

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

Volume III

June 17, 1969 to July 2, 1969

Index

1st Special Session

January 6, 1970 to February 7, 1970

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KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Monday, January 12, 1970

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

Prayer by the Rev. Mr. David Dunn of Augusta.

The members stood at attention during the playing of the National Anthem by the Hall-Dale High School Band of Hallowell.

The journal of the previous session was read and approved.

**Papers from the Senate
Tabled and Assigned**

From the Senate: The following Order:

ORDERED, the House concurring, that the joint rules be amended by adding a new Joint Rule 12-A, to read as follows:

12-A. Statement of fact. All bills and resolves shall, upon introduction and later amendment thereof, be accompanied by a written statement of fact indicating intent, prepared by the sponsor, legislator or legislative committee involved (S. P. 616)

Came from the Senate read and passed as amended by Senate Amendment "A", as follows:

Amend said Joint Order by striking out in the 5th and 6th lines the punctuation and underlined words "**prepared by the sponsor, legislator or legislative committee involved**"

In the House: The Order was read. Senate Amendment "A" (S-359) was read by the Clerk and adopted.

(On motion of Mr. Birt of East Millinocket, tabled pending passage in concurrence and specially assigned for tomorrow.)

**Reports of Committees
Ought Not to Pass
Covered by Other Legislation
Tabled and Assigned**

Report of the Committee on Education on Bill "An Act relating to Difference of Student Tuition Between University of Maine and the State Colleges" (S. P. 596) (L. D. 1767) reporting "Ought not to pass", as covered by other legislation.

Came from the Senate read and accepted.

In the House, the Report was read.

(On motion of Mr. Levesque of Madawaska, tabled pending acceptance in concurrence and specially assigned for tomorrow.)

Non-Concurrent Matter

Bill "An Act relating to Certain Classified Employees in the Forestry Department" (H. P. 1354) (L. D. 1683) which was passed to be engrossed in the House on January 7.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-360) in non-concurrence.

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

The following Communication appearing on Supplement No. 2 was taken up.

The following Communication:
STATE OF MAINE
SUPREME JUDICIAL COURT
AUGUSTA

January 12, 1970

Mrs. Bertha W. Johnson
Clerk, House of Representatives
State House
Augusta, Maine

Dear Mrs. Johnson:

There is enclosed the Answers of the Justices to the Questions of January 8, 1970.

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 January 8, 1970:

QUESTION No. 1: Must the House of Representatives, if it disagrees with the veto of the Governor, take action under Article IV, Part Third, Section 2, of the Constitution of Maine to override the veto of the Governor?

ANSWER: We answer in the negative.

The Statement of Facts submitted with the Questions reveals that at the regular session of the 104th Legislature House Paper No. 21, Legislative Document No. 24, **RESOLVE, Proposing an Amendment to the Constitution Providing for Convening of the Legislature at Such Times as the Legislature Deems Necessary**, was passed by both the House and the Senate by a vote of two-thirds of each body. The Resolve was signed by the Speaker of the House of Representatives and the President of the Senate. The Statement of Facts continues, the Resolve was presented to the Governor for his consideration on June 27, 1969. The 104th Legislature adjourned without day July 2, 1969, before the Governor considered the Resolve. The Statement of Facts further recites that on the first day of the convening of the first Special Session of the 104th Legislature the Governor returned the Resolve disapproved.

Article IV, Part Third, Section 2, of the Constitution of Maine, provides in part as follows:

Section 2. Every bill or resolution, having the force of law, to which the concurrence of both Houses may be necessary, except on a question of adjournment, which shall have passed both Houses, shall be presented to the Governor, and if he approve, he shall sign it; if not, he shall return it with his objections to the House, in which it shall have originated, which shall enter the objections at large on its journals, and proceed to reconsider it.

Article X, Section 4, entitled, Amendments to Constitution, reads as follows:

Section 4. The Legislature, whenever two-thirds of both Houses shall deem it necessary, may propose amendments to this Constitution; and when any amendments shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns, and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at the next biennial meetings in the month of November, or to meet in the man-

ner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of Senators and Representatives, on the Tuesday following the first Monday of November following the passage of said resolve, to give in their votes on the question, whether such amendment shall be made; and if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this Constitution.

