

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Seventh Legislature

OF THE

STATE OF MAINE

VOLUME II

1955

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, May 3, 1955

Senate called to order by the President.

Prayer by the Rev. Stephen Mul-kern of Gardiner.

Journal of April 29 read and approved.

House Papers**House Committee Reports****Leave to Withdraw**

The Committee on Claims on "Re-solve in Favor of Theodore R. De-Mariano of Mount Vernon." (H. P. 871) (L. D. 983) reported that the same be granted Leave to Withdraw.

Which report was read and accepted in concurrence.

Ought Not to Pass

The Committee on Legal Affairs on Bill "An Act Regulating the Soli-citation and Collection of Funds for Charitable Purposes." (H. P. 111) (L. D. 119) reported that the same Ought not to pass.

Comes from the House, bill sub-stituted for report and passed to be engrossed as amended by House Amendment B (Filing 383)

In the Senate, on motion by Mr. Lessard of Androscoggin, the bill was laid upon the table pending acceptance of the report.

The Committee on Retirements and Pensions on recommitted "Re-solve Granting a Pension to Katharine M. Rolfe of Bridgton." (H. P. 388) (L. D. 1509) reported that the same Ought not to pass.

Comes from the House, resolve substituted for the Committee Report and passed to be engrossed.

In the Senate, on motion by Mr. Fuller of Oxford, the resolve was laid upon the table pending acceptance of the report.

The Committee on Claims on re-com-mitted "Resolve in Favor of Francis Qualey of Benedicta." (H. P. 703) (L. D. 771) reported that the same Ought not to pass.

The same Committee on recommit-ted "Resolve in Favor of Gordon M. Andrews." (H. P. 874) reported that the same Ought not to pass.

The Committee on Labor on Bill "An Act Relating to Time of Pay-ment of Expenses of Employees." (H. P. 63) (L. D. 68) reported that the same Ought not to pass.

The Committee on Retirements and Pensions on "Resolve Providing for an Increase in State Pension for George Maxwell of Princeton." (H. P. 116) reported that the same Ought not to pass.

The same Committee on "Resolve Providing for an Increase in State Pension for Geneva Gay of Fair-field." (H. P. 119) reported that the same Ought not to pass.

The same Committee on "Resolve Providing for State Pension for Lau-rence Waldron of Fairfield." (H. P. 164) reported that the same Ought not to pass.

The same Committee on "Resolve Providing for an Increase in State Pension for Daniel McCurdy of Chi-na." (H. P. 214) reported that the same Ought not to pass.

The same Committee on "Resolve Providing for an Increase in State Pension for Linwood Bowden of Pen-obscot." (H. P. 231) reported that the same Ought not to pass.

The same Committee on "Resolve Providing for an Increase in State Pension for John C. Prescott of East Corinth." (H. P. 557) reported that the same Ought not to pass.

The same Committee of "Resolve Providing for an Increase in State Pension for Clyde Spaulding of Hart-land." (H. P. 606) reported that the same Ought not to pass.

The same Committee on "Resolve Providing for an Increase in State Pension for Lloyd Arnold of Ran-dolph." (H. P. 698) reported that the same Ought not to pass.

The same Committee on "Resolve Providing for State Pension for For-est A. Libby of St. Albans." (H. P. 717) reported that the same Ought not to pass.

The same Committee on "Resolve Providing for State Pension for Har-ry O. Bickford of Lowell." (H. P. 759) reported that the same Ought not to pass.

The same Committee on "Resolve Providing for State Pension for Ruth A. Henderson of Madison." (H. P. 1008) reported that the same Ought not to pass.

The same Committee on "Resolve Providing for State Pension for Marie L. Lachance of Lewiston." (H. P. 1009) reported that the same Ought not to pass.

Which reports were severally read and accepted in concurrence.

Ought to Pass

The Committee on Appropriations and Financial Affairs on "Resolve in Favor of Calais Armory Project." (H. P. 33) (L. D. 50) reported that the same Ought to pass.

The same Committee on "Resolve in Favor of Sanford Armory Project." (H. P. 87) (L. D. 93) reported that the same Ought to pass.

The same Committee on "Resolve in Favor of Westbrook Armory Project." (H. P. 83) (L. D. 99) reported that the same Ought to pass.

The same Committee on "Resolve in Favor of Fort Kent Armory Project." (H. P. 135) (L. D. 137) reported that the same Ought to pass.

The same Committee on "Resolve in Favor of Skowhegan Armory Project." (H. P. 336) (L. D. 377) reported that the same Ought to pass.

The same Committee on "Resolve in Favor of the Town of New Gloucester." (H. P. 573) (L. D. 633) reported that the same Ought to pass.

The same Committee on "Resolve in Favor of Westbrook Armory Project." (H. P. 701) (L. D. 769) reported that the same Ought to pass.

The same Committee on "Resolve in Favor of Auburn Armory Project." (H. P. 1059) (L. D. 1232) reported that the same Ought to pass.

The Committee on Towns and Counties on Bill "An Act Increasing Salary of County Attorney of Franklin County." (H. P. 945) (L. D. 1048) reported that the same Ought to pass.

The same Committee on Bill "An Act Increasing Salaries of County Officers of Oxford County." (H. P. 1054) (L. D. 1229) reported that the same Ought to pass.

Which reports were severally read and accepted in concurrence, the bills and resolves read once and tomorrow assigned for second reading.

Ought to Pass—N. D.—Same Title

The Committee on Public Health on recommitted bill "An Act Relating to Registration for Barbers and Apprentice Barbers." (H. P. 1184) (L. D. 1439) reported that the same Ought to pass in new draft (H. P. 1227) (L. D. 1508) same title.

Comes from the House, report accepted and the bill in new draft passed to be engrossed as amended by House Amendment A.

In the Senate:

Mrs. LORD of Cumberland: Mr. President, I move the indefinite postponement of the amendment in non-concurrence and I would like to tell you why very briefly. This was one of the first bills we heard in Public Health Committee. Many barbers appeared and the Association of Barbers appeared, and the bill as we brought it out was the thinking of that group. It has come back three times and each time we brought it back as it is. This amendment was put on in the House and I believe it is not the thinking of the committee. I move indefinite postponement of the amendment.

Thereupon, on motion by Mr. Farris of Kennebec, the bill and accompanying papers were laid upon the table pending motion by the Senator from Cumberland, Senator Lord that Committee Amendment A be indefinitely postponed in non-concurrence.

The Committee on Towns and Counties on Bill "An Act Increasing Salaries of County Officials of Penobscot County." (H. P. 948) (L. D. 1051) reported that the same Ought to pass in New Draft (H. P. 1226) (L. D. 1507)

Which report was read and accepted in concurrence, the bill in New Draft read once and tomorrow assigned for second reading.

The PRESIDENT: The Chair at this time, on behalf of the Senate is very pleased to welcome a group of Girl Scouts from Pittsfield accompanied by their leaders, Mrs. Dorothy Shorey and Mrs. Ruth Paradis. We are very pleased that you came down to visit us on this fine day. We hope you enjoy the Session and the Senate would have me express to you the willingness of Senator Sinclair to meet with you after the

session and take you about the Statehouse.

Thank you again for coming.

**Ought to Pass
N.D. — New Title**

The Committee on Highways on recommitted Bill "An Act Relating to Removal of the Old Vaughn Bridge." (H. P. 141) (L. D. 141) reported that the same Ought to pass in a New Draft (H. P. 1225) (L. D. 1506) and under a new title: Bill "An Act Relating to Discontinuance of Vaughan Bridge and Approaches Thereto as a Public Way."

The Committee on Legal Affairs on Bill "An Act Relating to Pari Mutuel Pools at Gorham Raceways." (H. P. 1148) (L. D. 1363) reported that the same Ought to pass in New Draft (H. P. 1222) (L. D. 1496) and under new title: Bill "An Act Relating to Pari Mutuel Pools at Harness Horse Race Meets."

The same Committee on Bill "An Act Relating to Pari Mutuel Pools at Running Horse Race Meets." (H. P. 1149) (L. D. 1364) reported that the same Ought to pass in New Draft (H. P. 1223) (L. D. 1497), under new title, Bill "An Act Relating to Records for Running Horse Race Meets."

Which reports were severally read and accepted in concurrence, the bills in New Draft, under new titles were read once and tomorrow assigned for second reading.

**Ought to Pass
as Amended**

The Committee on Appropriations and Financial Affairs on Bill "An Act Relating to Funeral Expenses for Recipients of Old Age Assistance." (H. P. 571) (L. D. 631) reported that the same Ought to pass as Amended by Committee Amendment A. (Filing 371)

The Committee on Towns and Counties on Bill "An Act to Incorporate the Town of Harpswell Neck." (H. P. 282) (L. D. 266) reported that the same Ought to pass as Amended by Committee Amendment A (Filing 372)

The same Committee on Bill "An Act Relating to Salary of Judge of

Probate of Androscoggin County." (H. P. 565) (L. D. 613) reported that the same Ought to pass as Amended by Committee Amendment A (Filing 369)

Which reports were severally read and accepted in concurrence and the bills read once. Committee Amendments A were read and adopted in concurrence and the bills as so amended were tomorrow assigned for second reading.

