

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 27, 1969

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

Prayer by the Rev. Mr. Derek Bugler of Hallowell.

The journal of yesterday was read and approved.

**Papers from the Senate
Reports of Committees
Leave to Withdraw**

Report of the Committee on Appropriations and Financial Affairs on Resolve to Appropriate Funds for the Construction of an International Ferry Terminal at Portland, Maine (S. P. 364) (L. D. 1246) reporting Leave to Withdraw.

Report of the Committee on Judiciary reporting same on Bill "An Act to Abolish Imprisonment for Debt in Divorce Actions" (S. P. 334) (L. D. 1132)

Came from the Senate read and accepted.

In the House, the Reports were read and accepted in concurrence.

Ought Not to Pass

Report of the Committee on Inland Fisheries and Game reporting "Ought not to pass" on Resolve relating to Ice Fishing in East Grand Lake in Aroostook and Washington Counties" (S. P. 206) (L. D. 615)

Report of same Committee reporting same on Resolve relating to Ice Fishing in Spednic Lake, Washington County (S. P. 207) (L. D. 616)

Report of the Committee on Legal Affairs reporting same on Bill "An Act Amending the Charter of the City of Portland Relating to Civil Service Commission" (S. P. 269) (L. D. 907)

Came from the Senate read and accepted.

In the House, the Reports were read and accepted in concurrence.

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

Report of the Committee on Inland Fisheries and Game on Bill "An Act to Correct Errors and Inconsistencies in the Fish and Game Laws" (S. P. 295) (L. D. 975) re-

porting same in a new draft (S. P. 464) (L. D. 1543) under same title and that it "Ought to pass"

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

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

Amended in Senate

Report of the Committee on Transportation on Bill "An Act Regulating Snowmobiles" (S. P. 184) (L. D. 586) reporting same in a new draft (S. P. 455) (L. D. 1501) under same title and that it "Ought to pass"

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "C".

In the House, the Report was read and accepted in concurrence and the New Draft read twice. Senate Amendment "C" (S-180) was read and adopted in concurrence, and the New Draft assigned for third reading tomorrow.

Ought to Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought to pass" on Bill "An Act Appropriating Funds to Establish Renal Dialysis Centers" (S. P. 292) (L. D. 972)

Report of the Committee on Claims reporting same on Resolve to Reimburse Clyde Rollins of Rumford for Damage by Highway Construction (S. P. 132) (L. D. 416)

Report of the Committee on Judiciary reporting same on Bill "An Act relating to Juvenile Offenses" (S. P. 404) (L. D. 1357)

Report of the Committee on State Government reporting same on Resolve Proposing an Amendment to the Constitution to Provide for Direct Initiative to Amend the Constitution (S. P. 239) (L. D. 714)

Came from the Senate with the Reports read and accepted and the Bills and Resolves passed to be engrossed.

In the House, the Reports were read and accepted in concurrence,

the Bills read twice, the Resolves read once, and tomorrow assigned.

**Ought to Pass with
Committee Amendment**

Report of the Committee on Judiciary on Bill "An Act to Conform the Statutes to the Rules of Civil Procedure" (S. P. 168) (L. D. 542) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

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

In the House, the Report was read and accepted in concurrence and the Bill read twice. Committee Amendment "A" (S-186) was read by the Clerk and adopted in concurrence, and the Bill assigned for third reading tomorrow.

**Ought Not to Pass
Bill Substituted for Report
Tabled and Assigned**

Report of the Committee on Towns and Counties reporting "Ought not to pass" on Bill "An Act relating to County Advisory Organizations" (S. P. 118) (L. D. 328)

Came from the Senate with the Bill substituted for the Report and passed to be engrossed as amended by Senate Amendment "A".

In the House, the Report was read.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Wight.

Mr. WIGHT: Mr. Speaker, I wish to continue to have this bill "ought not to pass"—indefinite postpone the amendment, I am not sure which motion is proper.

The SPEAKER: The Chair understands that the gentleman from Presque Isle, Mr. Wight moves that the House accept the Majority "Ought not to pass" Report." Is this the pleasure of the House?

Whereupon, on motion of Mr. Kelley of Machias, tabled pending the motion of Mr. Wight of Presque Isle to accept the Majority "Ought not to pass" Report and specially assigned for tomorrow.

Final Report

Final Report of the following Joint Standing Committee:

Claims

Came from the Senate read and accepted.

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

Non-Concurrent Matter

An Act Increasing Mileage Allowance for State Employees on State Business (H. P. 308) (L. D. 395) which was passed to be enacted in the House on May 22 and passed to be engrossed on May 16.

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 Redefining the Bounds of Merrymeeting Bay Game Sanctuary" (H. P. 815) (L. D. 1054) which was passed to be engrossed as amended by House Amendment "A" in the House on May 16.

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

In the House: On motion of Mr. Porter of Lincoln, the House voted to recede and concur with the Senate.

Non-Concurrent Matter

Bill "An Act Providing for Androscoggin County Funds for Child and Family Mental Health Services" (H. P. 1084) (L. D. 1405) on which the House insisted on May 23 to its former action whereby the Bill was passed to be engrossed as amended by House Amendment "A".

Came from the Senate with that body voting to adhere to its former action whereby the Bill was passed to be engrossed as amended by House Amendment "A" and Senate Amendment "A" in non-concurrence.

In the House:

On motion of Mr. Jalbert of Lewiston, the House voted to fur-

ther insist and ask for a Committee of Conference.

The Speaker appointed the following Conferees on the part of the House:

Messrs. JALBERT of Lewiston
MARQUIS of Lewiston
FOSTER
of Mechanic Falls

Non-Concurrent Matter Tabled and Assigned

Bill "An Act relating to Approval of Refuse Disposal Areas" (H. P. 1196; (L. D. 1517) which was passed to be engrossed as amended by House Amendment "A" in the House on May 19.

Came from the Senate indefinitely postponed in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Freedom, Mr. Evans.

Mr. EVANS: Mr. Speaker, I move that we recede and concur.

Whereupon, on motion of Mr. Dam of Skowhegan, tabled pending the motion of Mr. Evans of Freedom to recede and concur and specially assigned for tomorrow.

Orders

Mr. Hichens of Eliot presented the following Joint Order and moved its passage:

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the subject matter of the Bill: "An Act Increasing Certain Liquor License Fees", House Paper No. 1005, Legislative Document No. 1307, introduced at the regular session of the 104th Legislature to determine the adequacy of the existing fee structure and whether the best interests of the State would be served by enactment of such legislation; and be it further

ORDERED, that the State Liquor Commission is requested to provide the Committee with technical advice and such other needed assistance in this study as the Committee may require; and be it further

ORDERED, that the Committee report the results of its study to the 105th Legislature. (H. P. 1221)

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

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

Mr. RIDEOUT: Mr. Speaker, I would ask if the House is in possession of Senate 368, L. D. 1281, Bill "An Act to Create the Mountain Resorts Airport Authority"?

The SPEAKER: The answer is in the affirmative.

Whereupon, on motion of the same gentleman, the House reconsidered its action on yesterday whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" and Senate Amendment "B" as amended by House Amendment "A" thereto in non-concurrence.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action on May 21 whereby Committee Amendment "A" was adopted in concurrence; and on further motion of same gentleman Committee Amendment "A" was indefinitely postponed in non-concurrence.

The SPEAKER: Is it the pleasure of the House that this Bill be passed to be engrossed as amended by Senate Amendment "B" as amended by House Amendment "A" thereto in non-concurrence?

Whereupon, on motion of Mr. Farnham of Hampden, tabled pending passage to be engrossed as amended by Senate Amendment "B" as amended by House Amendment "A" thereto and specially assigned for tomorrow.

Mr. Birt of East Millinocket presented the following Joint Resolution and moved its adoption:

WHEREAS, the Maine Highway Safety Committee is sponsoring a "Lights on for Highway Safety" campaign over the forthcoming Memorial weekend; and

WHEREAS, driving with lights on during the day serves as a reminder that the holiday weekend is particularly hazardous calling for extreme caution, courteous and defensive driving; and

WHEREAS, the motoring public is aware that non-holiday driving is equally dangerous, it is always receptive to programs which offer an individual opportunity to actively participate in the safety effort; and

WHEREAS, motorists are asked to comply with committee's "lights on" request from 6 p.m. on Thursday, the 29th of May until 6 a.m. on Monday, the 2nd of June; now, therefore, be it

RESOLVED: That the Senate and House of Representatives of the 104th Legislature, now assembled, commends and endorses the Highway Safety Committee's "Lights on for Highway Safety" program and urges all motorists to fully support their worthy objective; and be it further

RESOLVED: That a duly authenticated copy of this Joint Resolution be transmitted to Mr. Albert Page, Chairman of the Committee, in support of their effort. (H. P. 1222)

The Joint Resolution was adopted and sent up for concurrence.

House Reports of Committees Ought Not to Pass Covered by Other Legislation

Mr. Cox from the Committee on Legal Affairs on Bill "An Act Limiting the Liability of the Owner of a Credit Card or Other Like Credit Device" (H. P. 169) (L. D. 208) reported "Ought not to pass," as covered by other legislation.

Same gentleman from same Committee reported same on Bill "An Act relating to Use of False or Unauthorized Credit Devices" (H. P. 980) (L. D. 1264)

Reports were read and accepted and sent up for concurrence.

Ought to Pass with Committee Amendment

Mr. Benson from the Committee on Appropriations and Financial Affairs on Bill "An Act to Permit the Payment of School Construction Aid Upon the Completion of a Project" (H. P. 376) (L. D. 485) 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-396) was read by the Clerk and adopted, and the Bill assigned for third reading tomorrow.

Divided Report

Majority Report of the Committee on Appropriations and Finan-

cial Affairs on Bill "An Act to Authorize Bond Issues in the Amount of \$50,000,000 to Provide Funds for School Building Construction Under the Revised Statutes, Title 20, Sections 3457, 3458 and 3459" (H. P. 158) (L. D. 197) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was signed by the following members:

Messrs. SEWALL of Penobscot
DUQUETTE of York
— of the Senate
Messrs. JALBERT of Lewiston
BRAGDON of Perham
BENSON
of Southwest Harbor
SAHAGIAN of Belgrade
BIRT of East Millinocket
MARTIN of Eagle Lake
LUND of Augusta

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

Report was signed by the following member:

Mr. DUNN of Oxford
— of the Senate.

Reports were read.

On motion of Mr. Bragdon of Perham, the Majority "Ought to pass" Report was accepted.

The Bill was given its two several readings.

Committee Amendment "A" (H-397) was read by the Clerk and adopted and the Bill assigned for third reading tomorrow.

Passed to Be Engrossed

Bill "An Act to Amend the Jet Fuel Tax" (S. P. 458) (L. D. 1504)

Bill "An Act Amending the Sanford Sewerage District" (H. P. 706) (L. D. 920) (**Later Reconsidered**)

Bill "An Act Amending the Charter of Portland Relating to Title of Chairman of the City Council" (H. P. 998) (L. D. 1300)

Bill "An Act relating to Adoption of Children" (H. P. 1218) (L. D. 1551)

Bill "An Act relating to Inspection and Advertising of Farm Products" (H. P. 1219) (L. D. 1552)

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

**Third Reader
Tabled and Assigned**

Resolve Proposing an Amendment to the Constitution to Provide for Municipal Home Rule (H. P. 343) (L. D. 451)

Was reported by the Committee on Bills in the Third Reading and read the second time.

(On motion of Mr. Martin of Eagle Lake, tabled pending passage to be engrossed and specially assigned for tomorrow.)

Resolve Reimbursing Town of Orono for Support of Nonsettled Cases (H. P. 762) (L. D. 982)

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

Amended Bills

Bill "An Act relating to State Appropriation for Local Law Enforcement" (S. P. 357) (L. D. 1221)

Bill "An Act relating to Release of Persons Found Not Guilty of Crime by Reason of Mental Disease or Mental Defect" (H. P. 601) (L. D. 782)

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.

Bill "An Act Revising the Minimum Wage Law" (H. P. 1166) (L. D. 1487)

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

**Passed to Be Enacted
Emergency Measure**

An Act to Clarify the Charter of the City of South Portland (S. P. 451) (L. D. 1491)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of same and none against, and accordingly the Bill was

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

**Bond Issue
Tabled and Assigned**

An Act to Authorize Bond Issue in the Amount of \$310,000 for the Construction of Water and Sewage Facilities at the Indian Reservations (H. P. 312) (L. D. 399)

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

(On motion of Mr. Martin of Eagle Lake, tabled pending passage to be enacted and specially assigned for tomorrow.)

Passed to Be Enacted

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

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)

An Act to Authorize Municipalities to Incorporate by Reference the Provisions of Nationally Known Technical Codes Prepared by State or Regional Agencies (H. P. 607) (L. D. 788)

An Act relating to Compensation of Councilmen of City of Biddeford and Prohibiting Contracts of Councilmen and Mayor with the City (H. P. 1055) (L. D. 1387)

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

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.

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

Mr. GAUTHIER: Mr. Speaker, if I am in order I would like to have item two reconsidered, bill in third reading, House Paper 706, L. D. 920, Bill "An Act Amending the Sanford Sewerage District."

Thereupon, the House reconsidered its action of earlier in the day whereby the Bill was passed to be engrossed.

On further motion of the same gentleman, tabled pending passage to be engrossed and specially assigned for tomorrow.

Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

HOUSE REPORT — “Ought not to pass” — Committee on State Government on Bill “An Act to Provide a Uniform Fiscal Year for Municipalities” (H. P. 98) (L. D. 106) (In House, Report accepted) (In Senate, Bill substituted for the Report and passed to be engrossed).

Tabled — May 23, by Mr. Dennett of Kittery.

Pending — Further consideration.

On motion of Mr. Jalbert of Lewiston, the House voted to recede and concur with the Senate.

The Bill was then given its two several readings and tomorrow assigned.

The Chair laid before the House the second item of Unfinished Business:

Bill “An Act relating to Harness and Running Horse Races on Sunday” (H. P. 1069) (L. D. 1398) (In House, indefinitely postponed) (In Senate, passed to be engrossed as amended by Senate Amendment “A” S-161)

Tabled — May 23, by Mr. Kelleher of Bangor.

Pending—Further consideration.

Thereupon, Mr. LePage of Scarborough moved that the House recede.

On motion of Mr. Kelleher of Bangor, tabled pending the motion of Mr. LePage of Scarborough to recede and specially assigned for tomorrow.

The Chair laid before the House the third item of Unfinished Business:

HOUSE REPORT — “Ought not to pass” — Committee on Appropriations and Financial Affairs on Bill “An Act relating to Payment of Life Insurance Premiums of State Employees” (H. P. 1020) (L. D. 1328)

Tabled — May 23, by Mrs. Wheeler of Portland.

Pending—Acceptance.

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

The Chair laid before the House the fourth item of Unfinished Business:

HOUSE REPORT — “Ought not to pass” — Committee on State Government on Bill “An Act Establishing a State-Municipal Government Revenue Sharing Program” (H. P. 1174) (L. D. 1498)

Tabled — May 23, by Mr. Fecteau of Biddeford.

Pending — Acceptance.

On motion of Mr. Chandler of Orono, retabled pending acceptance of Report and specially assigned for tomorrow.

The Chair laid before the House the fifth item of Unfinished Business:

HOUSE REPORT — Committee on Claims on Resolve in Favor of Matinicus Isle Plantation (H. P. 922) (L. D. 1183) reporting same in new draft (H. P. 1213) (L. D. 1545) and that it “Ought to pass”

Tabled — May 23, by Mr. Richardson of Stonington.

Pending — Acceptance.

The SPEAKER: The Chair recognizes the gentleman from Dixmont, Mr. Millett.

Mr. MILLETT: Mr. Speaker and Members of the House: I notice that there has been a substantial change in the statement of facts from this original L. D. to the re-draft. I wonder if some member of the Committee on Claims might explain the reasoning behind the change in justification.

The SPEAKER: The gentleman from Dixmont, Mr. Millett poses a question through the Chair to any member of the Committee on Claims who may answer if they choose.

The Chair recognizes the gentleman from Bethel, Mrs. Lincoln.

Mrs. LINCOLN: Mr. Speaker and Ladies and Gentlemen of the House: Originally it came through as a regular claim and several people on the Education Committee were dissatisfied with it and said that we should put it through as a grant and as a hardship case. And that is the reason for the change.

The SPEAKER: The Chair recognizes the gentleman from Dixmont, Mr. Millett.

Mr. MILLETT: Mr. Speaker and Members of the House: Relating to the original L. D., the statement of facts which warranted the claim being instituted in the first place were that due to the recent revaluation of Matinicus Isle Plantation by the State Board of Equalization there was a resulting loss of \$6,000 in anticipated school subsidy, this due to the substantial increase in State valuation.

Now if this is a particular reason for the claim, I might point out that there are 95 eligible school units in the State and of those 95, 70 had a cutback in their percentage of State aid due to the recent revaluation. It would appear that if we honor one claim we might be asking the other 69 to make similar requests. In view of this fact I move indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The gentleman from Dixmont, Mr. Millett moves that item 5, L. D. 1545, the Report and Bill be indefinitely postponed.

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

Mr. MacPHAIL: Mr. Speaker, in the new draft the statement of facts I believe merely bring out some additional reasons why this should be granted. It is true that the gentleman said the loss of school subsidy amounted to a great deal as perhaps in other cases, but I would like to point out the fact that Matinicus Isle Plantation, which had the greatest loss of school subsidy than any municipality in the State, was contemplating the construction of a school. There was only one other municipality in the state that had a greater revaluation and that was a little island owned by the Rockefellers down in Hancock County.

This building, they are about to build a schoolhouse—it's true it's going to be used for a school, it also represents a community center where—the only community center they have for a meeting and serves as a hall for town meetings, not necessarily a town hall. The Matinicus Isle Plantation is not populated by a great deal of summer residents, it is true there are a very few there. The

only industry there is lobster fishing and in the last few years, as you well know, the profits from this has been greatly depleted. The taxpayers out there represent not only current lobster fishermen but widows of former fishermen, many retired school teachers, and there isn't the money available out there now that there used to be.

It is true it has also been brought to light that construction costs are a great deal more advanced than they were when they contracted for this last year in that everything has to be — well it's the same transport by water, and in order to get the material out there this year they had to hire or employ the service of a state-owned ferry which landed some lumber out there a few days ago. Naturally it costs a lot more for construction in an isolated place like that because the carpenters have to be boarded and higher wages for isolated work. 95% of the entire commitment, tax commitment of this municipality goes towards the school budget and I feel this is a legitimate claim for this small community and it is definitely a hardship case, and I would hope you would vote against the motion for indefinite postponement.

The SPEAKER: Is the House ready for the question? The Chair will order a vote. All in favor of indefinite postponement will vote yes and those opposed will vote no. The Chair opens the vote.

A vote of the House was taken.

27 having voted in the affirmative and 86 having voted in the negative, the motion did not prevail.

Thereupon, the "Ought to pass" in new draft Report was accepted, the New Draft read once and tomorrow assigned.

The Chair laid before the House the sixth item of Unfinished Business:

REPORT "A" reporting "Ought to pass" — Committee on Judiciary on Bill "An Act relating to Charitable Organization's Immunity in Civil Actions" (H. P. 558) (L. D.

739) and REPORT "B" reporting "Ought not to pass"

Tabled — May 23, by Mr. Berman of Houlton.

Pending — Acceptance of either Report.

On motion of Mr. Berman of Houlton, retabled pending acceptance of either Report and specially assigned for tomorrow.

The Chair laid before the House the seventh item of Unfinished Business:

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

Tabled — May 23, by Mr. Ross of Bath.

Pending — Motion of Mrs. Coffey of Topsham to indefinitely postpone.

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

Mr. FINEMORE: Mr. Speaker and Members of the House: I would like to thank Mr. Millett for requesting this tabled the other day and Mr. Ross for tabling it because I couldn't be here. On this L. D. 50 I would like to have it understood at the beginning that this is not a partisan bill and hope it is not treated as such.

Up in Aroostook we are a very widely populated county. We have a population of some 106,000 and of course we like all counties have three County Commissioners, and at the present time and for several years they have been in a radius of twelve miles of each other which we in the rest of the county feel that is not a business way to operate the county. We feel that we are not represented the way we should be. At the present time we have one Commissioner from Caribou, one from Fort Fairfield and one from Easton. Any one can drive to the other's house in twelve to fifteen miles in a county that is over 150 miles long and 105 miles wide. At this time we feel in Aroostook that about 72,000 people are being taxed without representation.

You will notice that in this L. D. 50 that I have drawn it up in three Districts. District No. 1 we will call the Southern District has

a population of 35,158, District No. 2 called the Central District with a population of 34,256, and District No. 3 we will call the Northern District, population of 35,056.

You will also notice that in 1970 if this L. D. becomes a law that there will be a Commissioner elected from the Northern District No. 3, and my reasoning for this is that it has been many years since this district has had a Commissioner, in fact only one in my time, and he was a Republican. And I do feel that the St. John River Valley deserves a Commissioner and one of their own people too. And I might go along to say a little further that also in this District No. 3 most of the unincorporated towns and the county bridges and the county roads are situated, so they should have a man there who understands their need.

In 1972 there will be a Commissioner from District No. 1 or in the Southern District. In 1974 a Commissioner will be elected from the Central District. I might add that at no time will the Central District be without a Commissioner to represent them.

Mr. Speaker and Members of the House, I hope you will see our need for this legislation and go along with this bill and vote against the motion to indefinitely postpone. In this bill we are trying to get all concerned in Aroostook County taxation with representation which I believe means peace and harmony in any form of government. I thank you.

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: This morning I fully sympathize with the gentleman's remark of representation or taxation with or without representation. It would seem to me, although I would come from one of the districts that might be guaranteed a County Commissioner in the years to come, I fail to see that even the division indicated by Mr. Finemore would help better the county government as it is presently formed. Even if the

districts are formed in Aroostook County or any one of the other counties in the State of Maine, this is not going to help better county government. This is just another way of picking at county government and its efficiencies and all of its ramifications as far as raising county taxes out of property taxes. And if you have seen the county budgets this year you will find out just how much representation you are getting from the amount of taxes that are being poured in county government. I fail to see that even with the County Commissioner districts in the years to come it is going to make it any better than it's been for the last 150 years.

And this is one of my primary reasons why I don't feel at this session of the Legislature that piecemealing the county districts is going to solve any problem. It is just going to bring in political factions in the County Commissioner districts which I fail to see that it is going to serve the purpose of which the County Commissioners are now responsible on a county-wide basis. What this is going to do is to pin one or two districts against the other or one against two of the others. What the end result is going to be is still going to be a political division on the county basis and then the allocation of funds will be done on this district-wide basis, so with a margin of two to one how do you think anybody's going to get anything? At least now you can go to all three County Commissioners.

After this is adopted, this method of dividing the district, they are going to go to one County Commissioner. The end result I don't have to tell you what's going to happen. You go to your County Commissioner, if he's on the right side of the fence you might be getting something. If he is not on the right side of the fence, what's going to happen? Exactly as what happened in the last 150 years. If you are on the right side, well and good. If you are not on the right side, nothing. So that is why I sincerely hope that the House will indefinitely postpone this document this morning. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Members of the House: I am really reluctant to get into this matter and I am very very sorry to see it get into what appears to me definitely the political arena. Two years ago we passed a bill similar to this for County Commissioners in Aroostook County. The arguments were the same at that time as they are now. I have personally contacted the Republican members of the Aroostook delegation and I find that they are 100% behind this move. I regret that I have to oppose the stand of the gentleman from Madawaska, Mr. Levesque. I think my own feeling that the division of the County Commissioners from one end of the county to the other, as this would provide, is in the interests of good government and I hope you'll go along with the bill as presented by the gentleman from Bridgewater, Mr. Finemore.

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: As indicated by the gentleman from Perham, Mr. Bragdon, it may not look political this morning or it may not look political when it's signed and into legislation, but let me assure you, purely and simply, that it's just a matter of 365 days and it will be political because there is absolutely and simply no way out of it. This is just going to be a political football on the county basis. Once the foot is in the door then the door is wide open and if you don't think it's political this morning just give it 365 days and it will be purely and simply political on the County Commissioner districts.

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

Mr. FINEMORE: Mr. Speaker and Members of the House: I hate to get in debate with the gentleman from Madawaska, Mr. Levesque, because I know he is a far better debater than I, but at the present time in Aroostook County we have

two Democrat County Commissioners and one Republican and I believe we are getting along real well. I don't think there is any reason to think that we aren't getting along real well. And I have contacted — what amuses me most and bewilders me, I am as bewildered as the little boy who dropped his gum in the hen house over this because I have contacted some up in the valley with the exceptions of Mr. Martin's town, I haven't been to Eagle Lake, and I find that the people in Madawaska and Van Buren and Fort Kent and all up through there are very much in favor of this bill. And they have been over a period of years, not this year and not last year but the last ten or fifteen years. They feel that they should have a member of their own group out of the Northern District especially to represent them and I believe that is true here. And I believe that if the gentleman from Madawaska, Mr. Levesque would shut his eyes and truthfully say to himself — do my people want this, he will come out with the answer yes. And I hope you vote against the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker and Ladies and Gentlemen of the House: I would just point out one thing to you as remarks have been made that this is not political. Let me remind you that Aroostook County presently has two Democratic County Commissioners. Once this bill become law Aroostook County will have one Democratic legislator; it will be impossible in the future to elect two, and if it isn't political now I don't know what this is.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Topsham, Mrs. Coffey, that the 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.

A vote of the House was taken.

54 having voted in the affirmative and 73 having voted in the

negative, the motion did not prevail.

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

The Chair laid before the House the eighth item of Unfinished Business:

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 23, by Mr. Benson of Southwest Harbor.

Pending — Motion of Mr. Richardson of Cumberland to reconsider failure of passage to be engrossed as amended by House Amendment "B" as amended by House Amendment "A" thereto. (H. "B" - L. D. 1542) (H. "A" to H. "B" H-387)

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

Mr. RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: Because we are today going to have a meeting of the Democratic and Republican leadership from both bodies in an attempt to work out a compromise to the funding dilemma which confronts us, because I feel that we can for that reason delay final action on the Part II budget, because I believe that we should keep the Part II budget here because it is in the House that funding amendments must be placed on the bill, I am going to request some gentleman to table this matter until the next legislative day.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I am fully aware that the leadership of both of our parties are making a giant step forward to arrive at a compromise. I am chagrined, however, that the thinking is to — in that I agree that the Part II budget certainly must be kept alive, I am certainly not of the thinking that the amendment which is attached to the bill, which means a sales tax, should be left on the

bill. I should think that the time has certainly now arrived if the leadership of both of our parties are to meet in the area of 12:30, I should think the time has now arrived that they meet realistically. And to meet realistically in my opinion, in that we have put the income tax package to final rest, the personal income tax package to final rest, by our action here and the subsequent action in the other branch, it would behoove us to put the 6% sales tax to its final rest now.