A resolve passed by a two-thirds vote of both Houses of the Legislature, proposing a constitutional amendment, is not a "bill or resolve having the force of law."

In proposing a constitutional amendment the Legislature is not exercising its power to make laws. It is acting as a special organ of Government for the purpose of initiating a constitutional amendment. To the exercise of this function the Governor is not a party.

The Legislature erred in sending Legislative Document No. 24 to the Governor for his approval. This being so, it necessarily follows under our Constitution, the sanction or approval of the Governor is not essential to the validity of the resolution proposing the amendment to the Constitution. Accordingly, his veto does not affect the validity of the resolution. The Governor has no duty to perform respecting constitutional amendments save that required by **1 M. R. S. A. Sec. 352**, i. e., within 30 days after it appears that a constitutional amendment has been adopted, the Governor shall make proclamation thereof.

We are mindful it has long been the practice of the Legislature to refer resolutions proposing constitutional amendments to the Governor for his consideration. We are unaware of any previous instance in which such resolve has been the subject of Executive veto. The occasion for a determination that the Governor's assent to a resolve proposing a constitutional amendment is unnecessary, could not, then, have sooner arisen. A long continued practice of the Legislature cannot have the effect of imposing duties upon the

Governor beyond those provided by the Constitution.

Since the Governor's veto subtracts nothing from the validity of the legislative action in this instance, it is not necessary for the House of Representatives to take action under **Article IV, Part Third, Sec. 2, of the Constitution of Maine** to override or sustain the veto of the Governor.

QUESTION No. 2: If the answer to Question 1 is in the negative, may the House of Representatives now, without further action, transmit Legislative Document No. 24 directly to the Secretary of State for his action in conformity with the provisions thereof?

ANSWER:

Question No. 1 has been answered in the negative. Since the resolution (Legislative Document No. 24) has been passed by 2/3 vote of both the House and Senate and no action thereon is required by the Governor, the Document becomes one that must be transmitted to the Secretary of State for his action in conformity with the provisions of the resolution. The usual and ordinary procedures, according to the rules of the Legislature, should be employed to accomplish this.

Dated at Augusta, Maine, this 12th day of January, 1970.

Respectfully submitted:

(Signed)

Robert B. Williamson
Donald W. Webber
Harold C. Marden
Armand A. Dufresne, Jr.
Randolph A. Weatherbee
Charles A. Pomeroy

The Communication was read and ordered placed on file.

Orders

On motion of Mr. Shaw of Chelsea, it was

ORDERED, that Molly Alexander of Farmingdale be appointed to serve as Honorary Page for today.

House Reports of Committees

Ought to Pass in New Draft

New Draft Printed

Passed to Be Engrossed

Mr. Starbird from the Committee on State Government on Bill "An Act relating to Municipal Zoning Ordinance Affecting Indian Lands" (H. P. 1358) (L. D. 1687) reported

same in a new draft (H. P. 1426) (L. D. 1795) under same title and that it "Ought to pass"

Report was read and accepted and the New Draft read twice. Under suspension of the rules the New Draft was read the third time, passed to be engrossed and sent to the Senate.

Ought to Pass

Printed Bill

Passed to Be Engrossed

Mr. Harriman from the Committee on Taxation reported "Ought to pass" on Bill "An Act Imposing a Tax on the Unorganized Territory Within the Maine Forestry District for Spruce Budworm Control" (H. P. 1317) (L. D. 1646)

Report was read and accepted and the Bill read twice. Under suspension of the rules the Bill was read the third time, passed to be engrossed and sent to the Senate.

Ought to Pass with

Committee Amendment

Tabled and Assigned

Mr. Kelley from the Committee on Inland Fisheries and Game on Bill "An Act relating to Penalty for Violations by Guides under Fish and Game Laws" (H. P. 1401) (L. D. 1757) 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-628) was read by the Clerk and adopted.

Under suspension of the rules the Bill was read the third time.

(On motion of Mr. Birt of East Millinocket, tabled pending passage to be engrossed and specially assigned for tomorrow.)

Mr. Shaw from the Committee on Legal Affairs on Bill "An Act Clarifying and Correcting an Omission in the Charter of the Town of Gorham" (H. P. 1345) (L. D. 1674) 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-629) was read by the Clerk,

Mr. Carter of Winslow offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-633) was read by the Clerk and adopted. Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

Under suspension of the rules the Bill was read the third time, passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto and sent to the Senate.

