, or frankly possibly because of something wrong with his own outlook on life was just down on all landlords, and he was of a mind that he would never vote to compensate a landlord for damage to his property or for rent.

Now although, as the gentleman from Cumberland has pointed out, there is some opportunity to exercise challenges for cause and also preemptory challenges, this is a fallible thing on both sides. It's not perfect. You could, if you were representing that landlord or if you were that landlord, or switch it around and be the tenant, you could end up with a person with irrational prejudice on the jury. We talked about votes in various levels. You know, we let the Supreme Court of this country decide cases by a five-four decision. Perhaps arguments could be made that a larger majority should be required in some cases, but nine out of twelve is not a bad majority. Nine out of twelve is three quarters, insures mature deliberation and possible compromise between the parties. I hope therefore that you will vote against the motion to indefinitely postpone.

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

Mr. ROSS: Mr. Speaker, I would like to pose a question through the Chair. If we are going to have a three-quarters majority in civil

cases, which may or may not be fairer, should we extend this to a three-quarters majority in criminal cases?

The SPEAKER: The gentleman from Bath, Mr. Ross, poses a question through the Chair to any member who may answer if they choose. The Chair recognizes the gentleman from Houlton, Mr. Berman.

Mr. BERMAN: Mr. Speaker and Members of the House: I don't think at the present time that we should extend it to criminal cases, but I do think that we should do something about reducing the unanimity in criminal cases. They have found out in England unanimity in criminal cases has meant that if the respondent's attorney could get to one juror that some of these criminals could not be convicted. England does not have the same situation that we do, having a written Constitution, so now in England ten out of twelve will convict in a criminal case.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Sheltra.

Mr. SHELTRA: Mr. Speaker and Members of the House: I would like to say at this time that I concur with the gentleman from Brunswick, Mr. McTeague, and the gentleman from Houlton, Mr. Berman, for the simple reason that I have served on two traverse juries, and in the deliberation I found that it is so easy to be a winner but so hard to be a good loser. Invariably, I have found, in almost every case without exception, that someone that has fought hard for one decision and suddenly finds himself to be the loser becomes bigoted, he loses logic, and he delays the verdict to a considerable degree of time involved, almost to the extent where it becomes ridiculous. So for that reason I certainly concur with these gentlemen.

The SPEAKER: The pending question is the motion of the gentleman from Cumberland, Mr. Richardson, that Senate Paper 88, L. D. 278, Bill "An Act to Provide that Nine Jurors May Return a Verdict in Civil Suits" be indefinitely postponed. 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 in favor of a roll call vote 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 on the motion of the gentleman from Cumberland, Mr. Richardson, that this Bill be indefinitely postponed. If you are in favor of indefinite postponement you will vote yes; if you are opposed you will vote no. The Chair opens the vote.

ROLL CALL

YEA — Allen, Baker, Barnes, Benson, Birt, Bragdon, Brown, Bunker, Carrier, Casey, Chandler, Chick, Clark, H. G.; Coffey, Corson, Cote, Cox, Crosby, Cummings, Curtis, Cushing, Dam, Dennett, Donaghy, Durgin, Emery, Erickson, Eustis, Evans, Farnham, Finemore, Fortier, A. J.; Gauthier, Gilbert, Good, Hall, Hanson, Hardy, Harriman, Haskell, Hawkens, Henley, Immonen, Jalbert, Kelleher, Kelley, R. P.; Lawry, Lee, Lewin, Lewis, Lincoln, Lund, Meisner, Millett, Mills, Mitchell, Norris, Page, Payson, Porter, Pratt, Quimby, Rand, Richardson, G. A.; Richardson, H. L.; Ricker, Rideout, Rocheleau, Sahagian, Scott, C. F.; Scott, G. W.; Shaw, Snow, Stillings, Thompson, Trask, Tyndale, White, Wight, Wood.

NAY—Bedard, Berman, Bernier, B i n n e t t e , Boudreau, Bourgoin, Brennan, B u c k l e y , Burnham, Carey, Carter, Clark, C. H.; Cottrell, Crommett, Croteau, Curran, D'Alfonso, Danton, Drigotas, Dudley, Dyar, Faucher, Fecteau, Fortier, M.; Foster, Fraser, Giroux, Heselton, Hewes, Hichens, Huber, Hunter, Jameson, Johnston, Jutras, Kelley, K. F.; Keyte, Kilroy, Laberge, Lebel, Leibowitz, LePage, Levesque, MacPhail, Marquis, Marstaller, Martin, McNally, McTeague, Moreshead, Morgan, Nadeau, Noyes, Ouellette, Ross, Sheltra, Starbird, Tanguay,

Temple, Vincent, Watson, Waxman, Wheeler.

ABSENT — Couture, McKinnon, Mosher, Santoro, Soulas, Susi, Williams.

Yes, 80; No, 63; Absent, 7.

The SPEAKER: Eighty having voted in the affirmative and sixty-three in the negative, the Bill is indefinitely postponed in non-concurrence.

Sent up for concurrence.

The Chair laid before the House a matter tabled earlier and assigned for later in today's session item six under Orders of the Day:

Bill "An Act relating to Vacating of Street Locations on Plans" (H. P. 495) (L. D. 649)

Tabled—May 9, by Mr. Hewes of Cape Elizabeth.

Pending — Passage to be engrossed.

Thereupon, Mr. Hewes of Cape Elizabeth offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-316) was read by the Clerk and adopted and the Bill passed to be engrossed as amended and sent to the Senate.

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

Mr. RICHARDSON: Mr. Speaker, I would inquire if the Clerk of the House is in possession of House Paper 1165, L. D. 1486, An Act relating to Petitions for Review of Incapacity Under Workmen's Compensation Act?

The SPEAKER: The answer is in the affirmative and the House is in possession of L. D. 1486.

Mr. RICHARDSON: Mr. Speaker, I move that we reconsider our action of yesterday whereby this bill was passed to be enacted.

Whereupon, on motion of Mr. Benson of Southwest Harbor, tabled pending the motion of Mr. Richardson of Cumberland to reconsider and specially assigned for tomorrow.

On motion of Mr. Gauthier of Sanford,

Adjourned until nine o'clock tomorrow morning.