It hardly seems that we should go in, we should stand by for our leadership to go into a compromise, or thinking of talking into a compromise, with one of the major items still hanging fire. It is to be noted—and I am in no way criticizing anyone, it is just that when you go into a compromise you should know definitely, well this has gone and this is alive. There are two things that are gone in this 104th session of the Legislature—one, a personal income tax; two, a 6% sales tax. Now I have been here thinking about this since January 4. Somewhere along the line I listened again yesterday on the programs that some are still waiting for the area of compromise. You can't compromise at least until you know what you are going to compromise on and I certainly—before a motion is made that this lie on the table, I would certainly hope that we would reconsider our action whereby we passed the 6% sales tax amendment, get that out of the way and then at least you can go into a compromising room knowing fully well that you've got something to start with, not a half-way package.

Whereupon, on motion of Mr. Levesque of Madawaska, retabled pending the motion of Mr. Richardson of Cumberland to reconsider failure of passage to be engrossed as amended and specially assigned for tomorrow.

The Chair laid before the House the ninth item of Unfinished Business:

HOUSE REPORT — Committee on Taxation on Bill "An Act to Relieve Elderly Persons from In-

creases in the Property Tax" (H. P. 48) (L. D. 49) reporting Leave to Withdraw, as covered by other legislation.

Tabled — May 23, by Mr. Harri-man of Hollis.

Pending — Acceptance.

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

Mr. GAUTHIER: Mr. Speaker and Ladies and Gentlemen of the House: The purpose of this bill L. D. 49. Bill "An Act to Relieve Elderly Persons from Increases in the Property Tax," this bill is intended to relieve the aged people who have tried for many years to provide their families and themselves with a home, very often through many many sacrifices. The cost of buying a home, the mortgage, maintenance, and the ever increasing property tax, without overlooking the effort of personal family needs that had to be met, during these years few of the homeowners were able to acquire savings that would help secure the ownership of their home during their later years.

L. D. 49 would cost the State between 140 and \$160,000 a year as figured by Mr. Johnson of the Taxation Division. I had considered in this bill people who are renting and others doing so now would cost the State between one million and a million and a half dollars yearly.

At this time when money is not easily available, ladies and gentlemen of the House, I leave it to your good judgment, if you feel this bill would be a start in the right direction and help relieve our elderly people from the ever burdensome and increasing real estate tax, on these people who are on fixed income, I urge you to vote for the passage of this bill. L. D. 49 could be amended in the future years when money is more available to include those renting.

Mr. Speaker and ladies and gentlemen of the House, I meant to read to you a letter I received from one of these elderly people and I would like to do so at this time.

"Representative Roland Gauthier. Dear Sir: I read in today's paper where you were submitting a bill

to this session of the Legislature proposing relief on taxes for the elderly by abatement. I heartily endorse such an action. I know that there are many more all over this state who will applaud your act. Many elderly people in this area and all over this state are finding it just impossible to stand the rising cost of taxation on their homes. They have worked all their lives and saved so that they would be able to insure their safety when they could no longer work. Now their whole life's savings and securities are being drained away from them in taxes, high cost of sickness, doctors' fees and constantly rising costs of living on a fixed income.

Would it help you on your bill in this Legislature if many of these elderly citizens were to write to you regarding this situation? Sincerely yours," Mrs. Viola F. Lee from Kennebunkport, Maine.

Mr. Speaker, I move that this bill be substituted for the report.

The SPEAKER: The gentleman from Sanford, Mr. Gauthier, moves that the House substitute the bill for the report.

The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker and Members of the House: As I indicated yesterday in my remarks, I certainly am in sympathy with the concept that is contained in this bill and contained in two other bills that we have. In the interest of orderly procedure I would hope that you would vote against the motion so that we will have before us dealing with this subject just a single bill, hopefully the Committee's bill dealing with property tax relief for the elderly, and not proceed in the course where we will be attempting to juggle three bills all dealing with the same subject. Thank you.

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

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen: As a member of the Taxation Committee all of the members on the Committee had compassion for the elderly persons when it came to property taxes. As Mr. Susi said we had two bills before us, L. D. 49 and L. D. 1325,

and there is a committee redraft L. D. 1550. Now the House has already substituted the bill for the report on 1325. If you do the same thing on this L. D. 49 we will certainly be in the midst of a legislative hassle, and for this reason only do I oppose the motion.

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

Mr. GAUTHIER: Mr. Speaker and Members of the House: My Bill is number 49 and when I spoke to every member of the Committee they told me that they were in favor of this bill. Apparently this is a House bill, and they redrafted this bill and copied mine exactly but for a few items that were changed which I am having redrafted at the present time. The original bill that they—this new draft of Senate Paper 283, L. D. 916, was for a million dollars at that time. They have redrafted it with this L. D. 916 and copied mine. So I hope that you would go along with this House bill at the present time.

The SPEAKER: The pending question is on the motion of the gentleman from Sanford, Mr. Gauthier, that the House substitute the Bill for the Report. The Chair will order a vote. All in favor of substituting the Bill for the Report will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken.

56 having voted in the affirmative and 65 having voted in the negative, the motion did not prevail.

Whereupon, Mr. Gauthier of Sanford requested a roll call.

The SPEAKER: A roll call has 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 members desiring a roll call vote on this matter 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 Sanford, Mr. Gauthier, that the House substi-

tute the Bill for the Report. If you are in favor of substituting the Bill for the Report you will vote yes; if you are opposed you will vote no. The Chair opens the vote.

ROLL CALL

YEA—Bedard, Bernier, Binnette, Boudreau, Bourgoin, Brennan, Burnham, Carey, Carrier, Carter, Casey, Corson, Cote, Couture, Cox, Crommett, Croteau, Curran, Drigotas, Dudley, Dyar, Emery, Eustis, Evans, Faucher, Fecteau, Fortier, M.; Fraser, Gauthier, Gilbert, Giroux, Harriman, Hewes, Hichens, Hunter, Jalbert, Jameson, Jutras, Kelleher, Keyte, Kilroy, Lebel, LePage, Levesque, Marquis, Martin, McKinnon, McTeague, Meisner, Mitchell, Moreshead, Morgan, Nadeau, Noyes, Ouellette, Ricker, Rocheleau, Scott, G. W.; Sheltra, Soulas, Starbird, Tanguay, Temple, Thompson, Waxman, Wheeler.

NAY — Allen, Baker, Barnes, Benson, Berman, Birt, Bragdon, Brown, Buckley, Bunker, Chandler, Chick, Clark, C. H.; Clark, H. G.; Coffey, Crosby, Cummings, Curtis, Cushing, Dam, Dennett, Donaghy, Durgin, Erickson, Farnham, Finemore, Fortier, A. J.; Good, Hall, Hanson, Hardy, Haskell, Hawkens, Henley, Heselton, Huber, Immonen, Johnston, Kelley, K. F.; Lawry, Lee, Lewin, Lewis, Lincoln, Lund, MacPhail, Marstaller, McNally, Millett, Mosher, Norris, Page, Payson, Porter, Pratt, Quimby, Rand, Richardson, G. A.; Rideout, Ross, Sahagian, Scott, C. F.; Shaw, Stillings, Susi, Trask, Tyndale, Vincent, Watson, White, Williams, Wood.

ABSENT — Cottrell, D'Alfonso, Danton, Foster, Kelley, R. P.; Loberge, Leibowitz, Mills, Richardson, H. L.; Santoro, Snow, Wight.

Yes, 66; No, 72; Absent, 12.

The SPEAKER: Sixty-six having voted in the affirmative and seventy-two in the negative, the motion does not prevail.

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

The Chair laid before the House the tenth item of Unfinished Business:

HOUSE REPORT—"Ought not to pass"—Committee on Judiciary on Bill "An Act relating to Redemption by Owner and Sales of

Tax Acquired Property" (H. P. 816) (L. D. 1055)

Tabled—May 23, by Mr. Binnette of Old Town.

Pending—Acceptance.

On motion of Mr. Henley of Norway, retabled pending acceptance of Report and specially assigned for tomorrow.

The Chair laid before the House the eleventh item of Unfinished Business:

HOUSE REPORT—"Ought not to pass"—Committee on Retirements and Pensions on Resolve relating to Retirement Allowance for Hal G. Hoyt of Augusta (H. P. 868) (L. D. 1110)

Tabled—May 23, by Mr. Pratt of Parsonsfield.

Pending—Acceptance.

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

Mr. LEWIN: Mr. Speaker, I move to substitute the Resolve for the Report and I would speak briefly to my motion.

The SPEAKER: The gentleman from Augusta, Mr. Lewin, moves that the House substitute the Resolve for the "Ought not to pass" Report. The gentleman may continue.

Mr. LEWIN: Mr. Speaker and Members of the House: I ask your support this morning of Legislative Document 1110. The statement of facts are brief in the L. D. but require a brief review.

Mr. Hoyt, after serving the State for approximately 35 years as Director of the Securities Division of the State Banking Department, retired on January 1, 1965. In making his application for his pension rights, he selected Option 3, which made provision for retirement benefits for Mrs. Hoyt in the event that Mr. Hoyt should pass away first. This of course is a very normal selection, since it is pretty well conceded by insurance statistics that women live longer than men.

On January 20, 1965, Mrs. Hoyt was taken ill, she was admitted to the Maine Medical Center at Portland and she passed away on February 7, 1965.

Now I understand there is a 30-day period in which a retiree can

change his option. That 30-day period expired for Mr. Hoyt on January 31, 1965. The purpose of this resolve is to authorize the Retirement System to change the optional allowance so that Mr. Hoyt will be paid the benefits to which he would have been entitled had he selected full benefits for himself at the time of his retirement in January of '65.

Now obviously in the short period of time between the time Mrs. Hoyt was stricken and when she passed away in February Mr. Hoyt's concern was for her welfare and not for his own. What this resolve would do is to recognize Mr. Hoyt's long years of public service in the light of these most unfortunate circumstances. I have not been able to make a full review of the situation, but I would point out that in this session of the Legislature by Legislative Document 1014 both branches passed a bill to be engrossed, which was a resolve making retroactive to February 1, 1966 the retirement benefit being paid to Charles Hulbert of Shin Pond. His retirement was under the State Retirement System and the amount of his retirement benefit was increased by the 103rd Legislature by Chapter 79 of the Resolves of '67.

Under extraordinary circumstances the Legislature has passed special resolves with regard to the retirement of state employees. For instance in 1963 by Chapter 86 of the Resolves of that year, the Legislature directed that Trooper Regina be retired at a pension of \$104 per week. This was his regular pay and this was for the rest of his life and to be extended medical benefits as if he were an active member of the Maine State Police.

In 1967 by the Chapter 66 of the Resolves the Legislature raised the retirement benefit of this trooper to the current pay of the trooper detective and incorporated the standard that he would receive pay raises as pay raises were given to other troopers.

Another area in which the Legislature has enacted to increase retirement benefits for faithful employees is in the granting of out-of-state service credits, particularly to school teachers under the

retirement system. I refer to Chapter 61 of the Resolves of '65 as merely an example of the number of resolves which have been passed to overcome inequities which have occurred.

One more—in 1952 our former Commissioner of Education Harland Ladd, who passed away suddenly. He lacked about a year of service credits to be eligible for benefits. The Legislature passed Chapter 186 of the Resolves of '53, authorizing the Retirement System to pay a benefit of \$200 to his widow for life.

Now in view of the Legislature's prior and current practice of considering unusual circumstances and doing justice where it should be done, I urge your favorable consideration of this resolve on behalf of Mr. Hoyt, who by the way is over seventy years of age. Thank you.

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

Mr. TEMPLE: Mr. Speaker, Ladies and Gentlemen of the House: This morning we have before us again a special interest piece of legislation. This gentleman asked for something which the State Retirement System does not allow. This was taken into consideration by the Board of Trustees of the State Retirement System. This man's time ran out and this man receives over \$400 a month today in a state pension, which is more than ninety percent of our state employees today receive as pay, and the Committee voted unanimously that this bill should not pass. I hope that you will support the Committee.

The SPEAKER: The Chair recognizes the gentlewoman from Bethel, Mrs. Lincoln.

Mrs. LINCOLN: Mr. Speaker and Ladies and Gentlemen of the House: I very much dislike to go against my friend Mr. Lewin from Augusta, but the Committee felt that there would be too many others coming in under this same bill if we let it go through. Those that he read that have gone through in previous years were really very unusual circumstances, and that was why they had gone through. I was led to believe at the hearing and I could be very wrong, that

this gentleman could have had several other ways in which he could have gone about this—such as coming back into the service, he had retired and he could come back in and then have been able to have changed something or other. I am not too clear on it and maybe someone else on the Committee remembers it. But as Mr. Temple said, this came out of their committee a unanimous “ought not to pass.”