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to Pay for Fifty Percent of Health Insurance Plans for State Employees Beginning July 1, 1970" (H. P. 1306) (L. D. 1620) 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. LUND of Augusta
JALBERT of Lewiston
MARTIN of Eagle Lake
BIRT of East Millinocket
SAHAGIAN of Belgrade
BENSON
of Southwest Harbor
BRAGDON of Perham
— 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.

The Majority "Ought to pass" Report was accepted and the Bill read twice.

Committee Amendment "A" (H-630) was read by the Clerk and adopted.

Under suspension of the rules the Bill was read the third time, passed to be engrossed as amended and sent to the Senate.

The following enactors appearing on Supplement No. 1 were taken up.

Passed to Be Enacted Emergency Measure

An Act Amending the Liquor Laws (S. P. 586) (L. D. 1741)

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. 125 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act relating to Duties of Lucerne-in-Maine Village Corporation and Town of Dedham as to Education of Children (H. P. 1340) (L. D. 1669)

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. 124 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.

Finally Passed Emergency Measure

Resolve Approving of Conveying of Anson Academy to School Administrative District No. 74 (H. P. 1328) (L. D. 1657)

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. 128 voted in favor of same and none against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to Improve Sanitary Standards to Stop Unlawful Sales of Shucked Shellfish (S. P. 563) (L. D. 1638)

An Act Appropriating Funds for Employment of an Occupational Safety Engineer by the Department of Labor and Industry (S. P. 577) (L. D. 1704)

An Act to Change the Name of Westbrook Seminary and Junior College to Westbrook College (H. P. 1325) (L. D. 1654)

An Act to Clarify School Construction Aid (H. P. 1326) (L. D. 1655)

An Act relating to Powers and Duties of the Public Safety Commission of the Town of Old Orchard Beach (H. P. 1341) (L. D. 1670)

An Act relating to Elections in City of Biddeford (H. P. 1342) (L. D. 1671)

An Act relating to Authority of State Employees Appeals Board (H. P. 1352) (L. D. 1681)

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.

Orders of the Day

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

HOUSE REPORT — “Ought not to pass” — Committee on Appropriations and Financial Affairs on Bill “An Act Appropriating Funds for Grants by the Maine School Building Authority” (H. P. 1313) (L. D. 1642)

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

Pending — Acceptance.

The SPEAKER: The Chair recognizes the gentleman from Jefferson, Mr. Clark.

Mr. CLARK: Mr. Speaker, I move that the Bill be substituted for the Report and I will speak to my motion.

The SPEAKER: The gentleman from Jefferson, Mr. Clark, moves that the House substitute the Bill for the Report. The gentleman may proceed.

Mr. CLARK: Mr. Speaker and Ladies and Gentlemen of the House: This bill, although it is not so specifically marked, has to do with a \$25,000 appropriation for Somerville Plantation, to aid them

in building a new school building. It is very impossible for this Plantation on their own to build a building of any kind. The Department of Education approves of this procedure; in fact they generally have money in this Maine School Building Authority to do these things with. This is not new, it has been done for many other plantations; but by the time that we came along with our request the fund was absolutely depleted. And this is in order that they might assist this Plantation.

If you can see the two schools there today, I am going to say that probably it is pretty hard to keep comfortable in either one of them. They are dilapidated, they are cold, they should have been abolished years ago. There is no school district that they can join. If there was a possibility they might join one, it would be China and that would be some thirty-one miles away one way to transport small children.

Again I would remind you that this procedure has the approval of the Department of Education and also of the Board of Education. In view of the circumstances in the Somerville Plantation I would hope that this bill would receive passage. I so move.

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

Mr. MARTIN: Mr. Speaker and Ladies and Gentlemen of the House: In attempting to relate to you what the Committee on Appropriations and Financial Affairs went through when we heard this request, I will attempt to make myself brief but hopefully to the point.