**Majority — OTP
Minority — ONTP**

The Majority of the Committee on Highways on "Resolve Classifying Road from Rockwood to Jackman as State Highway." (H. P. 1124) (L. D. 1322) reported that the same Ought to pass.

(Signed)

Senators:

PARKER of Piscataquis
JAMIESON of Aroostook
COLE of Waldo

Representatives:

FERGUSON of Hanover
PULLEN of Oakland
CARTER of Etna
DUNN of Poland
DENBOW of Lubec

The Minority of the same Committee on the same subject matter, reported that the resolve Ought not to pass.

(Signed)

Representatives:

NADEAU of Biddeford
HIGGINS of Scarborough

Comes from the House, Majority Report Ought to pass accepted and the resolve passed to be engrossed.

In the Senate:

Mr. PARKER of Piscataquis: Mr. President, I move that the Ought to pass report of the committee be accepted.

Mr. BUTLER of Franklin: Mr. President, when the vote is taken I ask that it be taken by division.

A division of the Senate was had.

Twenty-four having voted in the affirmative and eight opposed, the motion prevailed, the ought to pass report was accepted in concurrence, the resolve read once and tomorrow assigned for second reading.

Communication

State of Maine
 HOUSE OF REPRESENTATIVES
 Office of the Clerk .
 Augusta

Honorable Chester T. Winslow
 Secretary of the Senate
 97th Legislature

Sir:

The House today joined in the Conference asked by the Senate on the disagreeing action of the two branches on Bill "An Act relating to Pensions for Dependents of Deceased Policemen of City of Lewiston", S. P. 163, L. D. 357, and the following were appointed conferees on the part of the House:

Messrs. COUTURE of Lewiston
 COTE of Lewiston
 DUMAIS of Lewiston

And the House also joined in the Conference asked by the Senate on the Disagreeing action of the two branches on Bill "An Act relating to Pensions for Dependents of Deceased Firemen of City of Lewiston", S. P. 413, L. D. 1176, and the following were appointed conferees on the part of the House:

Messrs. DUMAIS of Lewiston
 COTE of Lewiston
 COUTURE of Lewiston

The Speaker today appointed the following conferees on the part of the House on the disagreeing action of the two branches of the Legislature on the Bill "An Act relating to the Board of Finance of the City of Lewiston", H. P. 631, L. D. 671:

Messrs. COUTURE of Lewiston
 COTE of Lewiston
 CIANCHETTE of Pittsfield

And the Speaker also today appointed the following conferees on the part of the House on the disagreeing action of the two branches of the Legislature on the Bill "An Act relating to Sale of Malt Liquor in Nonreturnable Glass Containers", H. P. 374, L. D. 409:

Messrs. OSBORNE of Fairfield
 SANFORD of
 Dover-Foxcroft
 QUINN of Bangor

Respectfully,

(Signed) HARVEY R. PEASE
 Clerk of the House

Which was read and placed on file.

Second Readers

The Committee on Bills in the Second Reading reported the following bills:

House

Bill "An Act Relating to an Aerial Timber Survey." (H. P. 770) (L. D. 855)

Bill "An Act Relating to the Duties and Authority of the Commissioner of Finance and Administration." (H. P. 1218) (L. D. 1494)

Bill "An Act Relating to Deception as to Retail Prices of Motor Fuel." (H. P. 1219) (L. D. 1495)

Bill "An Act Relating to Splash Guards for Motor Vehicles." (H. P. 1224) (L. D. 1498)

Which were severally read a second time and passed to be engrossed in concurrence.

House—as Amended

Bill "An Act Creating a Sewer System for Town of Winthrop." (H. P. 155) (L. D. 155)

Bill "An Act Relating to the Printing of the Blood Type of the Operator on the Operator's License." (H. P. 403) (L. D. 420)

Bill "An Act Relating to Salary of the Recorder and to Clerk Hire in Waldo County Municipal Court." (H. P. 632) (L. D. 672)

Bill "An Act Relating to Sales of Milk by Producers to Dealers by Bulk Tank." (H. P. 862) (L. D. 974)

Bill "An Act Relating to Protected Birds." (H. P. 898) (L. D. 1006)

Bill "An Act Relating to Political Caucuses." (H. P. 1146) (L. D. 1361)

Bill "An Act Increasing Salaries of Members of Board of Registration of Voters of City of Bath." (H. P. 1198) (L. D. 1467)

Which were severally read a second time and passed to be engrossed, as amended, in concurrence.

Senate

Bill "An Act to Require Public Buildings to be Safely Constructed." (S. P. 420) (L. D. 1171)

Which was read a second time and passed to be engrossed.

Sent down for concurrence.

Senate — as Amended

Bill "An Act Relating to Pensions for Dependents of Sheriffs and Deputy Sheriffs." (S. P. 471) (L. D. 1314)

Bill "An Act to Correct Errors and Inconsistencies in the Public Laws." (S. P. 481) (L. D. 1350)

Which were read a second time and passed to be engrossed, as amended.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed, the following bills:

Bill "An Act Relating to Education in Unorganized Territory." (S. P. 151) (L. D. 345)

(On motion by Mr. Collins of Aroostook, tabled pending passage to be enacted.)

Bill "An Act Relating to the Uniform Civil Liability for Support Aid." (S. P. 251) (L. D. 683)

Bill "An Act Increasing the Salary of the County Attorney of Sagadahoc County." (S. P. 435) (L. D. 1194)

(On motion by Mr. Collins of Aroostook, tabled pending passage to be enacted.)

Bill "An Act Relating to Salaries of Deputy Clerk of Courts and Register of Deeds in Hancock County." (S. P. 436) (L. D. 1195)

Bill "An Act Relating to Transfer of Prisoners at Maine State Prison to Federal Penal Institution." (S. P. 437) (L. D. 1196)

(On motion by Mr. Collins of Aroostook, tabled pending passage to be enacted.)

Bill "An Act Relating to Purposes of the Associated Hospital Service in Maine (Blue Cross, Blue Shield)." (S. P. 541) (L. D. 1478)

Bill "An Act Relating to Preservation of Briefs in Law Court Cases." (S. P. 542) (L. D. 1479)

Bill "An Act Relating to General-Purpose Educational Aid." (H. P. 645) (L. D. 722)

(On motion by Mr. Collins of Aroostook, tabled pending passage to be enacted.)

Bill "An Act Increasing Salaries of County Officials of Sagadahoc County." (H. P. 802) (L. D. 876)

Bill "An Act Relating to Evidence of Intoxication." (H. P. 987) (L. D. 1135)

Bill "An Act Amending the Charter of the Rumford Falls Municipal Court and Changing Its Name." (H. P. 1044) (L. D. 1219)

Bill "An Act Relating to Age of Commitment to State School for Boys." (H. P. 1062) (L. D. 1250)

Bill "An Act to Increase the Salary of the Register of Deeds of Somerset County." (H. P. 1168) (L. D. 1403)

Bill "An Act Relating to Membership on State Soil Conservation Committee." (H. P. 1193) (L. D. 1460)

Bill "An Act Relating to the Salary of the Judge and the Recorder and Clerk Hire of the Brunswick Municipal Court." (H. P. 1206) (L. D. 1475)

Which bills were severally passed to be enacted.

Orders of the Day

The Chair laid before the Senate, the first tabled and especially assigned matter being bill "An Act to Clarify the Employment Security Law." (S. P. 348) (L. D. 957) tabled on April 28 by the Senator from Cumberland, Senator Chapman, pending motion by the Senator from Aroostook, Senator Jamieson that the Senate reconsider its former action whereby the bill was passed to be engrossed.

Mr. FARRIS of Kennebec: Mr. President, I wish to explain that this matter is tied in with two other matters now on the table and it is believed at this time that by the end of the week we can clarify these other matters and then all of them can go on their way. For that reason I request that this matter be retabled.

Mr. JAMIESON of Aroostook: Mr. President—

The PRESIDENT: For what purpose does the Senator rise?

Mr. JAMIESON of Aroostook: To ask unanimous consent to address the Senate, Mr. President.

Mr. Jamieson of Aroostook was granted unanimous consent to address the Senate.

Mr. JAMIESON of Aroostook: Mr. President, I would like to ask through the Chair if he will be agreeable to have this taken up not

later than Friday morning, if that is in order.

The PRESIDENT: The question certainly is in order and the Senator from Kennebec, Senator Farris has heard the question and may answer if he wishes.

Mr. FARRIS of Kennebec: Mr. President, the reason that this is on the table is so that interested groups representing employer and employee would have an opportunity to discuss the entire employment compensation situation in full detail and it is my understanding that by tomorrow they should know if they are coming to an agreement or whether there will be no agreement. I certainly would defer taking this from the table until such time as Senator Jamieson is present or his consent is granted.