The SPEAKER: The Chair recognizes the gentleman from Parsonsfield, Mr. Pratt.

Mr. PRATT: Mr. Speaker and Members of the House: When we considered this bill in the Retirement and Pension Committee, there was a typographical error from a clerk of the Retirement and Pension division and the cost of this at that time was estimated to be \$9,636, and this included the retroactivity. But we later found out, since we had this meeting, that there was no retroactivity involved here and it is not to take effect until the first of next year, so the cost is reduced by practically \$4,000, to \$5,665. And I urge you to support the motion of Mr. Lewin.

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

Mr. MEISNER: Mr. Speaker and Members of the House: The same argument that has just been used by Mr. Pratt, I now feel that we should go along with Mr. Lewin. At the first the price seemed to be too high, but after reviewing the fact and as it is stated now, I think that he deserves this pension that he has coming to him.

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

Mr. TEMPLE: Mr. Speaker and Members of the House: Whereas this is special legislation, I would like to ask for a roll call vote.

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

Mr. SHELTRA: Mr. Speaker, Ladies and Gentlemen of the House: My only thought was that this would be opening the door to many many other retirees to come in with the same plea. Actually we have been a real conservative

type legislature and I think that we should continue in this vein because after all we're talking about thousands and thousands of dollars here once we open this door. Thank you.

The SPEAKER: The pending question is on the motion of the gentleman from Augusta, Mr. Lewin, that the House substitute the Resolve for the Report. 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 the desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Augusta, Mr. Lewin, that the House substitute the Resolve for the Report. If you are in favor of substituting the Resolve for the “Ought not to pass” Report you will vote yes; if you are opposed you will vote no. The Chair opens the vote.

ROLL CALL

YEA — Allen, Bernier, Casey, Chandler, Clark, H. G.; Cote, Cox, Crosby, Curtis, Dam, Dennett, Drigotas, Erickson, Eustis, Evans, Farnham, Finemore, Fortier, A. J.; Gilbert, Good, Hall, Jalbert, Jameson, Johnston, Kelleher, Kelley, K. F.; Lewin, Lewis, MacPhail, Marquis, Meisner, Millett, Morehead, Mosher, Norris, Noyes, Payson, Pratt, Rand, Rideout, Ross, Sahagian, Shaw, Soulas, Thompson, Wood.

NAY — Baker, Barnes, Bedard, Berman, Binnette, Birt, Boudreau, Bourgoin, Bragdon, Brown, Buckley, Bunker, Burnham, Carey, Carrier, Carter, Chick, Clark, C. H.; Corson, Cottrell, Couture, Crommett, Croteau, Cummings, Curran, Cushing, Danton, Donaghy, Dudley, Durgin, Emery, Faucher, Fecteau, Fraser, Hanson, Hardy, Harriman, Haskell, Hawkens, Henley, Heselton, Hewes, Hichens, Huber, Hunter, Immonen, Jutras, Keyte, Laberge, Lawry, Lebel, Lee, LePage, Levesque, Lincoln, Mar-

staller, Martin, McKinnon, McNally, McTeague, Mitchell, Morgan, Nadeau, Ouellette, Page, Porter, Quimby, Richardson, G. A.; Richardson, H. L.; Rocheleau, Scott, C. F.; Scott, G. W.; Sheltra, Starbird, Stillings, Susi, Tanguay, Temple, Trask, Tyndale, Vincent, Watson, Waxman, Wheeler, White, Williams.

ABSENT — Benson, Brennan, Coffey, D'Alfonso, Dyar, Fortier, M.; Foster, Gauthier, Giroux, Kelley, R. P.; Kilroy, Leibowitz, Lund, Mills, Ricker, Santoro, Snow, Wight.

Yes, 46; No, 86; Absent, 18.

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

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

The Chair laid before the House the twelfth item of Unfinished Business:

HOUSE REPORT — "Ought not to pass" — Committee on Taxation on Bill "An Act relating to Excise Tax on Motor Vehicles" (H. P. 841) (L. D. 1079)

Tabled — May 23, by Mr. Susi of Pittsfield.

Pending—Acceptance.

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

Mr. **LEWIN**: Mr. Speaker, I would move to substitute the Bill for the Report and speak to my motion.

The **SPEAKER**: The gentleman from Augusta, Mr. Lewin, moves that the House substitute the Bill for the "Ought not to pass" Report. The gentleman may proceed.

Mr. **LEWIN**: Mr. Speaker and Ladies and Gentlemen of the House: As you know, cities and towns throughout Maine are searching for additional sources of revenue to stabilize the ever increasing problem of the property tax. Having recently served as a City Councilman in Augusta, I share the concern of the municipalities as to where they are going to find the necessary revenues to finance local services without con-

tinuing to overburden the property tax.

It so happens that this session of the Legislature has been considering several tax bills which if enacted could result in revenue losses to the Maine communities. May I mention just one:

Exempting tax from TV sets; the loss on this bill alone would cost one city over \$16,000. Now this bill has been signed into law. With several bills being considered, and they have their merits, I believe that consideration should be given to the vehicle excise tax.

Now just what does the vehicle excise tax mean to our many communities? It furnishes a revenue vitally important to each and every one of them. If there were no excise taxes on vehicles today, no doubt there would be a personal property tax on them. A property tax is not a graduated tax. Each year the property tax is increasing although the item is getting older. But the vehicle excise tax is gradually lowered each year.

This L. D. simply calls for a one mill increase across the board. Now what does this mean? To a person buying a \$3,000 car, that's the maker's list price, not your retail price, it means he will pay \$3.00 more, or one dollar per thousand.

Now you have a paper just distributed on your desk showing the rates on cars and trucks. Let us look at those for a minute. On the sheets are figures showing the present excise tax on vehicles and the proposed one mill increase. Now for example, the Pontiac with the maker's list price of \$3,090, that's the car that sells for about \$3,700. This is not the selling price here. With the one mill increase you would pay an additional \$3.09 or 6 cents a week.

The International truck, on the second sheet, has a maker's list price of \$6,802, with an increase of \$6.85 or less than 14 cents per week. The more expensive truck listed on the sheet would pay 32 cents a week more. Now is this too much to ask of an owner of a vehicle that is wearing out our streets? I believe that this is a fair increase geared to the many types of vehicles and their respec-

tive uses. It is a good means for the communities to get some extra help.

We were sent to this Legislature, ladies and gentlemen, to represent our communities. They look to us for assistance. I feel that this is one area in which we can help. What do the people want in their respective communities? The answer is services. Our streets need constant repair being subject as they are today to heavy traffic from vehicles of all types. And whether you all know, the cost of snow removal to keep our vehicles rolling as well as the salt to melt the snow and the sand to prevent accidents, just to name a few, this all costs money.

In 1968 the City of Augusta paid nearly \$100,000 for snow removal alone. We know if we are to have services, we must have money to pay for them, and each year these services are getting more costly. This is not for one community that I am speaking this morning, but all communities in our state.

May I simply state one example? If this L. D. receives favorable consideration, a community having 13,000 persons paying vehicle excise taxes will get an extra \$20,000 to \$25,000. I believe that this L. D. is fair, it is timely and it is necessary to help the many Maine communities and I move its passage.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Chandler.

Mr. CHANDLER: Mr. Speaker and Ladies and Gentlemen of the House: We have heard several tax bills and there are more to come to bring funds to the state. We are talking today about money to stay in the town or city to be used for services. Someone has stated, "Why not give the excise tax on vehicles to the state?" This would not be a bad idea if, I repeat if, the State would take over the maintenance of all of our streets and roads, but we know that this is impractical and impossible.

This excise tax increase of one mill is not excessive. There has been no increase in the rate in thirty years, and the extra money is certainly needed as costs are increasing. I hope that you will go along with this L. D.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker and Members of the House: I believe that our Taxation Committee may have, to some extent through, perhaps, faulty procedures, discriminated against this bill that we have before us now. What happened was this. In our single or congested session we passed out a number of bills which were of considerable substance in a very hurried atmosphere. In that session we considered the increase in the gasoline tax; we considered a bill which would provide for increase in the registration fees and a feeling that there was a case for both of those, we reported those out favorably, one unanimously and the other in a split report, and we did both these things prior to the consideration of this bill which provides for an increase of the excise taxes at the municipal level.

Now I believe that the observations of the sponsor, Representative Lewin, are legitimate to a considerable extent. I believe that while we are in the Legislature, even though we are aware of the problems of municipal taxation, we are apt to get submerged in the problems of financing state affairs. But when I can separate myself from the problems of state finance and look at the problems of both, namely municipal and state, I am of the opinion that the problems of municipal finance are so much greater than the problems we face down here that there is absolutely no comparison. We have options down here, we're picking and choosing. We're discarding possible sources of revenue. At the municipal level, practically speaking, they have just one single source which has been applied to the extent that it is a distress situation.

And in this bill before us here today there is, as has been pointed out by the sponsor of this bill, an opportunity for us to give the chance to municipalities to a slight degree to relieve their tremendous problem and I would like to change my position on this bill and support the sponsor today in hopes that you will go along with him.

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

Mr. ROSS: Mr. Speaker and Ladies and Gentlemen of the House: Also as a member of the Taxation Committee, I agree with the Chairman, the gentleman from Pittsfield, Mr. Susi. Now aside from reporting out "ought to pass" the increase in registration and the increase in gasoline tax, another reason was that we had just passed and it was signed into law the auto trade-in. So the committee felt that we were hitting auto owners hard enough, but as has been mentioned two or three times the excise tax does go to the towns. They surely need relief and I, as one of the members of Taxation, am also willing to go along and substitute the Bill for the Report.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I have a couple of brief remarks in relation to this subject. Number one, the excise tax does go up considerably every year because the cost of vehicles goes up and it is based on the cost of the vehicle. So each town — and my community is one of them, receives several thousand dollars more each year from excise tax because the cost of the vehicle at the manufacturer's level does change every year considerably, and so the people are being hit from this angle very hard because there is a big change each year. I wanted to point that out.

Now the other thing I would like to point out to this House is that the Committee on Highways has given some relief to these towns and cities and it comes from the taxpayers' pocket also — namely, registrations — when we did away with the nine months thing on registrations. We require enough money from that to pay for the change in the snowplow accounts. Now the larger part of the municipalities was getting reimbursed about \$35 a mile and now they will get reimbursed \$100 per mile of road in their state. There is a schedule. This doesn't affect all towns but this is one of the greater amounts. There is a schedule

but they all get an increase so to speak. So we are taking from registrations some money and diverting it back to the local level. So they are getting some relief and it is coming from registration fees in the sense of the word because they are going to get it on the snowplow accounts.

So the two things I wanted you to know is that this excise tax is being increased considerably every year by one method and they are getting some relief and it's coming from these very people and I think the trade-in tax being thrown at them and it has already been signed, and I believe even this morning we are quite liable to pass a gasoline tax or a registration increase and this is hitting the same group of people that have to use their automobiles to get to and from work, and I don't think that a great many of the cars in this state are used strictly for pleasure; they are lucky if they can get a little ride on a Sunday. Most of our cars in this state, Maine licensed anyway, are used to get to and from their place of work. It's strictly not for pleasure. I would say a very small percentage of it. And for this reason I think we should take it easy. Most of these people are working for a living.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Fortier.

Mr. FORTIER: Mr. Speaker and Members of the House: Believing in the old axiom that confession is good for the soul, I too, as a member of the Taxation Committee, would like to take a position in favor of the motion of Mr. Lewin to substitute the bill for the report. I think Mr. Susi explained quite well how this unanimous report somehow or other got out of committee.

I would also like to answer to some extent the remarks of Mr. Dudley to the effect that insofar as the excise tax is based on the f.o.b. price and the cost of automobiles and trucks do increase, that the towns are getting an increase. I would like to remind this House that the valuations of real estate, and that increase continuously but that has not stopped the rates from being increased, and

that is the dilemma which the towns find themselves in today.

Again, I would like to take the same position that I have taken a number of times, pleading for our municipalities. Again, yesterday, we have abated at least two different items from which the municipalities will not get any return.

Now I have been accused by a member of this House of representing a fraternity. Now that fraternity was not exactly spelled out but if the fraternities are the 490 some odd municipalities in this state, I am proud to be their representative. I think that as far as the administration, the fiscal responsibility, they have done a magnificent job. The only place they have been lacking is in the assessment procedure where most of them do not have the professional competence that is required for that type of work. But I do think our municipalities have been fiscally responsible, I think they have been bartered and budgeted from pillar to post, and I do think that it is about time that we at least hand them a few crumbs, and for that reason I will certainly support the motion.

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

Mr. MORESHEAD: Mr. Speaker and Members of the House: I rise this morning in support of the motion of the gentleman from Augusta, Mr. Lewin. I feel that we have all heard a number of arguments regarding taxation legislation and we are all probably of the opinion that we must be quite careful in enacting and passing measures that call for increasing our taxes. But I submit to you this morning that this bill is different than most of the bills that we have heard up to this date in that the raise in taxes that this bill will bring about will go directly to our municipalities and I believe that this is where the problem lies in the area of finances and revenue.