As the gentleman from Jefferson has pointed out it indeed would be \$25,000, which would primarily be earmarked for Somerville Plantation. It should be pointed out that when funds for grants are made by the Maine School Building Authority, they are made on the basis of hardship, and on the basis that a community is unable to help itself to build a building on its own. And that it is

located in such a way that it cannot take its children to another school located by its town, or that it is simply out in the middle of the woods somewhere.

Now, in the past years grants have been made by the School Building Authority, and the last one to my knowledge was the one that was made to Wytopitlock in northern Aroostook and upper Penobscot County area. And this was done with the specific purpose in mind that there were no communities of any population for some 25 miles in either area. The Department of Education told us at the hearing that Somerville Plantation at one end was about two miles away from another town where it had school buildings, and five miles in the other direction.

We would be building in Somerville Plantation a two-classroom building to educate nine grades. If this is the type of education that we want to offer young students and young pupils of this state, then perhaps we should vote for the \$25,000 which would go to the Maine School Building Authority. But the Appropriations Committee felt that the best thing that we could do was to refuse the grant and in hopes that Somerville Plantation would make an effort to join with other communities to form a School Administrative District, so that it could educate its pupils properly.

And so I would hope that you would vote against the motion to substitute the bill for the report.

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

Mr. BIRT: Mr. Speaker and Ladies and Gentlemen of the House: I rise in agreement with the gentleman from Eagle Lake, Mr. Martin. This school being in a reasonably heavily populated area, it does not seem that their problems are insurmountable, and that they cannot be worked out, and that they can find some area that they can join with.

In the two or three cases that were mentioned by the Department

of Education before the Appropriations Committee, as it was pointed out, one of them being Reed Plantation, which is about 50 miles from anywhere, and their problem was a great deal different than the problem here.

Actually, this town, as I understand it, is only 18 miles from the capital city. And it seems between some form of transportation or consolidation, that their problems should be able to work out. And I think if we make it easy for them we're actually going against the general concept of what the Sinclair Bill originally was, to encourage these small towns to join together into forming school districts for the betterment of education. And I would ask for a vote on the motion.

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

Mr. LEE: Mr. Speaker and Ladies and Gentlemen of the House: I would respectfully ask the two previous speakers to take a visit to the Somerville Plantation area. It isn't thickly settled, it's a very cut-off area. I am very familiar with it. I have worked there, it borders on a town where I have a home. Say they ever do join a district, they will still have to have an elementary school. They are tucked off there in an area where I would say it was very difficult.

And not only that, but they are surrounded by four towns, Palermo, Union, Washington, and I think the situation there is just a little different than they are trying to picture. And I would be wholeheartedly in favor of giving this \$25,000.

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

Mr. LEWIS: Although the Somerville Plantation is not in my district, I am very familiar with conditions there. It is isolated. It is a poor town. I don't think that it it would be wise to transport the smaller children from the first grade up, the distance that has been mentioned here in the discussion. I heartily approve of Mr. Clark's motion.

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

Mr. JALBERT: Mr. Speaker and Ladies and Gentlemen of the House: I was approached on this measure this afternoon. Through my own fault I was not at the committee hearing. And I agreed to the report. "ought not to pass." And I knew nothing about the measure. I was not even at the hearing. It was one of the days I had four other bills, and I found myself running from one committee room to another.

Since the tabling motion of last weekend, from Friday till today, facts have been brought to my attention which would possibly make one think over his previous action. I don't think that there is anyone who might not say that he occasionally could be wrong. At least I've been wrong all my life, so possibly it might be well that I might continue to be wrong, and not being inconsistent, but possibly be wrong.

In any event, anyone that would say that this is in a densely populated area, and anyone that would say that there was an over abundance of wealth in that area, is either on the mash barrel or else hasn't visited in that area. I have. And for that reason, and the fact that the House Chairman asked me to change my thinking—I gave my word, for that reason alone I would change my thinking. I wholeheartedly support Mr. Clark.

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

Mr. BRAGDON: Mr. Speaker and Members of the House: I didn't intend to have anything to say on this matter, but I guess it has got to the point where I have to explain my own position.

The members of the committee are fully aware that I went along somewhat reluctantly the other day with an "ought not to pass" report. Since that time I have received additional information that bears me out in my reluctance that I had when I went along in the first instance.