Thereupon, the bill was laid upon the table pending motion of the Senator from Aroostook, Senator Jamieson that the Senate reconsider its former action whereby the bill was passed to be engrossed.

On motion by Mr. Carpenter of Somerset, the Senate voted to take from the table bill "An Act Relating to Bartlett's Island as a Game Preserve" (S. P. 30) (L. D. 19) tabled by that Senator on April 20 pending assignment for second reading and on further motion by the same Senator, the rules were suspended and the bill was given its second reading and passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Sinclair of Somerset, the Senate voted to take from the table Senate Report from the Committee on Labor: "Ought to pass in new draft," same title, (S. P. 559) (L. D. 1515) on bill "An Act Relating to the Reorganization of the State Board of Arbitration and Conciliation" (S. P. 161) (L. D. 355) tabled by that Senator on April 29 pending acceptance of the report; and on further motion by the same Senator the report was accepted, the bill read once and tomorrow assigned for second reading.

On motion by Mr. Martin of Kennebec, the Senate voted to take from the table Senate Report from

the Committee on Legal Affairs "Ought not to pass" on bill "An Act Creating the Maine Board of Auctioneers" (S. P. 414) (L. D. 1184) tabled by that Senator on April 27 pending acceptance of the report; and on further motion by the same Senator, the ought not to pass report was accepted.

Sent down for concurrence.

Mr. CHAPMAN of Cumberland: Mr. President, out of order and under suspension of the rules, I present an order and move its passage. Prior to the passage of the order, I would like to explain briefly its purpose.

The Secretary read the order:

ORDERED, the House concurring, that the Joint Standing Committee on Appropriations and Financial Affairs be authorized and directed to report a bill which would provide that the Treasurer of State may invest temporary state funds in bonds, notes, certificates of indebtedness and other obligations of the United States which mature not more than 24 months from the date of investment.

Mr. CHAPMAN of Cumberland: Mr. President, the purpose of this order is to save the State of Maine, or make for the State of Maine, the sum of thirty to forty thousand dollars. The reason behind it goes something like this: Earlier in the session we enacted a bill which is now a law pending the effective date which permitted this to be done: For the Treasurer to invest temporary state funds in securities and certificates of indebtedness of 24 months maturity thus extending the old limit of 12 months. It enabled the Treasurer on temporary state funds to get a better return on state money. Unfortunately at that time we did not anticipate the necessity or the desirability of putting that process into effect prior to that date in August when all laws will become officially effective and that was not an emergency bill. On representation of the Treasury Department we now find there would be substantial savings by way of increased interest in the interim period if we can enact that law.

Consequently the intention was that if this order received passage

a bill will be reported out as an emergency bill. It will be essentially in the same language but will have the emergency feature.

Thereupon, out of order and under suspension of the rules, the order received a passage.

Sent down for concurrence.

Mr. Farris of Kennebec was granted unanimous consent to address the Senate.

Mr. FARRIS of Kennebec: Mr. President and members of the Senate, I apologize at this late date for even being in a position where I have to suggest, or request, the introduction of a new bill, but this bill is not only important to the inhabitants of the city of Gardiner, but also very important to everybody living within the Gardiner Water District which includes the confines of Gardiner. It was just brought to my attention yesterday that the charter of the Gardiner Water District places a limitation of a ten thousand dollar borrowing capacity by that group. We have very recently in the town of Farmingdale witnessed the development of a new area and the water pressure is not sufficient to meet the needs and before the summer is completed, the pressure will be even lower. Consequently the Water District is in a difficult position because they are limited to ten thousand dollar borrowing power and it will need considerable money to carry out this project. This charter has not been amended since the year 1905 and for that reason we do feel there is an emergency situation in Gardiner and in the Gardiner Water District and the amendment to this charter would merely make the charter conform to the standard charters that exist among water districts in the State of Maine. It will have to be approved by the Public Utilities Commission and therefore, Mr. President, out of order and under suspension of the rules, I would like to request the introduction of this bill and also explain that Senator Martin, the Chairman of the Public Utilities Committee is cognizant of the situation and has agreed to accept it in his committee and advises that it will in no way retard our legislative processes.

Thereupon, bill "An Act Amending the Charter of the Gardiner Water District" was received by unanimous consent; and on motion by Mr. Farris of Kennebec, the bill was referred to the Committee on Public Health, ordered printed and sent forthwith to the House for concurrence.

On motion by Mr. Silsby of Hancock, the Senate voted to take from the table bill "An Act Relating to Incurable Insanity as a Cause for Which a Divorce May be Granted." (S. P. 79) (L. D. 178) tabled by that Senator on April 21 pending passage to be engrossed.

Mr. SILSBY of Hancock: Mr. President and members of the Senate: After making a few brief remarks on this particular bill I will move its indefinite postponement, and I want to say to you that I never felt more incompetent to debate a subject-matter than I do in debating this matter. It is a matter which we all know is a very personal one; it involves the rights of individuals; it involves the rights of individuals who are unable to come into court and, as we say, have their day in court.

I am not unmindful that in the legal profession the remark is often made that there is no sympathy in law, it is just cold hard facts; but I think that we as members of the Senate must consider very carefully in the enactment of certain laws the result of the law and whether or not its application might bring about a miscarriage of justice.

Now as you all know, divorce actions in court are sort of an ex parte affair, they are an ex parte affair. The justice presiding usually hears just one side of the case. There are exceptions where both sides are heard. This is a matter where I believe if the law is enacted the action will be heard on one side, ex parte, and the other side will not be heard. I am not too much for the argument on the sentimental aspects of it, although it does have some merit, but I am concerned with the children that might be involved in one of these cases, and I am also concerned with the base that we now have in Maine upon which people may obtain divorces. I believe it is broad enough as it is

without broadening it any more. I consulted the record and found that in 1953 in the State of Maine we had 8864 marriages and in 1952 we had 2270 divorces. Should we broaden it any more? I am a firm believer that we should not.

Now if you will examine the bill for just a moment you will find that a divorce action may be commenced by a spouse whose wife or husband, whichever it might be, has been committed to the institution for five years. Now so far as that action is concerned, as I read the bill it follows the same procedure of our divorce law of today. A libel for divorce will be drafted, the husband or wife, whichever it might be will sign it, and that divorce action will then be served on the spouse, whether it be husband or wife, in the institution, or will be served upon the guardian if she has one and she will be summonsed to court. Under the law as written, if she has no guardian the court shall appoint a guardian ad litem. Now that appointment is solely for the purpose of defending her or his case, whichever it might be. And I assure each and every one of you that domestic affairs are classified, and how could any guardian ad litem ascertain from an incompetent person whether or not that divorce was justified, whether or not she might not be in that institution wholly and totally because of her husband's fault. How would we know? We have no way of finding out. You can bring in psychiatrists, expert testimony, and I know from experience that they usually will testify — and they are justified in so doing — for the party who subpoenaed them or who hired them. How are you going to find out what the facts are? You cannot. It is at most a guess. And I have a great deal of respect for the wisdom of our Superior Court Justices, but nevertheless they do not have the time to dig into the details of divorce cases.

Now with that in mind, I believe that under those circumstances that this person has been denied his or her constitutional right to have their day in court, and under our democratic form of government I am thankful to say that we all do have that right.

Now her property is protected, there is not any question about that, but her personal rights are not protected for the reasons I have just stated.

So much for the wife and the husband, but what about the children? The court, as this bill says, "may enter such decree for care, custody and support of minor children as the court deems proper, and may alter its decree from time to time as circumstances require." We are all human beings and so are the justices of our court. Can you conceive of a justice of our court decreeing the custody and care of minor children to an insane spouse? No, I cannot. Who would probably have the custody? The husband or wife, whichever it might be, the person bringing the divorce action. Now if they acquire that divorce and have the custody, under our statutes and laws he may remarry and who knows but what, as frequently happens, they will petition the court to adopt these children. Here is the husband or wife in the insane hospital and her children are being taken away from her and adopted by a second wife because he or she is incapacitated. That can happen. I believe the other members will agree with me that it can happen and will happen.

I also understand — if a person in the insane asylum has sane moments, and he tells me that quite frequently, I think I am correct that ninety per cent of the persons have many sane moments. Now how does this wife feel who is sane for a time in the institution and must live with the fact that she has been divorced by her husband and that her family, if she has children, have been adopted by another woman?

I just cannot get myself to follow along with insanity as a cause for an action of divorce because of the miscarriages of justice that might come about and because of the hardships on the particular spouse.

Now on the other hand, assuming that you commit a person — and I understand that during childbirth and pregnancy women become insane and are committed to the hospital, and during the time they are in the hospital they have got to live with the fact "I have got to get

well in five years; if I don't I will lose my husband and lose my family if I have a child born." Do you think that that is going to help the situation any? I do not. I do not believe that it will help. I believe that the people who are so unfortunate as to have a mental illness and whose property is protected in every particular, that we as legislators should protect them in their personal rights in their families, because I do not believe that any mother or father of children should by insanity be jeopardized to the extent that they should become the adopted children of someone else.