As long as we allow our property owners to pay and pay and pay we are going to be facing a great dilemma at the local and mu-

nicipal level and I think we must take it upon ourselves as legislators to be responsible and to do something to relieve the property owner of the great burden that is being placed on him at his municipal level. So I therefore feel that this would be a much fairer tax, and it is a much fairer tax—namely the excise tax, and where this hasn't been increased for some thirty years perhaps the time has come to increase the excise tax rather than to make our municipalities year after year increase the property tax and look only to the property owners for relief for their increased costs at the municipal level. I therefore feel that a vote in favor of Mr. Lewin's motion today will be a vote in favor of relieving the property owners in the State of Maine of the great burden which they are faced with today.

Mr. Speaker, I request when the vote is taken it be taken by the yeas and nays.

The SPEAKER: Is the House ready for the question? The pending question is the motion of the gentleman from Augusta, Mr. Lewin, that the House substitute the Bill for the Report. 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 the desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is the motion of the gentleman from Augusta, Mr. Lewin, that the House substitute Bill "An Act relating to Excise Tax on Motor Vehicles," House Paper 841, L. D. 1079, for the "Ought not to pass" Report. All in favor of substituting the Bill for the Report will vote yes; those opposed will vote no. The Chair opens the vote.

ROLL CALL

YEA — Allen, Baker, Barnes, Bedard, Benson, Boudreau, Bourgoin, Bragdon, Brown, Buckley,

Burnham, Carey, Casey, Chandler, Chick, Clark, C. H.; Clark, H. G.; Corson, Cottrell, Couture, Cox, Crommett, Croteau, Cummings, Curran, Dam, Danton, Dennett, Donaghy, Drigotas, Durgin, Erickson, Eustis, Evans, Farnham, Faucher, Fecteau, Finemore, Fortier, A. J.; Fortier, M.; Fraser, Gilbert, Giroux, Good, Hall, Hanson, Hardy, Harriman, Haskell, Hawkens, Henley, Heselton, Hewes, Hichens, Huber, Hunter, Immonen, Johnston, Kelley, K. F.; Keyte, Kilroy, Leberge, Lee, LePage, Lewin, Lewis, Lincoln, Lund, MacPhail, Marquis, McKinnon, McNally, McTeague, Meisner, Millett, Mitchell, Moreshead, Morgan, Mosher, Nadeau, Noyes, Ouellette, Page, Payson, Porter, Pratt, Quimby, Richardson, G. A.; Richardson, H. L.; Ricker, Ross, Sahagian, Scott, C. F.; Shaw, Sheltra, Soulas, Starbird, Stillings, Susi, Temple, Thompson, Trask, Vincent, Watson, Waxman, Wheeler, White, Wood.

NAY — Bernier, Binnette, Birt, Brennan, Bunker, Carrier, Carter, Coffey, Cote, Crosby, Curtis, Cushing, Dudley, Emery, Gauthier, Jameson, Jutras, Kelleher, Lebel, Marstaller, Martin, Norris, Rand, Rideout, Rocheleau, Scott, G. W.; Tanguay, Tyndale, Wight, Williams.

ABSENT — Berman, D'Alfonso, Dyar, Foster, Jalbert, Kelley, R. P.; Lawry, Leibowitz, Levesque, Mills, Santoro, Snow.

Yes, 108; No, 30; Absent, 12.

The **SPEAKER**: One hundred and eight having voted in the affirmative and thirty in the negative, the motion does prevail.

The Bill was read twice and assigned for tomorrow.

The Chair laid before the House the thirteenth item of Unfinished Business:

MAJORITY REPORT (8) — Committee on Education on Bill "An Act Requiring all Municipalities to Become Members in a School Administrative District" (H. P. 510) (L. D. 681) reporting "Ought to pass" in new draft (H. P. 1208) (L. D. 1535) under title of "An Act Requiring the State Board of Education to Develop a Master

Plan for School District Organization to be Submitted to Local Referendum" and **MINORITY REPORT** (2) reporting "Ought not to pass"

Tabled — May 23, by Mrs. Cummings of Newport.

Pending — Acceptance of either Report.

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

Mr. **RICHARDSON**: Mr. Speaker, I move the acceptance of the Majority "Ought to pass" Report, and I would speak to my motion.

The **SPEAKER**: The gentleman from Stonington, Mr. Richardson, moves that the House accept the Majority "Ought to pass" Report. The gentleman may continue.

Mr. **RICHARDSON**: Mr. Speaker and Ladies and Gentlemen of the House: We have before us today the final redraft of L. D. 681. This L. D. 1535 represents the sound thinking of many of you in this House who have made suggestions to the committee and from the people of your towns who have aided the committee in their thinking. We realize that this will not be acceptable to all but I do hope that when you vote today you will be deeply concerned with education and will vote for the best interests of education in the State of Maine.

We are all concerned in this House about what taxes we will have to levy before we adjourn. I think we are all hoping that the State will make savings in areas where money can be cut out and not hurt a program. Yet even in the face of statistics some will argue that districts have raised costs. Of the 495 municipalities, 282 are already organized into 75 administrative districts and during the school year, '67 to '68, these districts expended an average of \$411.26 per pupil while non-district municipalities spent an average of \$436.89 per pupil. A ten year tax study presented by the State Board of Education in a report which you all have had on your desks shows that from 1957 to 1967 the average tax increase for school purposes in all districts was 8.8 per year while in the single town municipalities it was 12% per year. It should

follow that formation of school administrative districts has assured many students of improved educational opportunities at a reduced cost to the taxpayer.

Personally I think that our young people in our elementary schools are getting short changed. So that I won't step on anyone's toes, I am not going to use figures for any area except my own as an illustration. I can assure you though that these figures are widespread and that none of us should be proud of the marked differential between our spending for elementary and secondary school educations.

Stonington in 1966-67 spent \$4205 under the minimum foundation program on elementary and \$17,747 excess of the foundation program on the high school. This does not sound so bad on the face of it, but consider that this amounted to a failure of \$18 per pupil on the elementary level and a sum of \$200 excess per pupil at the high school level. Deer Isle and Brooklin, the only other two communities in our area that maintain small high schools, both met the minimum foundation program at the elementary and even exceeded it by a few cents per pupil. However, Deer Isle spent close to the \$200 that Stonington did and Brooklin spent \$600 in excess of the foundation program on their secondary level.

Please keep in mind that these are per pupil figures. I am thoroughly convinced that no town can create a good student body for the high school while short changing the elementary. The above towns along with Sedgwick and Brookville therefore have voted to form an administrative district. There was certainly some small town animosities between the various towns but these people are more interested in their young people than in perpetuating their grievances.

Most nationwide studies having to do with the thorny problem of school districts recommend that the optimum in an elementary school will be about three to five hundred and in our high school it expresses it either at an optimum of five hundred or a hundred in a

graduating class. Both of these figures are about equal.

I stand before you to perhaps confess something today that although I have fought against districts for six years in this House, mandating of districts, though I have fought against setting any limitation on the size of a high school for basic approval, I can no longer justify this position which I have taken in the past. I believe that the facts not only for Maine but nationwide prove beyond a reasonable doubt that my stand was wrong in the past. I as a responsible legislator must admit that I am wrong and that I can no longer argue with the facts.

I would call to your attention that this bill as it is now written is totally permissive and that any single town as under the present SAD law can vote not to join the district as suggested by the state board.

I think perhaps one of the most telling paragraphs that I have read with relation to school districts in some time is that size suggestions are related to objectives. Unless appropriated sizes can be reached program objectives may not be met. The importance of size is not in numbers themselves but in the greater numbers can produce. And I would submit to you that by utilizing greater numbers we can have more efficient school systems. I would therefore hope that you would vote to accept the Majority "Ought to pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Machias, Mr. Kelley.

Mr. KELLEY: Mr. Speaker and Members of the House: I rise in opposition to the motion by the gentleman from Stonington, Mr. Richardson. This bill which we are considering today is the fifth — the fifth — redraft of the original. Now a r e d r a f t means different things to different people. But I have noticed that when a bill has little or no merit then the sponsors hastily produce another redraft which means in essence that they rehash it to make it a bit more saleable.

Of course I think we are all aware of the fact that our federal government as well as our state

government has in the past few years become dominated by bureaucracies which constantly seek to expand their scope and their power. They probe here and there seeking weak spots in areas which can be exploited and which may be turned to advantage and if you resist them, if you resist them, if you summon your courage and say "This far shall you go and no farther," then the next ploy is to offer to negotiate or to produce a redraft.

We had an example of this recently in the bill which would phase out small high schools of less than 300 pupils. This bill was resisted vigorously in the committee hearing. So then they said, "Well, will you settle for 150?" To use a rather homely analogy, it's much the same as if I took your wrist watch and your wallet and if you resisted, then I'd say, "Okay, let us negotiate, which would you prefer, your wrist watch or your wallet?"

Now this bill in several different forms has been presented to three legislatures and it could and doubtless would deal a death blow to the private academies. There is no evidence from the past that the department would give any real consideration to the services which academies have performed in this state for the past two centuries. Independent schools just do not fit into an SAD pattern.

I firmly believe that the people in a given region should be given a real voice in the determination of the education of their children. This bill gives them none.

Now the sponsor points to the small savings in the per pupil cost of education. I submit to you, ladies and gentlemen, that it is worth that small amount for the community to retain control over its schools. And I would also remind you, those of you who have followed up the history of school administrative districts in this country, that time is running against the concept of the super school. These things seem to go in cycles and very soon now we may find that the cycle is about to be completed and we will have gone from a small school to the super school and eventually back to the small,

efficient locally controlled school, which after all promises the best for the child, for the taxpayer, and for the community.

Ladies and gentlemen, I would earnestly urge you to vote against the acceptance of the "Ought to pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Kingman Township, Mr. Starbird.

Mr. STARBIRD: Mr. Speaker and Members of the House: I too would urge you to vote against Mr. Richardson's motion. I might point out to you that this bill is essentially the same as one that was passed in the 102nd Legislature. The master plan was drawn up and submitted to the 103rd Legislature, which Legislature rejected the master plan and repealed the legislation of the 102nd. I see no reason to repeat it. I find no provision in this law that says what we shall do if a municipality rejects joining into an SAD, and supposing all of the others around do, is he to be forced in? I think over the years since the Sinclair Law, which was originally supposed to be merely permissive, was enacted, something like 80% of our communities have joined SAD's voluntarily. They have done so because they have felt apparently that this was the proper thing to do and that they could provide a better education for their children in this manner. I have no quarrel with that. This is their own local matter, they have decided it on the local level, and have carried on accordingly. But there are others that have not joined. There are others that do not want to join. And I cannot justify dictatorship for any excuse. And therefore I urge that you — especially in the light that this matter has come before us before, and the master plan submitted two years ago is on file for anyone to look at, and it was rejected, I urge you again to reject this very similar legislation.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Allen.

Mr. ALLEN: Mr. Speaker, Ladies and Gentlemen of the House: Since the Sinclair Act was passed

over ten years ago the average annual increase in public school costs of education in Maine School Administrative Districts has been 8.8%. In cities and towns in the state not in SAD's the average annual increase has been 12%. The statistics confirm the fact that education costs for a variety of reasons are increasing year after year but we are keeping them under better control in SAD's than in our cities and towns not in SAD's.

Representative Richardson of Stonington has given you figures on the average cost per pupil in SAD's of \$411 and cities and towns not in SAD's of \$436. That's an increase of over \$25 per pupil.

We have 135,000 pupils still not in SAD's, about half of the public school children in the state. At \$25 per pupil for those not in SAD's, that represents an extra and avoidable cost to the taxpayers of this state of \$3,375,000. That is a considerable sum of money. Are we watching the leaks at the tap while more than \$3¼ million goes out the bung hole?

We already hold a carrot, a bonus of 10%, in operating costs to those cities and towns who become members of SAD's. I am not yet ready to propose mandatory districting, even at an estimated saving of over \$3 million, but we should give every encouragement to communities to become members of SAD's because of the savings and quality of education. L. D. 1535 proposes a study to determine what towns might join to reduce costs and improve the quality of education at the same time.

I hope that you will vote for the Majority "Ought to pass" Report on L. D. 1535.

The SPEAKER: The Chair recognizes the gentleman from Chelsea, Mr. Shaw.

Mr. SHAW: Mr. Speaker and Ladies and Gentlemen of the House: I am happy to know that the SAD's are saving money. I have a letter that I got from SAD No. 11 the other day and they are screaming for help. They say the City of Gardiner has gone up roughly 4 mills, the Town of Pitts-

ton has gone up 41 mills, the Town of Randolph has gone up 15 mills, West Gardiner has gone up 31 mills in this one year.

The SPEAKER: The Chair recognizes the gentleman from Monmouth, Mr. Chick.

Mr. CHICK: Mr. Speaker and Ladies and Gentlemen of the House: I happen to be one of two members who signed the "Ought not to pass" Report. I have a few points I would like to bring out. Number one, I think it has been pointed out that a mandatory bill so-called was introduced back in February. There were quite a large number of people that came to attend the hearing and when they arrived at the committee hearing they found that another bill had been substituted for the bill introduced. I know that several at the meeting at least expressed their disapproval to me that they had arrived to speak against the bill and found that it in substance had been withdrawn and another one substituted in its place. Most of them did speak, however, against the new bill that was introduced at the day of the hearing and it has been pointed out since then there has been several other new drafts and we have finally come up with the one that is before us today. L. D. 1535.