I told the gentleman, Mr. Clark, that I would be perfectly willing to see him attempt to make a motion to substitute the Bill for the

Committee Report. You can say that I have changed my thinking. I don't think I have, I am just saying now that I agree with what I thought in the first place. Just as I grew up in a small town, I have a great deal of sympathy for the problems of small town people. It will not hurt my feelings if this House accepts the motion of the gentleman from Jefferson, Mr. Clark, to substitute the Bill for the "Ought not to pass" Report of the committee.

The SPEAKER: The pending question is on the motion of the gentleman from Jefferson, Mr. Clark, that the House substitute the Bill for the "Ought not to pass" 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.

A vote of the House was taken.

119 having voted in the affirmative and 10 in the negative, the motion did prevail.

The Bill was read twice.

Under suspension of the rules the Bill was read the third time, passed to be engrossed and sent to the Senate.

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

HOUSE REPORT — "Ought not to pass" — Committee on Education on Bill "An Act to Create a School Administrative District in the Town of Madawaska" (H. P. 1403) (L. D. 1759)

Tabled — January 9 by Mr. Levesque of Madawaska.

Pending — Acceptance.

On motion of Mr. Levesque of Madawaska, retabled pending acceptance and specially assigned for tomorrow.

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

MAJORITY REPORT (6) — "Ought not to pass"—Committee on Appropriations and Financial Affairs on Resolve to Loan Funds from the Unappropriated Surplus for the Construction of an International Ferry Terminal (H. P. 1310) (L. D. 1624) and MINORITY REPORT (4) reporting "Ought to pass"

Tabled—January 9, by Mr. D'Alfonso of Portland.

Pending—Motion of Mr. Bragdon of Perham to accept Majority Report.

On motion of Mr. D'Alfonso of Portland, retabled pending the motion of Mr. Bragdon of Perham to accept the Majority "Ought not to pass" Report and specially assigned for tomorrow.

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

MAJORITY REPORT (6)—Committee on Liquor Control on Bill "An Act relating to Fee for and Facilities of Class A Restaurants Serving Malt Liquor" (H. P. 1379) (L. D. 1728) reporting "Ought to pass" as amended by Committee Amendment "A" (H-626) and MINORITY REPORT (4) reporting "Ought not to pass"

Tabled—January 9, by Mr. Marquis of Lewiston.

Pending—Motion of Mr. Hichens of Eliot to accept Minority Report.

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

Mr. MARQUIS: Mr. Speaker, Ladies and Gentlemen of the House: I introduced L. D. 1728, and it came out of committee with an amendment reducing the cost of the license from \$400 to \$200. The amendment is H-626. The reason I introduced this is because there seems to be a conflict between the Liquor Commission and the Attorney General's office as to whether or not a Class A restaurant, which is defined by the State Liquor Commission as a Class A restaurant which does a basic minimum of \$50,000, or I think it is changed now to \$40,000 worth of food.

Now all this does is create a license specifically for them in a Class A restaurant in Malt Liquor License only, so that they will be able to sell beer on Sunday. As it is now, there are some restaurants who are Class A restaurants in category, defined by Title 28, Chapter I, Section 2, paragraph 18 of your Liquor Laws. They meet all qualifications excepting one. They do not want to sell hard liquor for many reasons. Either they don't have the space, or they don't want

to get involved, or they feel it will cut down on some of their seating capacity by having to build a bar and what have you.

So this is the only reason why I have submitted this — because there seems to be a doubt. Apparently the Attorney General's office claims that there is a possibility that they can sell now, and the Liquor Commission says that they can't. So this would clarify it and there would be no misunderstanding between either one of them.

So I urge you now to vote against the motion of the gentleman from Eliot, Mr. Hichens, and accept the committee report.

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

Mr. HICHENS: Mr. Speaker, Ladies and Gentlemen of the House: I will not make a prolonged argument against the gentleman's remarks, but I would remind the members of the House that by local option in November, the Sunday Liquor Bill was acted upon. Now this bill is presented to set up a new classification for Class A restaurants to serve malt liquors only. Those who signed the minority report see no emergency in such a measure to expand the Sunday sales in Maine at this time. So I would urge you to accept the Minority "Ought not to pass" Report.