I would just like to say to you that this legislature in 1907 enacted a law permitting insanity to be a cause for divorce, and in 1913 it was repealed, and certainly there must have been a reason for it. It must have worked hardships; the application must have resulted in miscarriages of justice otherwise the law would not have been repealed.

Now I would like to indulge for just a moment in a family which is very close to me, and I know this concerns a young lady. This young lady married a promising young man, and during the first years of their married life they apparently seemed to get along very well, and then she became pregnant, and through his abuse—and I can testify to it under oath on a stack of bibles—she became insane. It is recognized that her insanity was caused wholly and totally by the abuse he gave her. They have a youngster, a young girl. The husband turned against her in every way. She was committed. He had no use for the youngster. He had to be made to support or help support that child, he wouldn't do it voluntarily. The child lived with the grandmother and is living with the grandparents today. Do you think that man is entitled to divorce? No, I do not think so. Do you think that he is entitled to divorce to the end, as this law is written, that the court could decree custody of that child to him, and he, out of malice and animosity to the grandparents, might take that child away from them? Can't you see the child's suffering, and also the suffering of the grandparents who have done every-

thing for that particular child? I cannot believe that it can be right and justice to all concerned to grant divorce for the cause of insanity when we all have knowledge of these facts, each and every one of us, in certain instances.

Now I know it will be said that some are justified, and probably they are. I will go along with that. But nevertheless our law should be such that it would be better for a few people to be left attached to an insane person than one person's marriage being dissolved when the fault is wholly and totally the husband's, as in the example I have just given you. It would be far better that the rest carry on.

Now I have taken quite a bit of your time and I hope that I have made myself clear. I am following the dictates of my conviction and I hope that each and every one of you will do likewise.

Mr. President, I move the indefinite postponement of this bill.

Mr. WEEKS of Cumberland: Mr. President and members of the Senate: I have enjoyed very much the learned dissertation by the Senator from Hancock, Senator Silsby. He has hit the very important points involved in this measure and has covered them pretty well. I do not intend to take as much time as this measure really deserves, but I will, with your indulgence, say a few things which may cause you to think a little bit more kindly towards the measure than the words of Senator Silsby have.

It might be of interest to the members of the Senate that statistics which I have come in contact with in the last couple of months indicate that one out of every twenty people who are born in this world of ours in the United States will be committed at some time or other, so that it can be anticipated that this measure could have a distinct bearing on a great number of people. I do not know how accurate these statistics are right now, but I was informed by a person who knows quite a good deal about the subject that there are possibly about eight hundred people who are affected by the law as amended.

This measure has been debated several times in the last few years.

It is true that we did have the law back in 1907, and I do not know why it was repealed. If I remember correctly, that law had a fifteen-year waiting period. I may be wrong about it but I think it was a fifteen-year period before the action could be brought. I can be wrong. But that reason alone would, in my opinion, be sufficient to justify the repeal of the act.

I have sat around the table on a good many commitment cases in the last few years in my municipality and I have seen people from fifteen years old up to seventy years old and possibly older, but the large percentage of them are not in what you would call the old-age class, they are in the maybe twenty to forty class; I think that is where you find the greatest percentage of them. In all my time there or anywhere else I have never encountered a situation where anybody has been improperly committed. I know that consideration is given to their case very carefully, and I do not know of more than one or two of them who have ever been subsequently released, at least those cases of which I have personal knowledge.

Back a few years ago I was approached by a young lady twenty years old — I will take that right back — she was thirty-six years old, and she told me the story of how at the age of eighteen she was married to a man who was two years her senior, and two years later he was committed, that was when she was twenty and he was twenty-two, and they had a little child in the process. And from that point on, from her age of twenty to her age of thirty-six, which she was at the time, he had been continuously committed and she had been compelled to continue on her way supporting herself and their child without any assistance or opportunity to make a desirable alliance with someone else. It seems as though that was a pretty horrible situation for a young girl twenty years old to be tied to a man who had no possibility of assisting her in any way. It denied her the opportunity to have other children or the consort of a husband.

Since that time, which was seven years ago, I think, I have been con-

fronted with other matters. Now this is not a bill for just one person; this is a bill which could affect the lives of a great number of people, and it is definitely something which this legislature should concern itself with. I think this legislature has a moral obligation to do something for these people.

What happens today? As it is now, if a person comes to the office of Senator Silsby or Senator Reid or other members of the legal profession and it becomes known that the side of the situation is committed for insanity they have two things they can do: they can say, "Go to one of the twenty-six other states or go to the Virgin Islands or go somewhere else and get a divorce," which can be readily accomplished after they have complied with the jurisdictional requirements. There are twenty-six states where they can go, plus the Virgin Islands, and get a divorce. The only other thing we can say to them is: Prior to the time when this other spouse was committed possibly he or she did something which was horrible enough to justify the accusation of cruel and abusive treatment before confinement. In that event we can get a divorce even though he or she is confined in an insane asylum. So the burden is placed on the attorney who says "Something should be done here," and he brings an action. When it gets into court you have a Superior Court Justice to look the situation over. Possibly the other party to the marriage has been in confinement for ten or fifteen years, and the judge is going to look at the situation from a practical or realistic point of view and say, "Why should it continue?" So the burden is placed upon the attorney and the judge of the Superior Court to bring about a result which in their minds may be justified because this legislature refuses to recognize its moral obligation to legislate about a matter which I say cries for legislation. And divorces are obtained that way. The judge knows it. He knows that the person is in confinement; everything is on top of the table. The lawyer knows it. Sometimes a lawyer appears on the other side representing the woman, and he knows it of course, everyone

knows it, and society knows it as well. So long as this legislature refuses to make it possible to operate, shall we say "properly," then you throw the burden upon others to accomplish a desirable result in many cases.

Senator Silsby spoke about the care and custody of children and possibly adoption of children. Of course something has got to be done about the care and custody of children. That is strictly a court proposition, and the test in every care and custody matter is what is for the best interests of the child. I cannot conceive of anyone being so abusive to his spouse that he would drive her to the insane asylum and still have the capacity to convince a judge of the Superior Court or any other court that he was entitled to care and custody of the children. He has not a predominant right or unquestioned right for care and custody. It is strictly up to the judge to decide what is best for the child in each case.

It seems to me that we must recognize the fact that we have a divorce law, and the question of morality is just as strong on the side of these persons who are now prevented from getting one as it is on the side of those who say that we should not extend it. I say we should extend it. These children have got to be fed and taken care of over the years. The young lady I referred to had to take care of her child for sixteen years without any assistance from anyone, and I dare say the temptation to go wrong was very strong. "Bad cases really make bad laws." That is true; that is an old expression. But I do not believe this particular measure should be tested by a few isolated instances of bad cases. It is true that a husband might cause his wife to become demented, but it has never been brought to my attention where it was that way. A good many of these cases are just beyond explanation. I believe, in my mind at least, that the members of the superior bench can be depended upon to look at these cases very, very carefully in strict compliance with the law and judge accordingly.

If you will note the act, it requires commitment in the first place of five long years; it requires evidence beyond a reasonable doubt but—that it not be a preponderance of the evidence but beyond a reasonable doubt—that the condition of the one committed is incurable. It also provides for protection so far as property, support and so on; but so far as the care and custody of children is concerned, that is something that is covered under the present law. I dare say that under the present law the one remaining outside can still have custody if he is a proper person and if he is not he probably won't have it, and in that event there can be adoption under our present law as is without a divorce.

I am not going to take too long; I have taken as much time as I intend to. I merely want to remind you that this bill has been on the table before you and I know that a good many of you have given considerable thought to it, and I wish you would bear this in mind: in 1951 when this measure was heard and was lost in the Senate by a very small margin the Senate subsequently adjourned, and within ten minutes after we passed through the door out there four Senators told me they wished they had had a chance to vote differently. They indicated that their mind possibly wasn't as well acquainted with the merits of this matter as they would have liked to have had it and that they made an error in voting the way they did. I merely call that to your attention and hope that you will really give this measure very serious consideration so you won't be doing the same thing a little while from now.

I hope that the motion of the Senator from Hancock (Senator Silsby) will not prevail, and when the vote is taken I ask for a division.

The PRESIDENT: The Chair at this time notes in the gallery a group of some fifty students from the eighth grade, Newport Grammar School. In behalf of the Senate we welcome you to our session. We hope that you will get some impressions of state government because it is youngsters such as you who are going to be down here in not too many years. You have a distinct

advantage, each and every one of you, because you come from the very best county in the State of Maine, Penobscot County. The Senators from Penobscot, Senators Hillman and Woodcock, will be very pleased to meet with you after the session and show you about the State House. Thank you very much for coming. (Applause)

The question before the Senate is on the motion of the Senator from Hancock, Senator Silsby, that the bill be indefinitely postponed. Is the Senate ready for the question?

Mr. REID of Kennebec: Mr. President, I intend to vote against the motion to indefinitely postpone, and for the record I would like to state my reasons.