I would like to point out that in bringing out all of these new drafts I am sure that the thinking of the state board and the department has not been changed and if you go back and look at the release that we had on March 4, one of the drafts that was presented, you will note that they still have a master plan which calls for a maximum of ninety school administrative districts. This method I am very much opposed to because I feel that there has altogether been too much emphasis on the state level as to determining the quality of education that is being offered by the number of pupils that you have in a school or in a district. I think there are more important factors and I think that the department has been lax in not drawing up a better plan to form these school districts than on the basis of number.

Now there is one point I would also like to bring out on the third

page of 1535, the new draft that we are talking of today. This is a concept that I am afraid is creeping into our municipalities which I am very much opposed to. Now I would like to say first off that for approximately 25 years—I think probably a little longer than that, I have been a member of a joint board whose job it has been to prepare school budgets and present to the town meeting. Over the years I think we have fared reasonably well. We have had to cut back a few times but that is as it should be, because I think that anyone who is vitally interested in schools is naturally looking to schools. They sometimes lose sight of the very important consideration that should be given to the roads and other municipal services.

Now if you will notice on page 3 of this document and I am going to read just one paragraph. It says: "Whenever a city of more than 20,000 population as determined by the latest census is combined with other municipalities in a school administrative district, the annual budget shall be approved by the directors. The assessment shall be made to the municipal officers as provided in the Revised Statutes, Title 20, Section 305."

In other words the voters in that district will not have a chance to review the budget and cut it nor will it go in the case of a city to the council for review and consider the school needs with the needs of other services within the community. This is a trend I know that a lot of people are trying to incorporate into our municipalities and I do not think that it is a good one to do.

Now one other thing on the cost figures that have been brought out here, I would like to make just a few remarks on that. I think you can take a set of figures and make them tell almost any story you want to.

Now when they tell you they compare the cost of the figures in SAD's versus figures in the communities outside of SAD's, I think there is one very important thing. I know the school people realize this, but they are hoping

when they quote these figures that you will not take it into consideration, and that is the Sinclair Law as it originally was passed to help the smaller and poorer communities to join together and form an SAD. It was not the intention of the original sponsor of the bill that every community in the state should belong to an SAD.

Now if you look at it from this point, you will find that the theory that all of these poor communities can ever afford to spend the money on education that some of your richer communities can afford to do — I mean it's just not fair unless the State wants to put probably twice as much money into education as they are putting in at the present time. So when you are comparing the figures, the costs, to some of these small towns, they can never hope to spend as much money as some of your wealthier towns. So from that standpoint your figures should tend to favor your larger communities. They should be able to do it cheaper.

Now the second thing, even with the figures that have been quoted here today, if you just inserted figures that should be in there, then I think it would tip the scales in favor of the communities that are not in SAD. We have been told that somewhere from 75 to 80% of the communities are now in SAD. Now if that is a fact then you should take the cost of the Department of Education, and it should be inverted over, with the exception of school subsidy, into the overhead of the cost of not only SAD but all other communities. And I am sure that if the cost of operating the Department of Education was allocated, as it justly should be to the different SAD's and communities, that you would find that your per pupil cost has shifted radically in that process.

So without any further comments, I would hope that the "Ought to pass" Report will be defeated and that you will eventually accept the Minority Report.

The SPEAKER: The Chair recognizes the gentlewoman from York, Mrs. Brown.

Mrs. BROWN: Mr. Speaker and Ladies and Gentlemen of the

House: Following Mr. Chick's explanation of a lot of things that have puzzled me, I would like to pose a question to anyone who may care to answer. What proof has the Education Committee or the Education Department shown us that the graduates of SAD's have received a superior education? We have only the statistics on costs. We have no statistics before us to prove quality. Thank you.

The SPEAKER: The gentleman from York, Mrs. Brown, poses a question through the Chair to any member who may answer if they choose.

The Chair recognizes the gentleman from Caribou, Mr. Allen.

Mr. ALLEN: Mr. Speaker and Ladies and Gentlemen of the House: I would like to make the attempt. Approximately 30% of the teachers in the large high school have more than five or more years of college preparation, 18% of the teachers in the medium size high schools have five or more years of preparation, and in the very small high schools very few have as many. This is the result of a study, nothing to do with SAD's, research study comparing the schools in Maine enrolling fewer than 100 pupils, enrolling 300 to 500 pupils, and enrolling more than a thousand pupils in three groups.

And the guidance counsellor services are available to students in the large high schools and the medium size high schools but are nonexistent in the small high schools. The services of the trained librarian are available to students in the large high school and the medium size high school, but again are nonexistent in the small high school. I think that evidence of superior teaching abilities and superior facilities in the larger schools would give me enough evidence that we get superior high school training.

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

Mr. WAXMAN: Mr. Speaker and Ladies and Gentlemen of the House: I am just wondering as I listen to the debate this morning on this particular bill, how many members of the House are under

the impression that if we pass this piece of legislation we will be requiring the cities and towns to join SAD's against their will. Because if you are under this impression it is an erroneous impression. The only thing that this bill will require, and I think that it should be frankly and openly stated, is that towns that have come together in what is indicated as a proposed SAD must vote on whether they wish to join.

It seems to me this is the best of two worlds. On the one hand we get the benefit of state leadership in education when we also provide approximately \$45 million a year in state subsidy, and on the other hand we preserve the option of localities to join or not to join. We lead without pushing, we encourage without requiring. It seems to me that this is our responsibility and we can do this and at the same time preserve local integrity.

I would make just one final comment and that is with regard to costs. Mr. Shaw has complained about the costs of the Gardiner SAD. I guess the first question you ask is how much would costs have gone up among these various towns if they had not joined SAD's? The second one you must ask is aren't we demanding much more from our educational facilities today and aren't we demanding much more from education today than we ever were before, and therefore is it not natural that costs should go up? I think we're finding that our youngsters are better educated today than they ever have been before because they must be if they are going to be equipped properly for the jobs and occupations that they wish to take in life.

I would hope that the members of this House would vote to support this bill as it encourages without mandating.

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

Mr. McTEAGUE: Mr. Speaker and Members of the House: Mr. Croteau and I, as Representatives of the Town of Brunswick, come from a community that has recently had a hard fought election under the current law regarding the SAD

question. The other towns involved were Bowdoinham, Topsham and Harpswell. The other three towns approved the proposed SAD plan, Brunswick rejected it by about a 2 to 1 vote. I am not an opponent to the concept of the SAD. Indeed I think in many circumstances it makes very good sense both educationally and financially.

To comment on some of the statements of Mr. Waxman, the gentleman from Portland, it seems to me that the idea of leading without driving, which I recall is the essence of his statement, is not necessarily a bad one. But in regard to some of the provisions of the redraft, L. D. 1535, I feel that at least to some extent the deck is being stacked and I would like to comment specifically on those provisions.

On page two of the redraft, in the first full paragraph, about eight lines down, there's a provision that each municipality shall be entitled to representation by three municipal officers and three school committee members. The idea of equality of representation on the committee which is to consider the formation of an SAD and to determine the formula for the financial cost sharing between the towns, gives equal representation to each town but does not follow the idea of one man, one vote. What's the result you get from this unequal representation? What's the result when the community of Bowdoinham, which if my memory is correct, perhaps has an eighth of the population of Brunswick, has as many members on the SAD study committee as the Town of Brunswick?

The result certainly is not favorable to the larger community and the means of reaching the result is not a democratic one. Why is there this desire to give equal representation to communities that have a population of 2,000 with communities that have a population of 15,000 or 18,000? Will the deck be stacked by the SAD study committee regarding the very important cost sharing formula? Well, let's think about it. If you were a member of the SAD study committee from one of these smaller towns in an area, would you intend to

discriminate against yourself in favor of the larger town? I think the answer is obviously not. Or might the converse occur, might you and your fellows on the SAD study committee, who represented a majority of the voting weight on the study committee but a definite minority of the population of the area, tend to favor your own community over the larger community? I think the answer is that it is certainly a possibility and one that I don't think should be provided for or encouraged by statute.

Now the other thing that the SAD feasibility study committee determines is how are the towns to be represented on the SAD board if an SAD is approved by the voters of the locality? Again we come back to the concept of one man one vote.

In the situation in Brunswick, Topsham, Bowdoinham and Harpswell, Brunswick has a significant majority of the population of the area. Yet under the plan that was presented to us, the voter in Bowdoinham had approximately four times as much to say about the SAD committee as the voter in Brunswick. This is wrong. I am a believer in the concept of one man one vote.

In the second paragraph on page 10, the second full paragraph relating to the date of the election, why should the board determine the date of the election? Why should the State Education Board determine this? Very often the date on which an election is set is in reality a strong factor in determining the outcome of the election. Why can't our selectmen in the various towns determine on what date within bounds the election would be held?

In regard to the paragraph that Mr. Chick commented on on page 3, about two thirds of the way down, speaking about the master plan, I question first of all the draftsmanship of this and that it uses the word city rather than municipality. Our population in Brunswick is 18,000; we hope it will soon be at 20,000. We are a town, not a city, and although I believe we are the largest town, that might cause some technical problems in the future. But my

major objection to that paragraph is the same as Mr. Chick's. Why should the budget setting authority be taken away either from town meeting or in those towns where the charter form of government from the councilmen who are the elected representatives of the people? Why is there this desire to take away the authority to set the budget from the people that are going to have to pay the costs?

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker and Members of the House: I certainly go along with Mr. Chick that the State Board and the Department of Education haven't changed. Their master plan calls my home County of Washington for three districts. Those three districts would be combined in an area as large as the States of Rhode Island and Delaware put together. I don't think it is realistic and certainly as Mr. Starbird pointed out, that you can do a lot of things as far as figures are concerned and they are taking figures for SAD's in towns that were naturally suited to SAD's. I am not against districting where it is reasonable to district, and this is where the districts presumably have been formed.

We are talking now about the towns where it was not reasonable to district and therefore naturally the figures would be different because you have high costs because of geographical areas that bring about the high cost of transportation and the fact that it is perhaps not quite as economical because of the number of teachers in relation to the number of students in the school. This can be offset and is offset by the fact that this teacher-student ratio gives a better education and I know that my children would not be proud of this or want this, but I am going to use a personal example.

I have two daughters, one of whom has graduated from one of your Maine private institutions, Bates. At the time she entered less than 10% of the student body were Maine boys and girls and it

wasn't because there weren't others that wanted to get in. She says that she is glad that she graduated from a small high school. She would not change it if she could. I have a daughter who is now finishing her Junior year at the University of New Hampshire. She is an honor student. She tells me the same thing. I am one of the parents that does ask their children and does go along in many cases with what they think is right. I think that the young people do have something to offer us and this is one thing.

Here are two youngsters, one who has just gone through this educational period, the other one who is still in it, and this is the way they feel, that the small schools do have something to offer. And as far as Mr. Allen and the education of the teachers, as a former teacher I would say that probably the least important thing as far as a teacher is concerned is the number of degrees they have after their name. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Bristol, Mr. Lewis.

Mr. LEWIS: Mr. Speaker and Ladies and Gentlemen of the House: I attended the hearing when this bill was heard and I spoke on the bill. I made the statement that I would be in favor of mandatory school districting. This morning I find that I have got to eat crow. I am changing my mind as several have changed their minds on a previous bill. The reason I am changing my mind is because several of the small towns that I represent have repeatedly voted on this question and have turned it down. I have received many communications since from citizens within those towns who object to mandatory SAD's.

I realize the bill in its present form is not mandatory. It puts it out to local option and I have a question that I would direct to Mr. Richardson if he cares to answer. What would happen to these towns who vote and refuse to conform? Is it possible that school subsidy

might be greatly reduced because of their nonconformity?

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

Mr. RICHARDSON: Mr. Speaker and Members of the House: I like anyone else in the House cannot answer this but the Legislature would have to change the subsidy law in a major way in order for subsidy to be withheld from any community for not joining an Administrative District.

While I am up I would take the opportunity if I may to answer a couple of other questions that were posed and a couple of statements which were made. My good friend Mr. Starbird and I went down the other day to the Legislative Research Office and looked up the two bills to which he referred. The 102nd Legislature did pass enabling legislation which permitted the State board after the 103rd had passed a mandating master plan to approve of the master plan. Master plan legislation was introduced in the 103rd but it was withdrawn. It was not, and I repeat, not turned down by the 103rd, it was withdrawn. I am well aware of this because I was the sponsor of the bill and requested leave to withdraw.

The enabling legislation certainly was then repealed because there was no necessity of it because the 103rd did not report back a master plan for the state board to act upon. I would point out to my good friend, Mr. Starbird, that perhaps I don't want to buy a driver's license to drive on the road but I have to. I think there has been some concern expressed too about the fact that the State of Maine is going to have 90 School Districts. I would point out to you that the State of New Mexico which has four times the area of the State of Maine has only 90 School Districts, the State of Nevada which has three times the area of the State of Maine has only 17 School Districts and these are places where your population and your school population are similar to Maine. Utah, with two and a half times the population of Maine, has only 40 School

Districts; Idaho with two and a half has 117, and we could go on down through the list.

Another question which I would like to answer at this time is, the gentlewoman from York posed the question as to what indications there are that we have better education now, and I would submit that the study which was made of Islesboro schools certainly points up the fact that the small schools cannot do an adequate job. Certainly they listed four areas in which Islesboro High School had good educational features, one was the teacher ratio which has been brought out as an excellent thing, and I wholeheartedly agree, and this in turn gives a maximum of individual attention. The second is that the principal-faculty, inter-faculty and the student-faculty relationships are close. This is a good educational feature.