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

Mr. MARQUIS: Mr. Speaker, Ladies and Gentlemen of the House: In the November referendum the question was this: "Shall this municipality or unincorporated place authorize the sale on Sunday of liquor in those licensed hotels, Class A restaurants and clubs where liquor is permitted to be sold during the rest of the week?" We are not opening anything up. Some people tend to read a little bit more into a piece of legislation than actually exists. All we are trying to do is make a definite definition between a Class A restaurant Malt License and a regular restaurant Malt License.

You have here under the category of "Fees," you have a restaurant Class A Spirituous and Vinous,

then you have a restaurant Malt only, which does not distinguish between a Class A restaurant and a restaurant. I would like to see it so if you have a Class A Malt Liquor License only and a Class A Spirituous and Vinous License. This is all I am asking so there will be no question as to whether some small dive that serves hamburgers are eligible to serve on Sunday. Because according to the referendum question, it said Class A restaurants. This is all I am asking. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Norway, Mr. Henley.

Mr. HENLEY: Mr. Speaker, I would like to pose one question to Mr. Marquis through the Chair. Where is the emergency involved in this bill?

The SPEAKER: The gentleman from Norway, Mr. Henley, poses a question through the Chair to the gentleman from Lewiston, Mr. Marquis, who may answer if he chooses. The Chair recognizes that gentleman.

Mr. MARQUIS: Mr. Speaker, thank you. The only emergency I can find is that if this thing doesn't go through these people will not be able to operate on Sundays.

Now we have a large national chain of restaurants that is moving gradually into the state with the possibility of three or four and they do not serve liquor. They do not want anything to do with the hard liquor. All they have is the beer available to the customers that they want. And they are open seven days a week the same as other Class A restaurants.

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

Mr. BENSON: Mr. Speaker and Members of the House: If I understand what I understand, this means that two Class A restaurants operating side by side, one with a Liquor License, one with a Malt Beverage License, the one with the Liquor License would be able to serve beer on Sunday during the appointed hours, the one with the Malt Beverage License would not be allowed to sell beer. This merely clears up what I consider to be a discrepancy in our

law, and if there are any sneakers in it I am not aware of it. I just think that this is a just bill and one that we can consider favorably.

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

Mr. HICHENS: Mr. Speaker, I would answer the gentleman who has just spoken that there is no such thing as a Class A restaurant to serve malt liquors at the present time. This would be a new classification altogether.

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

Mr. BENSON: Mr. Speaker, I am not sure I understand what I understand, but the definition of a Class A restaurant is one that serves X number of dollars of food in a year's time. I believe that is \$50,000 of food, and this would be a Class A restaurant under the law and could qualify for a liquor license if they saw fit to apply for it.

Many of these restaurants, and I have one in my area, do not wish to serve liquor. They wish only to serve beer. And this bill seeks to clear up a discrepancy in the law and would treat both the malt beverage and the liquor licensee the same. If I am wrong, let me know.

Mr. Hichens of Eliot requested a roll call.

The SPEAKER: A roll call has been requested. The pending question is on the motion of the gentleman from Eliot, Mr. Hichens, that the House accept the Minority "Ought not to pass" Report on Bill "An Act relating to Fee for and Facilities of Class A Restaurants Serving Malt Liquor" House Paper 1379, L. D. 1728. 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 will vote yes; those opposed will vote no. The Chair opens the vote.

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

The SPEAKER: The pending question is on the motion of the gentleman from Eliot, Mr. Hichens, that the House accept the Minority "Ought not to pass" Report. All in favor of accepting the Minority Report will vote yes; those opposed will vote no. The Chair opens the vote.

ROLL CALL

YEA — Allen, Baker, Barnes, Birt, Buckley, Bunker, Carrier, Casey, Crosby, Curtis, Dennett, Donaghy, Evans, Foster, Hall, Hanson, Harriman, Hawkens, Henley, Hichens, Huber, Immonen, Lawry, Lewin, Lincoln, Marstaller, McNally, Meisner, Porter, Richardson, G. A.; Sahagian, Scott, C. F.; Scott, G. W.; Shaw, Susi, Tyndale, White, Wight, Williams, Wood.