It seems to me that in a matter of this kind injustices can work both ways while if we have an inflexible law they have got to work only one way. There must be a number of situations, particularly in cases of young men or young women, where the opposite spouse through no fault of either becomes incurably insane. In those cases under the present law there is absolutely no relief for the young man or young woman to lead a normal life thereafter. If you make this bill flexible — I have studied it very, very carefully and the magic words are as follows: "Before a divorce can be obtained the Court must find that the insanity of the libelee is incurable beyond a reasonable doubt," My thinking is that whatever injustices which are bound to occur as a result of the present law, and it seems to me that we can rely upon our court to solve the problem both ways and I think the flexibility of that procedure is better than the inflexibility of the present law. For those reasons, Mr. President and members of the Senate, I am going to vote against the indefinite postponement of the bill.

Mr. WOODCOCK of Penobscot: Mr. President, I am going to vote with Senator Silsby on his motion to indefinitely postpone. I endorse what the senator has to say and I wish to amplify briefly one point only and that is that to my mind at least it would be utterly inconsistent with other grounds of divorce now in force in the State if we were to enact this

bill. Under Maine law today the grounds of divorce are based upon fault of the libellee, and he may expect a libel to be brought against him; but in this matter you would be condemning by legislative order a person who through no fault of his own has become irrational and has been committed, so you are in the position of taking advantage of a person who heaven knows has enough tragedy forced upon him, again through no fault of his own, and you are just going completely out of line with the reasons which we now have on the statute books for granting a divorce.

Mr. SILSBY of Hancock: Mr. President and members of the Senate: I just want to make one brief comment in regard to the remark of the Senator from Kennebec, Senator Reid. He states that it is written in the law that the court must be convinced beyond a reasonable doubt that incurable insanity exists and has for a period of five years. It seems to me that they ought to add there that the court must also be convinced beyond a reasonable doubt that it is no fault of the husband. I firmly believe that in this particular law we are going back to the days of the old whipping post. We are taking a person who cannot help himself and we are standing by and permitting him to suffer. I do not believe we should scuttle the rights of persons who cannot help themselves.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Hancock, Senator Silsby that the bill be indefinitely postponed, and the Senator from Cumberland, Senator Weeks, has asked for a division. Is the Senate ready for the question?

A division of the Senate was had. Fifteen having voted in the affirmative and seventeen opposed, the motion did not prevail.

Thereupon, on motion by Mr. Weeks of Cumberland, the bill was passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Boucher of Androscoggin, the Senate voted to take from the table House Report from the Committee on Legal Affairs "Ought to pass" on bill "An Act In-

creasing the Compensation of Aldermen of the City of Lewiston." (H. P. 922) (L. D. 1030) tabled by that Senator on April 13 pending acceptance of the report; and on further motion by the same Senator, the "Ought to pass" report was accepted, the bill read once and tomorrow assigned for second reading.

On motion by Mr. Farris of Kennebec, the Senate voted to take from the table Senate Report from the Committee on Judiciary "Ought to pass" on bill "An Act Revising the Laws on Civil Defense and Public Safety." (S. P. 159) (L. D. 353) tabled by that Senator on March 15 pending acceptance of the report.

Mr. FARRIS of Kennebec: Mr. President, at this time I wish to yield to the Senator from Kennebec, Senator Reid.

Mr. REID of Kennebec: Mr. President and members of the Senate, a year ago a Committee was appointed to study the present status of civilian defense preparation in the State of Maine, together with a study of existing law. The committee had as its chairman a member of the Attorney General's department and had a number of persons connected with the civilian defense program—some city officials and also the Director of Civil Defense and Public Safety and during the course of several meetings and particularly learning of some of the hardships that the civil defense program was having not only in connection with public apathy, but also in connection with official apathy a proposed bill was drafted which appeared to be satisfactory to everyone with one exception, the exception being that it contained a provision that if a public official refused to obey the public defense act, he could be cited to appear before the Governor and Council upon a complaint of which, of course, he received a copy, and after hearing if it was found he was guilty of willful disobedience of the law, he could be removed and another person appointed in his stead until such time as the citizens elected somebody else. That provision is the troublesome one and it seems to be very troublesome to public officials in

certain circles but it does point up this issue. I am going to agree to retract from that position because I think that Senator Farris will offer an amendment which, while it is nowhere near as drastic as this one, it probably will be more satisfactory. But before doing so I would like to make this comment so that it will be clear.

1. Civil Defense is entirely unworkable unless it is completely coordinated, not only in the State of Maine but also as to the State of Maine with all other states. If, as and when the emergency of a hydrogen bomb or an atomic bomb is with us and we do not have an adequate civil defense program, we are lost.

It doesn't make any difference if the hydrogen bomb falls on the State of Maine or New York City or Boston. In either event there will be terrific panic in the State of Maine and in a very short time we could possibly be without food, there would be looting, rioting and every conceivable manner of damage so it doesn't do us any good to try to set up an adequate civil defense program when the emergency occurs. It has to be done first.

I am pleased to report that since our committee met, the State of Maine appears to be making very substantial strides forward. We have to decide this in our own minds about civil defense because I am one who hates to spend the tax payers money in the amount since we started, I think, of approximately one-half million dollars, and have a program which is not adequate, which is inefficient and which will not do the job. Sometime prior to Pearl Harbor, a group of very greedy, lustful, wild-eyed individuals conceived the idea of attacking Pearl Harbor and no one can tell to this day why we were unable to interrupt that attack but the fact is that we didn't and to the atonishment of everybody they carried out that plan and did very substantial damage to the American fleet.

In other words, a small group of men such as now sit in the Kremlin, were able to pull a string and produce that result. Now if that small group in the Kremlin for any reason—and I don't think that any

one of us will say they act completely rationally at all times — out of despair, out of feeling that they could prevail, happened to pull that string, every single military authority that I have read about indicates that no matter what we do as of today we could not prevent the unloosing upon this country of a large number of either hydrogen or atomic bombs. Therefore I think that we should think and try as hard as we can to cope with an emergency that could happen.

If you are one who believes that of course it couldn't happen, they won't do it, they wouldn't be that foolish, then I think you ought to vote against any appropriation entirely because in that event we are just wasting our money. If, however, you believe that it is entirely possible, as I do believe, that it could happen, then I think we should do everything we can to assist the whole civil defense program.

Now it may not be necessary that this particular provision in the proposed bill of which I spoke remain in there and maybe it shouldn't. I know there is extensive opposition to it and I am willing to withdraw my support of that particular provision and also in the hope that all of us will lend every possible support that we can to the civil defense program and to its directors. With that, I will yield to the Senator from Kennebec, Senator Farris who has an amendment to propose.

The PRESIDENT: The Chair will note that the pending question is on the acceptance of the ought to pass report of the committee.

Thereupon, on motion by Mr. Farris of Kennebec, the ought to pass report was accepted and the bill read once.

Mr. FARRIS of Kennebec: Mr. President and members of the Senate, I certainly do not wish to stand in a position of being at all opposed to every possible effort of the state that is being made to meet the serious problem of civil defense but our civil defense program throughout the state is primarily one of a voluntary system and we have volunteer workers and for that reason it was my feeling — and I do not believe there has been any measure before this Body for which I have had

more people contact me, particularly selectmen and municipal officers in opposition to the particular provision entitled New Section 9 A which not only would make it permissive for the state civil defense director to remove a municipal officer or any officer of a political subdivision having authority within these provisions, permissive to propose to the Governor on information that an officer be removed from his office. This provision went even further and stated that any order or regulation made by the civil defense director would also be a basis of removal proceedings against a municipal officer who did not obey the order or regulation. I certainly do believe in time of emergency our Executive Body has sufficient power and as far as appropriations are concerned, I certainly will still continue to support appropriations for civil defense and I believe we are going to find that our appropriations will be on the increase and we will find that our actual money expended will be for stock piling and not any more money spent among the people now carrying on volunteer duty. We have seen countries rebuild following physical devastation and we have also witnessed that it takes a much longer period of time to rebuild any country which has been subjected even in small measure to dictatorial powers in the hands of one or two individuals.

At this time I wish to offer an amendment to this bill which does still place a burden upon our municipal officers who wilfully violate any of the provisions of the law but makes no reference to orders and regulations which might be promulgated and of which we, as legislators, would have no cognizance.

The Secretary read Senate Amendment A.

Senate Amendment A to L. D. 353. "Amend said bill by striking out all of Section 1 thereof. Further amend said bill in Section 2 by striking out the following underlined words and punctuation: 'or during authorized alerts, including partial or full mobilization'.

Further amend said bill in Section 3 by striking out in the last paragraph the underlined words and punctuation 'or during authorized

alerts including partial or full mobilization.' Further amend said bill by striking out all of Section 4 thereof. Further amend said bill in Section 7 by striking out all of that part designated Section 19A and inserting in place thereof the following underlined paragraph: 'Sec. 19A Penalty. Every officer of a political subdivision of this state who having administrative responsibilities under the provisions of this chapter shall be punished by a fine of twenty dollars.'