The parents and students have a strong pride and esprit de corps in their school and all of the students participate in extracurricular activities. But there are two pages of drawbacks and among these are minimal curriculum offerings, which I would submit to you are far more important to a youngster than the fact that he can sit down and talk with his teacher for a few minutes during the day. They claim three courses of study and in effect they have two, college preparatory and business.

The help for a youngster going away to school is just not there in a small school. You can only have two years perhaps of foreign language and most of your colleges require three. You can only have three years of a math program if you work it right, but if you happen to decide in your sophomore year that you want to go on to engineering school you just can't do it because you have got to take a post-graduate course somewhere else. You can't have physical ed, you can't have driver education, it is almost impossible in a small school, and furthermore you have continual turnover of teachers because they will go and teach one year. Islesboro has an exception; they have a principal who has been there eighteen years, but the other teachers are not long-term teachers

and I would submit that unless you have continuity in your education that you are cheating the youngsters.

I would hope when we vote that we would think of that youngster in school and not think of emotional arguments. Thank you.

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

Mr. MARSTALLER: Mr. Speaker, Ladies and Gentlemen of the House: I am going to oppose this bill for several reasons. First, I understood that School Districts were primarily for our small towns to get together to give added educational opportunity. Now we have gotten through this period and many towns have joined these Districts, and I am not against Districts as such. But now we have a proposal before us which in effect they say that Districts are good for everyone no matter what the size, what the conditions are. The proponents have said, "We are just asking that you vote on whether or not you want to be a District." But really this is not what we are voting on here. We are voting on whether or not the concept of Districts is the right concept for every community in our state.

I believe we do not have sufficient evidence to show that Districts have solved our educational problems to the extent that we are saying that this concept is the right concept for every community in our state. So I feel that until we have more unbiased evaluation of what's happening in our Districts and not just an evaluation by the Education Department, that we are not ready to say that every community should be in a District or that this is the right thing for every community.

We have had another point brought out here that I would like to mention and that is that Districts or large schools give a greater variety of courses so that they better educate children. I spend a good deal of my time in trying to help education, both public and private, and one of the things that confronts people in talking about education today is the rapidly expanding knowledge and how do we deal

with this in our educational system.

It is obvious that we can't teach everything that is known, so what do we do? We take some basic things and then we teach attitudes or we present attitudes so that people that are educated, although they don't know everything, at least they know if they are interested in some field how to pursue this field, and I think we have to apply this more and more in our public school education, that we certainly can't teach everything but it is an attitude or a desire for knowledge that we teach.

I think that when we consider the facts and figures given that these really do not tell us the quality or the quantity of education given in our public schools. We are interested in good education and I don't think this is the way to go about it.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker and Members of the House: I understood one gentleman to say that in the SAD that they could offer more curriculum than they can in the smaller schools. This may have been true up until this year. My town, the Town of Skowhegan, we had quite a good educational system. We went into a SAD because we were sold a bill of goods, a bill of goods by the Department of Education. This year we have taken away programs from the SAD that we had in my town under the town's system of education because no longer can we afford to have them in the system because the cost has risen so much.

The other thing I would like to point out, it has been said that this is a local option question. There is only one thing with this local option business; there is only one thing with this permissive legislation business. If the Department of Education wants to mount a campaign to force your area into a SAD they have the resources where they can do this. If the community, the people in this community want to oppose this they must dig into their own pocket, dig out their own money and fight their own money because

this is their money they have paid in taxes to oppose this measure. The Department of Education is well heeled. They can set this up, they can send speakers up, they can sell the people a bill of goods and they can blind them to the real issues, and then when it comes to the vote, after the vote is taken, because the people have been blinded, they find they are in an SAD. Once you are in the SAD it is too late to pull out.

Now in a bill that we recently had it was said there was taxation without representation. I think this is quite evident in SAD's. In my SAD 54, my town, the Town of Skowhegan, pays 75% of the cost. We have nine directors. The other towns pay 25% of the cost, they have 11 directors. We have been clobbered in the Town of Skowhegan by the outlying towns. We have been forced into high costs and I wish that we had never had any SAD's in the State of Maine, and I go along with the "Ought not to pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Ladies and Gentlemen of the House: At the risk of calling attention of this House to my gray hairs, I will comment that I was here when the original Sinclair Act was passed. I have listened to such discussions as this through many sessions.

As I look at this bill we are only authorizing the Department of Education to come up with a master plan which the next Legislature can take a good look at and see if there is something in it or anything in it that they want to buy. I think this is a good approach. This system of districts has grown over the years and got out of the original concepts that were established when it was first passed. There are many small towns that would like to get into districts and possibly under the impetus of a districting plan, this might be brought about where it cannot apparently be brought about under present conditions. I find myself voting in favor of the Majority Report of the Education Committee on this bill.

The SPEAKER: The Chair recognizes the gentleman from Kingman Township, Mr. Starbird.

Mr. STARBIRD: Mr. Speaker and Members of the House: The trip of Mr. Richardson, who is my good friend despite our positions on opposite sides of the fence quite often, to the Legislative Research office is correct. However, I still want to emphasize that last session the plan was submitted in essence because the copies of the plan were in booklet form here on our desks. I have a copy of that plan at home today and through my own oversight neglected to bring it here, but I dare say it is also in the files. The reason that we have leave to withdraw on legislation, as most of us know, is that we either have other legislation calling for the same thing and therefore we would have duplication or else the sponsor finds that there is so little support for what he wants that he withdraws his bill rather than go to the expense of having it go through the legislative channels.

I think this is probably what occurred last session. I see my good friend shaking his head over there. However, why I say this is that we did reject the legislation that had been passed by the 102nd Legislature. We did reject this. I think there was considerable opposition to compulsory districting at that time. Now it is my understanding that SAD's at the present time get something like a 10% school subsidy bonus and I wonder if possibly those towns that, after this proposed referendum took place that had rejected the plan, had rejected going into any school district, following up the line of thinking of Mr. Lewis, what would happen to these towns, where would they go, what method would be used to force them to conform, supposing that there were very few of them left in cities? Would you twist their arms, would you use monetary coercion, would you send in the National Guard? This is ridiculous of course. Any method you use would be a method which is in essence dictatorship.

Now no one denies the fact that a dictatorial form of government is the most efficient thing. It

probably can save money because it's to their interest to save money. But it does not make it right and you probably will be forcing a great deal down a great many peoples' throats that they don't want and reject, and I think that you will find that if you go throughout the state today that if the people that are in our SAD's now, a great many of them, if they had the same thing to do over again they would reject it. At the risk of repeating myself, I am going to say that this bill to me represents a form of dictatorship and I cannot justify dictatorship in this country. I think most of us prefer democracy with all its faults.

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

Mr. MILLS: Mr. Speaker and Members of the House: The more I hear of this debate, the more it scares me. It recalls to my mind in the history of our country George Washington didn't go to any SAD and Hitler had a master plan. Mr. Speaker, I move indefinite postponement of this bill and all its accompanying papers and ask for a division.

The SPEAKER: The gentleman from Eastport, Mr. Mills, moves the indefinite postponement of the Reports and Bill.

The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker and Ladies and Gentlemen of the House: A couple of comments. Two statements have been made. In reply to the comments made by the gentleman from Perham, Mr. Bragdon, in which he said this authorizes a master plan, it appears to me from the first two sentences of the bill that a master plan will be developed and not submitted to the Legislature but will be submitted to the individual towns for referendum, this referendum to be accomplished by July 1, 1971. Although this does not require mandatory districting, it does require mandating of voting to make this decision. This is a compulsory thing which is contrary to the original concept of the Sinclair Bill when it was passed.

The gentleman from Machias also made some very excellent comments about redrafting this bill. I believe that there is still some very severe inequities in the bill in that taking an area such as the gentleman from Brunswick, Mr. McTeague spoke of, it is possible for one town plus one town official from one other town to be able to completely control the makeup of the directorate of this district and also the sharing of the costs. I think this is one of the larger inequities in there as well as the inequity that is set up in there in the 20,000 population. Why 20,000 is a magical figure or why any figure should be in there, or why the approval of the budgets should not be referred to the town officials or the town is something that I do not understand.

It also leaves to some element of doubt as to what happens to the remaining towns who do not decide at that time to join a district. This question also is very up in the air and I would strongly support the motion of the gentleman from Eastport, Mr. Mills, for indefinite postponement and would request a roll call.

The SPEAKER: The Chair recognizes the gentlewoman from Newport, Mrs. Cummings.

Mrs. CUMMINGS: Mr. Speaker and Members of the House: I agree with the opponents of this bill. Just because more than 83% of the towns have joined a district certainly is absolutely no recommendation that this would serve the remaining towns. There are many situations in the State of Maine where this would create a hardship for those towns. However, there have been more flexible rules made to govern the sharing of costs so that the towns that would be making a study under this bill they would find that it was easier for towns with a great difference in valuation to come to an equal and valid sharing of the costs.

Some of these towns have not studied and I think in some instances it is because they have been ruled by men who just didn't want to face something new. They weren't willing to take a chance at even making a study. It is an ef-

fort, a great many citizens have to become involved, and I think that some of them just did not want to think that perhaps some of their power of their own little bailiwicks would be removed from them.

This bill would see to it that every citizen had a chance to see how their town would benefit or not, but at least would give them the force to make a study and some of them I think would find with these new bills that have come out of the Education Committee that it might end up to be to their benefit.

In answer to the gentlewoman from York, Mrs. Brown, some of those courses that are offered in the larger high schools lead to a more flexible curriculum so that an individual can have a curriculum that fits his unique desires and needs; for instance, where there are many students in the high school, where there are perhaps four classes in English in the freshman group, he could be in whichever one suited his needs and abilities the most, and the same thing would hold true of all the other subjects. So that by itself alone I think stands to benefit the students.

We are not looking for super schools. I agree that any schools that go up to the size of some of these big city schools have many more problems than the little ones and I would hate to see that happen in the State of Maine.

And to answer the question about rejection, the same rules apply that applied to the past ten years. Should a district or a town turn down the opportunity to join a district, then those who want to do the study over again and nothing has been changed from the way we have been living for the last few years.

We don't know, of course, whether this will lead to fewer dropouts or not. The theory is strong in support that it will, but there are not enough figures at the moment to make this a definite possibility.

I think in the unfortunate case of Skowhegan, and it was an unfortunate tragedy that some of those courses had to be removed, that the blame should not be put on the school administrative districts

but rather on the evaluation of the property tax that was done by the state this year. I would like to see this bill go through.

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

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: In the last several years I have been quite an advocate of mandatory school districts of the entire state because I can readily see the benefits that the different towns and municipalities have derived considerable benefits from the school district system.

However, this year I find myself in a dilemma about what possibilities can come about in the next few years or with the next Legislatures. If we are not, and I would like to repeat that, if we are not going to do the job of uniformity of property taxing, which is one of our big problems now, that there are so many differences between the municipalities as far as the methods of taxing the property, if we are not going to take the course of action of alleviating some of these inequities in our present municipal taxes, then I don't see the feasibility of a workable mandatory system. This is item one, that we must have a uniform way of taxing the properties to make this system work on a mandatory system.

Second, I would like to point out that what has happened this year at this session of the Legislature when certain towns, because there was a marked change of valuation in municipalities, certain towns were segregated from the requirements of the Sinclair Law and given priority treatment in allocating school subsidies, if this is going to be the pattern for the future, that if some towns or municipalities, or a group of towns or municipalities are dissatisfied with the way the Tax Department has come up with the valuation of state property, what will be the eventuality of having even the basis of a uniform tax system on the State of Maine for the purpose of allocating school subsidies, if by the same token the Legislature is going to come back in session and make special allowances for changes in

valuation in certain towns and let the others go freely.

These areas I find that we are going to run into and we might be in some very serious difficulty if we try to mandate the towns into school districts without taking the action of uniformity of allocation of the subsidy one and for all and eliminate these special cases, and then have a uniform system of property tax so that the municipalities can eliminate the inequities that are presently built into our present form of taxation.

I am not going to support the motion for indefinite postponement of this measure this morning for the simple reason that I feel that there may be some areas that the bill can be salvaged, that can be passed this session of the Legislature providing we do the two things that I outlined just now. If these two things are done, then I see that the mandatory system would be a great step forward. Thank you.

The SPEAKER: Is the House ready for the question? The pending question is on the motion of the gentleman from Eastport, Mr. Mills that both Reports and Bill "An Act Requiring all Municipalities to Become Members in a School Administrative District," House Paper 510, L. D. 681, be indefinitely postponed.

The gentleman from East Millinocket, Mr. Birt moves that when the vote is taken it be taken by the yeas and nays. For the Chair to order a roll call 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 the desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Eastport, Mr. Mills that both Reports and Bill 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 — Baker, Barnes, Bedard, Berman, Binnette, Birt, Boudreau, Bourgoin, Brown, Bunker, Burnham, Carey, Carrier, Carter, Casey, Chick, Clark, H. G.; Cote, Cottrell, Couture, Cox, Crommett, Crosby, Croteau, Curran, Curtis, Cushing, Dam, Danton, Dennett, Donaghy, Durgin, Dyar, Emery, Erickson, Eustis, Evans, Faucher, Fecteau, Fortier, A. J.; Fortier, M.; Foster, Giroux, Hall, Hanson, Hardy, Harriman, Haskell, Hawkens, Henley, Heselton, Hewes, Hichens, Huber, Hunter, Immonen, Jameson, Johnston, Jutras, Kelleher, Kelley, K. F.; Keyte, Kilroy, Laberge, Lawry, Lee, Lewis, Lincoln, MacPhail, Marquis, Mars-taller, McNally, McTeague, Meisner, Mills, Mosher, Nadeau, Norris, Noyes, Ouellette, Page, Payson, Porter, Quimby, Rand, Ricker, Rocheleau, Ross, Scott, C. F.; Scott, G. W.; Shaw, Sheltra, Starbird, Thompson, Trask, Tyndale, Wight, Williams, Wood.