NAY — Bedard, Benson, Bernier, Binnette, Boudreau, Bourgoin, Bragdon, Brennan, Burnham, Carey, Carter, Chick, Clark, C. H.; Clark, H. G.; Coffey, Corson, Cote, Cottrell, Couture, Cox, Crommett, Croteau, Cummings, Curran, Cushing, D'Alfonso, Dam, Danton, Driogotas, Dudley, Durgin, Dyar, Emery, Erickson, Faucher, Finemore, Fortier, A. J.; Fortier, M.; Fraser, Gauthier, Giroux, Good, Goodwin, Haskell, Hewes, Hunter, Jalbert, Jameson, Johnston, Jutras, Kellher, Kelley, K. F.; Keyte, Laberge, Lebel, Lee, LePage, Levesque, Lewis, Lund, MacPhail, Marquis, Martin, McKinnon, McTeague, Millett, Mills, Moreshead, Morgan, Mosher, Nadeau, Norris, Ouellette, Page, Payson, Pratt, Quimby, Rand, Richardson, H. L.; Ricker, Rideout, Rocheleau, Ross, Santoro, Sheltra, Snow, Soulas, Tanguay, Thompson, Vincent, Wheeler.

ABSENT — Berman, Brown, Chandler, Eustus, Farnham, Fecteau, Gilbert, Hardy, Heselton, Kelley, R. P.; Kilroy, Leibowitz, Mitchell, Noyes, Starbird, Stillings, Temple, Trask, Waxman.

Yes, 40; No, 91; Absent, 19.

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

Thereupon, the Majority "Ought to pass" Report was accepted. The Bill was read twice.

Committee Amendment "A" (H-626) was read by the Clerk and adopted and the Bill assigned for third reading tomorrow.

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

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

Tabled — January 9, by Mr. Ross of Bath.

Pending — Further consideration.

The SPEAKER: Pursuant to the Opinion of the Justices no action will be taken upon the objections of the Governor. It will be sent to the Senate for its disposition.

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

Bill "An Act Creating the Non-public Elementary Education Assistance Act" (H. P. 1395) (L. D. 1751)

Tabled — January 9, by Mr. Jalbert of Lewiston.

Pending — Reference.

On motion of Mr. Jalbert of Lewiston, retabled pending reference and specially assigned for tomorrow.

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

SENATE REPORT — "Ought not to pass" — Committee on Towns and Counties on Bill "An Act relating to Compensation for Full-time Deputy Sheriffs and Chief Deputies of Androscoggin County" (S. P. 558) (L. D. 1633) (In Senate, bill substituted for the report and passed to be engrossed)

Tabled — January 9, by Mr. Wight of Presque Isle.

Pending — Acceptance.

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

Mr. WIGHT: Mr. Speaker, I would like to move that the "Ought not to pass" Report of the committee be accepted.

The SPEAKER: The gentleman from Presque Isle, Mr. Wight,

moves that the House accept the "Ought not to pass" Report. The gentleman may proceed.

Mr. WIGHT: Mr. Speaker and Members of the House: This bill was before us less than six months ago and has returned here as an emergency, changing the regulation of pay for the Full-time Deputy Sheriffs and Chief Deputies of Androscoggin County. These except for two other counties, are regulated by Statute. This is a request to give the Deputy Sheriffs the pay that is designated by both the Commissioners and the delegation. This is a creation of the County Government to regulate the County Government base and I find that this is concerned to returning to home rule. If this is good, then perhaps all the counties should be returned to — the pay should be returned to the County Commissioners to adjust.

These salaries are set by Statute and at this time the Full-time Deputy Sheriff shall receive not more than \$112 and the Chief Deputy shall receive \$119. This perhaps is not enough but this is one way for the other counties to come in and change the pay and to regulate the pay of the Sheriff's department as they see fit. If this should pass I feel there are many other counties that should be entitled to it also, and I think in the next session, and perhaps even by amendments, other counties will be deeply concerned on getting their share of the pay up. I hope that you will support my "ought not to pass" motion. Thank you.

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

Mr. JALBERT: Mr. Speaker and Members of the House: Last week the Towns and Counties Committee reported a bill of mine, which was actually in the Governor's call, concerning a procedure in County Government. It was my bill it received a unanimous "ought not to pass" report of the committee and I accepted that motion of "ought not to pass" without any word of debate or any motion whatever.