Further amend said bill by renumbering Sections 2, 3, 5, 6, and 7, to be Sections 1, 2, 3, 4, and 5 respectively."

Which amendment was adopted and the bill as amended was tomorrow assigned for second reading.

On motion by Mr. Farris of Kennebec, the Senate voted to take from the table bill "An Act to Clarify the Employment Security Law" (S. P. 348) (L. D. 957) tabled by that Senator on April 28 pending motion by the Senator from Aroostook, Senator Jamieson that the Senate reconsider its former action whereby the bill was passed to be engrossed; and on further motion by the same Senator, the bill was retabled and especially assigned for Thursday next.

On motion by Mr. Reid of Kennebec, the Senate voted to take from the table bill "An Act Relating to Corporate Mergers." (S. P. 404) (L. D. 1118) tabled by that Senator on March 22 pending assignment for Second Reading.

Mr. REID of Kennebec: Mr. President, I tabled this matter some time ago because of the title only. At that time it appeared that there might be some confusion between this bill and the so-called Bates bills which were controversial items. I want to assure the Senators that this bill has nothing to do with those and furthermore it only relates to a mechanical change in recording a merger. I therefore move that this bill be given its second reading.

Thereupon, the rules were suspended and the bill was given its second reading and passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Reid of Kennebec, the Senate voted to take from the table bill "An Act to Revise the Laws Relating to Savings Banks." (S. P. 431) (L. D. 1501) tabled by that Senator on April 29 pending passage to be engrossed.

Mr. REID of Kennebec: Mr. President, I tabled this measure because I wished to introduce two amendments. There probably is no subject matter in law any more complicated than the subject of joint tenancies. They are complicated not only because they relate to joint tenancies as such and the basic part of our law, but also because we have inheritance taxes and the Inheritance Tax Department has great difficulty in group joint tenancies. There were two bills introduced during the session. One was L. D. 1501 which is known as the Banking Bill. The committee worked hard on that bill prior to the session. They worked with the Banking Department and with the Inheritance Tax Department and came up with what might be called a revision and clarification of the Savings Bank Law, and included in that were two provisions which related to joint tenancies which, I understand, were acceptable to the whole group, and passed by the whole group after thorough study.

There also was another bill known as L. D. 1020 which contained substantially the same joint tenancy provision so it was perfectly obvious that it was not necessary for both bills to pass. L. D. 1020 found its way into the Judiciary Committee and L. D. 1501 found its way to the Committee on Business Legislation. Believing that the joint tenancy provisions belonged in L. D. 1501 and not in L. D. 1020 which contained a few odd changes in the law and also these joint tenancy provisions, the Judiciary Committee emasculated the joint tenancy provisions from its bill rather thinking I believe, that they would remain in the banking bill.

The fact of the matter is that the banking bill so-called has now been reported out with the joint tenancy provisions also out of it and here we are so to speak.

"A serious problem is raised by the present status of L. D. 1020

(and that is the inheritance tax on joint tenancies and joint bank accounts, and L. D. 1501). The Bar and the public will be saved no end of grief if the problem can be resolved."

I am now reading from some notes I requested from Mr. Boyd Bailey of the inheritance tax department.

"To refresh your recollection, L. D. 1020 had the effect of (1) making the decedent's interest in new joint holdings one-half the total value, for inheritance-tax purposes, where there are two joint tenants and (2) making all joint bank accounts and building and loan shares pass to the survivor, regardless of relationship and amount, in the absence of fraud, undue influence or mistake.

"L. D. 1020, referred to Judiciary, was amended by amputating "(2)" that L. D. 180 covered about the same ground in about the same way. Thus amended, L. D. 1020 was reported OTP and was tabled until the Committee on Business Legislation should report out L. D. 180. L. D. 180 has now been reported in new draft without the language in question. In consequence, if both bills pass in present form, they will create a mess.

"Under L. D. 1501 joint bank accounts and joint building and loan shares pass to the survivor only to the extent of \$5,000 and then only if the survivor is a spouse or parent or child or brother or sister of the deceased."

That brother or sister amendment was made to L. D. 1501 by the committee.

"On the face of the statute the surviving brother or sister is given rights of survivorship in accounts created before or after the effective date of the act."

Then his memo goes on to indicate it in detail, which I think is complicated enough so that it would be hardly understood except by those who have worked hard and long on it. He gives certain examples of what the inheritance department would be up against if we remain in the present situation and also give it as his opinion, and I am inclined to agree with him that if the present amendment which only includes brothers and sisters stands as is, its constitutionality will be question.

It is his opinion that it would be definitely unconstitutional.

Now I propose to offer Senate Amendment A which will restore to L. D. 1501, the big bank bill so-called, the same provisions which were originally in the proposed bill and which have been as I understand it gone over by the Banking Department, the Inheritance Department and a committee of attorneys and savings bank officials who worked on it for so long and I hope that the Senate will adopt Senate Amendment A.

Mr. President I offer Senate Amendment A and move its adoption:

The Secretary read Senate Amendment A:

SENATE AMENDMENT "A" to S. P. 552, L. D. 1501, Bill "An Act to Revise the Laws Relating to Savings Banks."

Amend said Bill by adding at the end of subsection V of section 19-G, 2 new underlined paragraphs to read as follows:

'G. The opening of any account, payable to either of 2 or more persons, or the survivor thereof, on or after the 1st day of September, 1955, shall, in the absence of fraud or undue influence, be conclusive evidence of the intent of each depositor, in the event of his death before the other, to transfer to the surviving depositor all interest, legal or equitable, which he may have had in the money so deposited, together with all sums thereafter deposited on such account, and all dividends credited thereto, and such intent shall be given full force and effect in any action at law or in equity between the heirs of such deceased person, or the representatives of his estate, and the survivor or the heirs or representatives of his estate; provided, however, that such deposit may be removed from the provisions of this section by an agreement in writing duly executed by both said depositors and filed with the bank.

H. Accounts so opened prior to September 1, 1955, may be brought within the provisions of paragraph G by written declaration in form to be prescribed by the Bank Commissioner, executed by both such depositors and delivered to any such

bank, savings bank or trust company, which declaration shall bind each and every signer thereof, his heirs, executors, administrators and assigns. In case such declaration be signed by one but not both depositors named in such accounts, such declaration shall be effective as against the person or persons signing the same, his and their heirs, executors, administrators and assigns, but shall not be effective as against those not so signing.

Thereupon, on motion by Mr. Cummings of Sagadahoc, the bill and accompanying papers were laid upon the table pending motion by the Senator from Kennebec, Senator Reid, that Senate Amendment A be adopted.

On motion by Mr. Reid of Kennebec

Recessed until 2 o'clock this afternoon, E.S.T.

After Recess

The Senate was called to order by the President.

On motion by Mr. Hillman of Penobscot, the Senate voted to take from the table House Reports from the Committee on Inland Fisheries and Game: Majority Report "Ought to pass as amended by Committee Amendment A"; Minority Report "Ought not to pass" on Bill "An Act Relating to Right of Officer to Kill Dogs." (H. P. 411) (L. D. 458) tabled by that Senator on April 28 pending acceptance of either report.

Mr. HILLMAN of Penobscot: Mr. President and members of the Senate: This is a departmental bill put in here purely to clarify the existing law that is one the books, and I will read the existing law:

"Any officer may kill any dog which he finds hunting, chasing, killing, wounding or pursuing any moose, caribou, deer, elk at any time, or any other wild animal in closed season or worrying, wounding or killing any domestic animal when said dog is outside of the enclosure and immediate care of his owner or keeper."

Under this amendment to clarify the word "enclosure" in the present bill the phrase is: "Any officer may kill any dog that he finds hunting,

chasing, killing, wounding or pursuing any moose, caribou, deer, elk at any time or any other wild animal in closed season or worrying, wounding or killing any domestic animal when said dog is outside the kennel, kennel run or quarters where usually confined or the immediate care of its owner or keeper."

Now in the past there have been a number of cases where wardens have shot dogs and the owners of those dogs have come into court. Naturally every man likes his dog and if a dog is shot he will take the case to court and immediately the judge is confronted with this word "enclosure," what does it mean? Does it mean four hundred acres of land with a strand of barbed wire around it or does it mean the kennel where the dog is usually confined? I know of a neighbor in my home town who lost a dog in this way and who took the matter to court. The first case in court was a mistrial because the jury could not decide what an enclosure was. The second time it was brought into court the jury awarded \$35 to the owner of the dog for damages. This owner told me personally that he spent over \$700 in fighting this case. Now if we clarify the word "enclosure" I believe that would eliminate this costly expense. This came out of the committee with a 7 to 3 report, and I move that the Senate accept the majority report of the committee for the clarification of the present law.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Penobscot, Senator Hillman, that the Senate accept the Majority "Ought to pass as amended" report of the committee.

Thereupon, on motion by Mr. Carpenter of Somerset, the bill was laid upon the table pending motion of Senator Hillman that the Senate accept the Majority "Ought to pass as amended" report of the committee and was especially assigned for tomorrow.