NAY — Allen, Bernier, Bragdon, Brennan, Chandler, Clark, C. H.; Corson, Cummings, Drigotas, Farnham, Finemore, Fraser, Gauthier, Good, Lebel, LePage, Levesque, Lewin, Lund, Martin, McKinnon, Millett, Mitchell, Morgan, Pratt, Richardson, G. A.; Richardson, H. L.; Rideout, Stillings, Susi, Temple, Vincent, Watson, Waxman, Wheeler, White.

ABSENT — Benson, Buckley, Coffey, D'Alfonso, Dudley, Gilbert, Jalbert, Kelley, R. P.; Leibowitz, Moreshead, Sahagian, S a n t o r o, Snow, Soulas, Tanguay.

Yes, 99; No, 36; Absent, 15.

The SPEAKER: Ninety-nine having voted in the affirmative and thirty-six in the negative, the motion to indefinitely postpone does prevail.

Sent up for concurrence.

The SPEAKER: The Chair recognizes the gentleman from Kingman Township, Mr. Starbird.

Mr. STARBIRD: Mr. Speaker, I now move that we reconsider our motion and I request that you vote against me.

The SPEAKER: The gentleman from Kingman Township, Mr. Starbird moves that the House reconsider its action whereby it indefinitely postponed this bill. All

in favor will say aye; those opposed will say no.

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

The SPEAKER: Is there objection to taking up Supplement No. 1 out of order? The Chair hears none. The Chair will call your attention to Supplement No. 1.

The following Communication:
STATE OF MAINE
SUPREME JUDICIAL COURT
AUGUSTA, MAINE

May 27, 1969

Hon. Bertha W. Johnson
Clerk, House of Representatives
State House
Augusta

Dear Mrs. Johnson:

There is enclosed the Answers of the Justices to the Questions of May 19, 1969, together with a copy of House Amendment A attached to the Questions.

Respectfully yours,
(Signed)

ROBERT B. WILLIAMSON
ANSWERS OF THE JUSTICES

To the Honorable House of Representatives of the State of Maine:

In compliance with the provisions of Section 3 of Article VI of the Constitution of Maine, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following answers to the questions propounded on May 19, 1969.

QUESTION NO. 1: May the State properly, by the enactment of legislative document #1339, suspend a person's license and privilege to operate, when the licensee, upon being legally arrested on the charge of operating or attempting to operate a motor vehicle while intoxicated or while his mental and physical faculties are impaired by the use of intoxicating liquor, refuses to submit to one of the tests enumerated in the bill for the purpose of determining the alcoholic content of his blood, when requested to do so by a law enforcement officer, whether or not the person is subsequently convicted of the offense charged?

ANSWER: We answer in the affirmative.

The proposed statute in effect imposes a condition upon the hold-

ing of a license to operate a motor vehicle upon the public ways of this State. The condition is that the licensee voluntarily consent to taking a sobriety test under certain prescribed conditions. The statutory requirement rests upon the premise that there is no absolute right to obtain and hold an operator's license. There is rather a privilege which for valid reasons involving the public safety may be granted or withheld by the State. *Prucha v. Department of Motor Vehicles* (1961) 172 Neb. 415, 110 N.W. 2d. 75; *Lee v. State* (1961) 187 Kan. 566, 358 P. 2d. 765; and see Annot. 88 A.L.R. 2d. 1064. It is true that the State may not unreasonably, arbitrarily or capriciously withhold a license but it may properly condition the grant upon compliance with reasonable police power requirements.

We note that the proposed amendment to 29 M.R.S.A., Sec. 1312 uses the words "arrested" and "arrest" and clearly contemplates that the implied consent to the taking of a test becomes operative in a given case only after an arrest has been made for operating or attempting to operate while intoxicated or impaired. We further note that in the question propounded to us the words "upon being legally arrested" are used. In answering in the affirmative, we interpret the words "arrested" and "arrest" in the proposed legislation as meaning "legally arrested" and "legal arrest." Such assigned meaning is consistent with the manifest intent and purpose of the Act.

The constitutional issues are covered by our answers to Questions 2, 3 and 4. The meaning which we assign to the phrase "tests available to him" as used in the Act is fully covered by our answer to Question 5. There remains for consideration only the question of the effect of a subsequent acquittal of one who has declined to submit to the test. As was stated in *Prucha*, supra, "The fact of acquittal of a criminal charge of operating a motor vehicle while under the influence of alcoholic liquor does not have any bearing upon a proceeding before the director for the revocation of a

driver's license under the provisions of law separate and distinct from criminal statutes." We are not aware of any contrary authority. See cases assembled in Annot. 88 A.L.R. 2d. 1064, 1076, Sec. 8.

The proposed law provides adequate safeguards upon the revocation issue by requiring a hearing thereon and permitting Court review of an adverse ruling.

QUESTION NO. 2: Assuming that a person is legally arrested and has legally consented to the taking of a test, do the provisions of legislative document #1339 relating to the taking of chemical tests of breath, blood or urine violate the provisions relating to self-incrimination under the Fifth Amendment of the Constitution of the United States or under the provisions of the Constitution of Maine, Article I, Section 6?

ANSWER: We answer in the negative.

Both Article I, Section 6 of the Maine Constitution and the Fifth Amendment of the United States Constitution protect a person against self-incrimination. The wording in the State and Federal Constitutions is not identical, but in *Gendron v. Burnham* 146 Me. 387, 395 it was declared "that precedent with respect to the construction of the one may well serve as precedent for the construction of the other."

While the rule is not without exception "(t)he more general view is that the constitutional guaranty renders incompetent only such evidence as is furnished or produced by accused under 'testimonial compulsion,' * * *, and it has no relation whatever to real as distinguished from testimonial evidence." 22A C.J.S. Criminal Law § 649. To same effect 21 Am. Jur. 2d. Criminal Law § 354.

This constitutional question as applied to a blood alcohol test reached the Supreme Court of the United States in *Schmerber v. California* 284 U. S. 757, 86 S. Ct. 1826 (1966), wherein it was held that the privilege against self-incrimination was not violated by the admission in evidence of the results of a test of a blood specimen from one under arrest.

Schmerber and cases from many other jurisdictions hold that the taking of samples of body fluids, or breath, for the purpose of testing for blood alcohol from a person under lawful arrest does not violate the constitutional prohibition against self-incrimination.

The legislature is mindful that Maine law is more protective of the individual than *Schmerber* by reason of the holding in *State v. Merrow* 161 Me. 111, that the consent of the accused is necessary before a blood sample may be extracted.

Maine has recognized the *Schmerber* holding in *State v. Stevens*, Me., 252 A. 2d. 58, by opinion filed April 9, 1969.

QUESTION NO. 3: Assuming that a person is legally arrested and has legally consented to the taking of a test, do the provisions of L. D. 1339 relating to the taking of chemical tests of breath, blood or urine violate the provisions relating to due process contained in the Fourteenth Amendment of the Constitution of the United States and in the Constitution of Maine, Article I, Section 6-A?

ANSWER: We answer in the negative.

The Fourteenth Amendment of the United States Constitution and Article I, Section 6-A of the Maine Constitution guarantees that no person shall be deprived of life, liberty or property without due process of law.

This constitutional question was raised in *Breithaupt v. Abram* 271 P. 2d. 827 (N. M. 1954) which held that there was no denial of due process and the holding was affirmed by the United States Supreme Court in 352 U. S. 432, 77 S. Ct. 408 (1957).

QUESTION NO. 4: Assuming that a person is legally arrested and has legally consented to the taking of a test, do the provisions of L. D. 1339 relating to the taking of chemical tests of breath, blood or urine violate the provisions relating to unlawful searches and seizures contained in the Fourth Amendment of the Constitution of the United States and in the Constitution of Maine, Article I, Section 5?

ANSWER: We answer in the negative.

The Fourth Amendment of the United States Constitution and Article I, Section 5 of the Maine Constitution renders people secure in their persons from all unreasonable searches and seizures.

This constitutional question was raised also in *Schmerber* wherein it was held that in the light of the fact that the percentage of alcohol in the blood decreases with the passage of time as the body functions to eliminate it from the system, and delay which would be occasioned by securing a search warrant threatened the destruction of the evidence, the taking of a blood sample in accordance with acceptable medical practices and in a reasonable manner was an appropriate incident to the arrest of the accused. See also *State v. Stevens*, Me., 252 A. 2d. 58, cited under Question No. 2.

QUESTION NO. 5: If legislative document No. 1339 is enacted and a person is legally arrested under its provisions and is advised of the tests available to him and requests a test not available but refuses to take any other test, is his license and privilege to operate susceptible of suspension by the Secretary of State under the provisions of subsection 2 of section 1312 of L. D. 1339?

ANSWER: We answer in the affirmative.

Legislative document No. 1339 provides that if a person legally arrested under its provisions and advised by a law enforcement officer of the "tests available to him" thereafter refuses upon request of the officer to submit to "one of the tests as provided in this section," his license and privilege to operate is susceptible of suspension for a period not to exceed 6 months.

The pertinent parts to be construed in relation to Question 5 are as follows:

"§ 1312. Any person who operates a motor vehicle or attempts to operate a motor vehicle within this State shall be deemed to have given consent to a chemical test of the blood alcohol level of his blood, breath or urine for the purpose of determining the alcoholic content of his blood. * * *"

He shall be informed by a law enforcement officer of the tests available to him, and said accused shall select and designate one of the tests. * * *"

* * * * *

"2. Hearing. If a person under arrest refuses upon the request of a law enforcement officer to submit to one of the tests as provided in this section, none shall be given. * * * If it is determined that such person was arrested and did refuse to take a chemical test of his blood, breath or urine, the Secretary of State shall order a suspension of the person's license and privilege to operate, not to exceed 6 months."

Webster's New International Dictionary defines available: "Such as one may avail one's self of; capable of being used to accomplish a purpose; usable; convertible into a resource." Bouvier's designates the following meaning to it: "Capable of being used; valid or advantageous." In ascertaining and carrying out the legislative intent, which is the fundamental rule of statutory construction, the court will look to the language used and also consider the object to be accomplished by the legislation, since it is the spirit of the law which must control over the literal purport of dictionary definitions. Some flexibility is essential in the proper interpretation of statutes. *Acheson et al. v. Johnson*, 1952, 147 Me. 275, 86 A. 2d. 628. Legislative expression must be read in the light of the lawmakers' purpose as the object the statute designs to accomplish oftentimes furnishes the right key to the true meaning of any statutory clause or provision. *Middleton's Case*, 1939, 136 Me. 108, 3 A. 2d. 434.

The general purpose of legislative document No. 1339 is to promote an effective enforcement of the law prohibiting the operation of motor vehicles in this State by persons intoxicated or impaired by the use of intoxicating liquor. To interpret the statute as giving the person arrested the unqualified choice of designating any one of the 3 tests available under the law, i.e., blood, breath

or urine tests, for the purpose of determining the alcoholic content of his blood without regard to the availability in fact of some one or more of the permissible tests at the time and place of the arrest would make the provisions of the statute worthless and totally ineffective in many areas of the State where in all probability all 3 tests would not be actually available. Any knowledgeable person could evade the act by designating a test unavailable as a matter of fact.

We do not impute such an intent to the Legislature and we interpret the phraseology "tests available to him" as meaning any one or more of the 3 permissible statutory tests as are reasonably available and capable of being used under all the circumstances existing at the time and place of the arrest and warning, the practical considerations of time, area, distance, facilities, equipment, and test-administration personnel to bear upon the reasonable-availability formula adopted by the lawmakers. On the other hand, the legislation does not limit the tests available to the uncontrolled whim of law enforcement officers.

Therefore, the request of a test not reasonably available for use under all the existing circum-

stances and his refusal to take any other test by the person arrested will subject his license and privilege to operate to suspension by the Secretary of State under the provisions of subsection 2 of section 1312 of L. D. No. 1339.

Dated at Augusta, Maine, this 26th day of May, 1969.

Respectfully submitted:

(Signed)

ROBERT B. WILLIAMSON
DONALD W. WEBBER
WALTER M. TAPLEY
HAROLD C. MARDEN
ARMAND A. DUFRESNE, Jr.
RANDOLPH A. WEATHERBEE
The Communication was read and ordered placed on file.

(Off Record Remarks)

On the disagreeing action of the two branches of the Legislature on Bill "An Act relating to Contracts for Support," (H. P. 863) (L. D. 1105) the Speaker appointed the following Conferees on the part of the House:

Messrs. BERMAN of Houlton
BRENNAN of Portland
LUND of Augusta

On motion of Mr. Richardson of Cumberland,

Adjourned until nine o'clock tomorrow morning.