This measure is not my bill. This has the endorsement of a vast majority of the delegation as well as

the endorsement of the Towns and Counties Committee. I fully can understand the thinking of the good gentleman, my friend from Presque Isle, Mr. Wight, in his analysis. I fully understand that this is a special session. I full understand, however, that this bill would come back and it would be printed again, would be advertised, would be heard again, and the expense thereby would be incurred as it is now at the same price per diem as it is now.

I have spoken with several members of the committee and I would like at this time to thank the gentleman from Presque Isle, Mr. Wight, for giving me permission to speak to the members of the delegation. At first we thought we might meet tomorrow, but we thought in the essence of saving time that that was unnecessary; and again I thank the gentleman from Presque Isle for that courtesy. I have spoken to all of the members of the Towns and Counties Committee. One has said that he wouldn't say anything one way or the other, the other two said that they didn't care one way or the other; the others have said that they would go along. I am speaking now of all the other members of the committee. Of course the bill has come back from the other branch with a different diversion on it. The bill was substituted for the report, and I feel that this makes an entirely new ball game.

I might point out — and it's not my intention to take too much time of this honorable body — that in any event that the final say will be up to the Towns and Counties Committee and the real final say will be up to the Legislature, whatever happens on any thinking or any vote or any transaction concerning any county. If the other counties want to come in at the next session after they have discussed it as we did with their delegation, so be it. In any event, Mr. Speaker and Members of the House, I hope that you will be tolerant with us. I hope that you will not accept the motion of the good gentlemen from Presque Isle, Mr. Wight, so that I can subsequently make a motion to substitute the bill for the report if the motion of

the gentleman from Presque Isle is defeated.

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

Mr. COTE: Mr. Speaker and Ladies and Gentlemen of the House: I don't want to prolong this debate. I support the stand that Mr. Jalbert just took and I hope that you will go along with the county delegation in substituting the bill for the report so we may set our own salaries in Androscoggin County. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Strong, Mr. Dyar.

Mr. DYAR: Mr. Speaker and Ladies and Gentlemen of the House: I firmly believe that the County Commissioners for the several counties should have the authority under home rule to set the salaries of their own Deputy Sheriffs. At the present time, under the statute, York and Cumberland Counties are exempted from this law, and Androscoggin asks the same privilege.

As a member of the Committee on Towns and Counties I did not actually go along with the committee at the first session, and I have doubts at this time. I certainly support the gentleman from Lewiston, Mr. Jalbert, and would suggest that possibly in the 105th that elimination through statute to eliminate this discrimination of Deputy Sheriffs' pay in the several counties be wiped from the statutes, as it now stands, and make all counties have an equal basis.

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

Mr. WIGHT: Mr. Speaker and Members of the House: From my experience on the Towns and Counties Committee—and you are opening the door at this time—this is only the beginning. The County Government isn't actually a creature of our Legislature. It is getting to a point now where the delegation pretty much controls their budget. And if we open the door on this, I feel that it is only going to be opened further, and we soon

will have home rule, if that's what the Legislature desires.

It is going to be controlled entirely by the County Commissioners. They have been only executives to carry out the wishes of the Legislature, and in much it has been the delegation.

Now, I feel that if this goes by, the door is being opened, and you are soon going to have most salaries—. Why just the Sheriff's salary and the Deputies? It will continue. The Sheriff's salary in most cases hasn't been too high. I would support more financial support for our county enforcement. But as it is, many of these are going to cause increases in our High Sheriff's themselves, because if this pay gets high enough, why their Deputies are going to be paid more than they are. This is an opening wedge for home rule on County Government, and if you wish having it that way, that is the Legislature's prerogative. Thank you.

The SPEAKER: The pending question is the motion of the gentleman from Presque Isle, Mr. Wight, that the House accept the "Ought not to pass" Report. The Chair will order a vote. All in favor of accepting the "Ought not to pass" Report will vote yes, those opposed will vote no.

A vote of the House was taken. 49 having voted in the affirmative and 73 in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Jalbert of Lewiston, the Bill was substituted for the Report in concurrence, and read twice.

Under suspension of the rules the Bill was read the third time, passed to be engrossed, and sent to the Senate.

(Off Record Remarks)

On motion of Mrs. White of Guilford,

Adjourned until ten o'clock tomorrow morning.