On motion by Mr. Boucher of Androscoggin, the Senate voted to take from the table House Reports from the Committee on Liquor Control: Majority Report "Ought not to pass";

Minority Report "Ought to pass in new draft under same title" (H. P. 926) (L. D. 1034) tabled by that Senator on April 22 pending motion of the Senator from Aroostook, Senator Crabtree that the Senate accept the "ought not to pass" report.

The Secretary read the endorsements on the bill.

Comes from the House, the Majority report "Ought not to pass" having been accepted.

Mr. BOUCHER of Androscoggin: Mr. President, I move the acceptance of the report on this bill as it stands now.

The PRESIDENT: The Secretary will read the committee report.

The SECRETARY: Majority-minority report from the Committee on Liquor Control, the majority report "Ought not to pass" on an Act relating to Sunday Sales of Liquor by Hotels and Clubs, signed: Senators Crabtree of Aroostook; Representatives Anthoine of Windham, Christie of Presque Isle, Charles of Portland, Rich of Charleston. Minority of the same committee on same subject matter reports same "Ought to pass in new draft under same title," signed: Senator Boucher of Androscoggin; Representatives Cote of Lewiston, Dostie of Winslow, Pierce of Bucksport. Came from the House the majority report accepted.

Mr. BOUCHER: I believe, Mr. President, there is a motion made.

The PRESIDENT: The Chair will state that the pending question is the motion of the Senator from Aroostook, Senator Crabtree, that the Senate accept the "ought not to pass" report of the committee.

Mr. BOUCHER: Mr. President and members of the Senate: I rise in opposition to that motion. My reasons are that this bill in its form as presented to the committee I would have opposed and gone along with the majority report of the committee, but the committee was offered a redraft so that this bill would go back to the towns and cities to be voted on at regular biennial elections whereby the people could adopt certain proposals on liquor questions. I have checked and I have found out that Maine is the only state in New England which does not have liquor sales on Sunday, restricted liquor sales. Every

other state, Connecticut, Rhode Island, Massachusetts, New Hampshire and even Vermont have regulated liquor sales on Sunday. If this bill did not have a local referendum I would still be against it, but with a local referendum on it I for one am not ready to tell the people of Maine how they should vote or how they should drink or what they should do on Sunday. I do not think we can legislate morals. I think we should leave that to the ministers and priests throughout the state to tell the people what they should do and what they should not do. I believe we should let the people of Maine decide for themselves whether they should have restricted liquor sales on Sunday. Therefore I signed the minority report "Ought to pass in new draft" leaving it to local option whether we should sell it on Sunday in different towns and cities throughout the state. I know when I go out of state I like to have a beer on Sunday or a glass of wine or something similar along with my meal, and I believe that people from out of the state who come into Maine—and we spend a lot of money to bring them in here—should have the same privilege here that they have at home.

This bill only authorizes a referendum on hotels with meals and clubs. I also understand that a club is a man's home, his second home. Club membership, if I understand right, is restricted to members only and members only could have liquor on Sunday just as well as they could if they so choose.

Therefore, Mr. President, I want to oppose the motion of Senator Crabtree because I believe that we are trying to take away from the citizens of Maine and from our visitors during the summer, our guests, the privilege of enjoying the same thing that they do at home. It is wholly a matter of local referendum and I think the people should decide in each city and town what they want. If they do not want to have liquor sold on Sunday they can review it on election day; if they do want to they should have the privilege of saying so. When the vote is taken I ask that it be taken by a division.

Mr. CRABTREE of Aroostook: Mr. President, at the hearing on this bill there was very little feeling in favor of the bill except for the people directly connected with the industry. I have a very sure feeling of the temper of the people of the State of Maine in that they do not want liquor served in hotels or clubs on Sunday. I do not believe the people of Maine yet at least are ready for it. I also cannot believe that the people who find a vacation in Maine so desirable will stay away from the State of Maine because they cannot have a drink with their dinner on Sunday. I think we have many more desirable features that we can advertise and promote. I cannot yet visualize people staying away from Maine for this reason.

Senator Boucher spoke of the referendum feature. I suppose it could be possible that there might appear as a result of this referendum feature an odd oasis or two in the state. I cannot believe they would be very lovely places. I hope the majority report of the Committee on Liquor Control will prevail, that the bill "Ought not to pass."

Mr. BOUCHER of Androscoggin: Mr. President and members of the Senate: It seems as though Maine must be out of step with all the other states forever and a day. I realize that Maine is a rock-ribbed Republican state, but this question of temperance and liquor is not a question of party and not a party issue, at least I do not think so. I believe there is some drinking on both sides of the fence, and I also believe there is some dry on both sides of the fence. I say, find out if the people want it or if they do not want it. All the other states have it and the people have voted for it. I do not imagine that Maine would be any different. That is probably why my good friend Senator Crabtree is opposed so much to a referendum. He possibly wants to dictate to the people of Maine what they shall do. I believe they should not be told what to do but that we should listen to what they want to do. I again repeat that this bill should not pass without the amendment, but with the amendment I offered to the members of the committee it should pass.

Mr. BOYKER of Oxford: Mr. President and members of the Senate: I do not believe that we should have in our state some hotels and clubs who serve liquor on Sunday and some who do not. If we are going to have this bill let it be state-wide. I do not believe in referring it to the people. If we do, what will happen is that some towns will have it and others won't. I do not believe that is what we want.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Crabtree that the Senate accept the Majority "Ought not to pass" report, and the Senator from Androscoggin, Senator Boucher has requested a division. Is the Senate ready for the question?

A division of the Senate was had.

Twenty-six having voted in the affirmative and three opposed, the motion prevailed and the "Ought not to pass" report of the committee was accepted in concurrence.

On motion by Mr. Parker of Piscataquis, the Senate voted to take from the table House Report from the Committee on Claims: "Ought to pass" on "Resolve in Favor of Harold B. Gross, of Waldoboro." (H. P. 736) (L. D. 1437) tabled by that Senator on April 13 pending acceptance of the report.

Mr. PARKER of Piscataquis: Mr. President and members of the Senate, this is a claim against the Highway Department of the state for damages to a sewer owned by Mr. Harold B. Gross of Waldoboro, in the amount of \$213.76.

As I understand the case, this was a construction project by the A. P. Wyman Co., Inc., employed by the State of Maine to reconstruct this highway. During the process of construction some of the blasting that was being done ruined the sewer leading to the residence of Mr. Harold B. Gross. In opposing this claim I would like to bring to the attention of the Senate, two or three thoughts that I think have a great deal of bearing on the case.

First, Mr. Gross did not own the property at the time the road was built. There was no attempt made to convey any cause of action by the previous owner. Even if the contractor was negligent there is no

liability on the part of the state. The state contracts with the contractor for a finished job built under certain specifications. Under the law an independent contractor is liable for an employee's negligence. The state engineer on the job for the purpose of seeing that the specifications were carried out on this special job had no police powers. It was the duty of the police force to see that the contractor observed the law and the duty of the courts to decide if he was guilty of negligence.

If the legislature votes to have the state responsible for the negligence of contractors, it will be adopting a principle of law that has never existed before and would result in the filing of numerous claims. Lastly, the owner of the property at the time of construction, had the right to sue the contractor for any damages at the time, and it is not the state's fault that he did not so sue. That is the evidence I have been able to get from the Highway Department on this claim and Mr. President, I move that L. D. 1437 be indefinitely postponed.

Mr. DOW of Lincoln: Mr. President and members of the Senate, I would like to take exception to one or two of the remarks made by the good Senator from Piscataquis, Senator Parker in that this damage that occurred was right fair in the middle of the town of Waldoboro and he mentioned that the damage was caused by blasting. It may be so but I do not recall any blasting done right in the middle of Main Street, but I do recall standing on the sidewalk and watching them dig up this sewer with a steam shovel—gas shovel—under the direction of the State Engineer.

A few months after when Mr. Gross acquired the property and opened it to rent they found the sewer was plugged and it was an emergency operation to dig up that street and replace the sewer and connect it up which he did at his own expense. I do not believe that Mr. Gross should pay for damage that was done to his property by a construction crew working under the direction of the State Engineer which is covered by a bond and which I understand is a continuous bond, and I hope that you members

of the Senate will see this as a damage and put back the sewer at his own expense and then covered it with tax for which he got a bill from the state for \$75.

The previous owner died in the meantime so there was no recourse there by Mr. Gross. I am sure Mr. Gross had no idea at the time he bought the property that the sewer from the property had been destroyed by a road construction crew under the direction of the State Engineer, and due to the fact that the state is covered by a bond, it seems reasonable that they would assume that obligation of that damage rather have the property owner assume it. I hope that the motion of the Senator from Piscataquis does not prevail and I ask for a division on the motion.

Mr. SILSBY of Hancock: Mr. President and members of the Senate, as a member of the Claims Committee I would like to defend our position in passing this resolve out ought to pass. At the hearing, the sponsor of this resolve, together with the present property owner—I think the present property owner came in and informed your claims committee that this project, as Senator Dow has just said, was in the town of Waldoboro and that there was a resident engineer assigned by the Highway department to see that the specifications for the road were carried out. It appears there was some blasting done and it also appears that they did, in the excavating of the earth from there, shovel up that particular sewer and haul it off.

The property owner had no knowledge of what happened. It appears that the department was told and the purchaser Mr. Gross had reason to understand that the sewer was in proper working order, and the Highway Department had not damaged it, or the contractor had not damaged it in any particular and the sewer was in good working order when he purchased the premises but later he found that the sewer was plugged up and on digging it up he found that it had simply been hauled away. Now the Highway Department, through its attorney informed us that there was a bond and if the Highway Department had known that this sewer had been de-

stroyed, they would have held back a sum of money from the contractor to have paid for this damage. Now I say to you that it was their fault, with their engineer they should have known that the sewer had been destroyed and that is where the neglect was and by reason of neglect on their behalf, we felt it was an equitable bill for the Highway Department and I still think so. On top of that, he had the expense of \$213.76 and then the Highway Department billed him for \$75 to replace the pavement which they were the cause of having been taken up through neglect of the person in charge. I oppose the motion of the Senator from Piscataquis and hope it does not prevail.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Piscataquis, Senator Parker that the resolve be indefinitely postponed. Is the Senate ready for the question?

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

Thereupon, on motion by Mr. Silsby of Hancock, the "Ought to pass" report of the committee was accepted, the resolve read once and tomorrow assigned for second reading.

The PRESIDENT: The Chair at this time notes a group of students from M.C.I. in Pittsfield. The Senate is very pleased to welcome you to the Senate Chamber this afternoon. We know you are under the able sponsorship of young "Senator" Reid who, I am sure, with the assistance of his father, the Senator from Kennebec, Senator Reid, will take you about the State House and assist you before you leave, to meet all the people that you want to meet. Thank all of you very much for coming down and visiting with us.

Mr. CHAPMAN of Cumberland: Mr. President, I would like to know whether or not the Order we passed this morning relating to temporary investment of state funds is in the possession of the Senate?

The PRESIDENT: The Chair will state that it is.

Thereupon, on further motion by the same Senator, the Joint Order was sent forthwith to the House.

On motion by Mr. Reid of Kennebec, the Senator voted to take from the table Senate Report from the Committee on Judiciary, "Ought to pass as amended by Committee Amendment A" on bill, "An Act Providing for Pocket Supplements to the Revised Statutes". (S. P. 406) (L. D. 1120) tabled by that Senator on April 5 pending acceptance of the report; and on further motion by the same Senator, the report was accepted, the bill read once; Committee Amendment A adopted without reading, and the bill as amended was tomorrow assigned for second reading.

On motion by Mr. Reid of Kennebec, the Senate voted to take from the table Senate Report from the Committee on Judiciary "Ought to pass as amended by Committee Amendment A" on "Resolve to Purchase Additional Sets of the Revised Statutes of 1954" (S. P. 407) (L. D. 1121) tabled by that Senator on April 5 pending acceptance of the report; and on further motion by the same Senator, the report was accepted, the resolve read once; Committee Amendment A was adopted without reading, and the resolve as amended was tomorrow assigned for second reading.

On motion by Mr. Parker of Piscataquis, the Senate voted to take from the table House Report from the Committee on Claims "Ought to pass" on "Resolve in Favor of Abigail D. Flynn of Waldoboro." (H. P. 735) (L. D. 817) tabled by that Senator on April 13 pending acceptance of the report.

Mr. PARKER of Piscataquis: Mr. President, L. D. 817 under the Statement of Facts states "On March 25, 1951 the A. P. Wyman Company, Inc. of Waterville, Maine reconstructed a highway known as Route 220 leading from Waldoboro to Friendship. During said construction the A. P. Wyman Company, being employed by the State of Maine under the Highway Commission to reconstruct said highway and while the highway was being constructed ruined the sewer of Abigail D. Flynn," and it goes on to describe the amount and so forth.

The information I have been able to get from the Highway Depart-

ment on this case is this. Mrs. Flynn claims the contractor ruined her sewer by blasting during the reconstruction of the highway. In the first place, it appears that she was absent during the job and there was no evidence that the contractor was warned of the existence of this sewer. In the second place, even if the contractor was negligent there is no liability on the part of the state. The state contracts with the contractor for a finished job, to wit a road built under certain specifications. Under the law as I understand a contractor is liable for his employees' negligence. The state engineer is on the job only for the purpose of seeing to it that the specifications are carried out. He has no police powers. It is the duty of the police force to see that the contractor observes the law and the duty of the courts to decide if he is liable for negligence. Mrs. Flynn had a right to sue the contractor. It is not the fault of the state that she did not do so. I move that this resolve be indefinitely postponed.

Mr. DOW of Lincoln: Mr. President and members of the Senate: I just want to add a few other facts for your consideration before you vote on this measure.

This sewer is next door to the one where we just passed the resolve, right in the center of the town and was dug up with the same shovel and the shovel was under the direction of the state engineer. Mrs. Flynn is a summer resident and comes there only summers and after being away all winter she came home and found the new road had been built by her house, and a few weeks or months later found the sewer was gone, that it was not only plugged but gone. That is all I have to say.

Mr. SILSBY of Hancock: Mr. President, Waldoboro is having its day. I find here that it was the opinion of the committee that while Mrs. Abigail T. Flynn was away evidently someone appeared and hauled off the sewer. It seems to me I would go along with the committee. The contractor was probably liable in the first instance, but this happened, as I have here in my notes, in 1951. I cannot add much to the situation. I still feel it is a companion case to the other one.

Mr. PARKER of Piscataquis: Just one point, Mr. President, I would like to bring out and that is I know what the sympathy of the Senate is in a matter of this sort, but after all there are some things we should consider and one of them is this: that the aggrieved party did and does have the right to sue the contractor and it is not the fault of the state or the Highway Department that this was not done.

Mr. President, when the vote is taken I ask for a division.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Piscataquis, Senator Parker, that the resolve be indefinitely postponed and that Senator has asked for a division.

A division of the Senate was had.

Four having voted in the affirmative and twenty-two opposed, the motion did not prevail.

Thereupon, on motion by Mr. Silsby of Hancock, the "Ought to pass" report of the committee was accepted, the resolve read once and tomorrow assigned for second reading.

The PRESIDENT: The Chair at this time speaks particularly to the new men in the Senate and know that his experience will be duplicated by your experience and that one of the nicest things you will take home with you will be the friendships and acquaintances of this session. It was my privilege to serve in this Senate for several terms with a Senate associate whose memory will never be blanked from my mind and whose exploits have been recited to you, and just on the mere chance that you may not know that Senator I will ask the Sergeant-at-Arms to escort to the Chair the distinguished first citizen of Knox County, former Senator Cleveland Sleeper, and as he approaches the rostrum in full dignity I will ask him to come up here and sit down without opening his mouth. (Applause, members rising)

On motion by Mr. Jamieson of Aroostook, the Senate voted to take from the table bill "An Act Relating to Delivery of Motor Vehicles Sold by State on Bids." (H. P. 488) (L. D. 533) tabled by that Senator on

April 7 pending passage to be enacted; and that Senator yielded to the Senator from Cumberland, Senator Chapman.

Thereupon, on motion by Mr. Chapman of Cumberland, the bill was retabled and especially assigned for tomorrow morning.

On motion by Mr. Collins of Aroostook, the Senate voted to take from the table bill "An Act Relating to Bounty on Bears." (S. P. 245) (L. D. 678) tabled by that Senator on April 28 pending passage to be enacted.

Mr. COLLINS of Aroostook: Mr. President, the reason that this item was tabled was because of the fact that the Finance Department told me it would cost some ten thousand dollars but it seems to be a fact that the bounty on bears is paid from the dog tax and this is earmarked money, so it does not affect the general funds to the extent that the other tabled matters do, so I would move the pending question.

The motion prevailed and the bill was passed to be enacted.

On motion by Mr. Silsby of Hancock, the Senate voted to take from the table Senate Reports from the

Committee on Judiciary: Majority Report "Ought not to pass"; Minority Report "Ought to pass" on "Resolve Proposing an Amendment to the Constitution Changing the Tenure of Office of Sheriffs to Four Year Terms." (H. P. 834) (L. D. 925) tabled by that Senator on April 28 pending acceptance of either report; and on further motion by the same Senator, the Majority "Ought not to pass" report was accepted.

On motion by Mr. Weeks of Cumberland, the Senate voted to take from the table House Report from the Committee on Labor "Ought to pass in new draft" on bill "An Act Relating to the Employment of Females" (H. P. 307) (L. D. 284) tabled by that Senator on April 8 pending acceptance of the report; and on further motion by the same Senator, the report was accepted, the bill read once; House Amendment A was read and adopted in concurrence, and the bill as amended was tomorrow assigned for second reading.

On motion by Mr. Reid of Kennebec

Adjourned until tomorrow morning at nine o'clock, E.S.T.