

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

Friday, May 6, 1955

Senate called to order by the President.

Prayer by the Reverend Robert Brackley, of Hallowell.

Journal of yesterday read and approved.

On motion by Mr. Reid of Kennebec, out of order and under suspension of the rules:

ORDERED, the House concurring, that when the Senate and House adjourn, they adjourn to meet on Monday, May 9, 1955. (S. P. 575)

Which was read and passed.

Sent down for concurrence.

Subsequently, the foregoing Order was returned from the House, having been read and passed, in concurrence.

Communication

State of Maine

OFFICE OF THE GOVERNOR

Augusta

May 6, 1955

The Honorable President
The Honorable Speaker of the House
Ninety-seventh Legislature

Gentlemen:

I consider it a privilege to transmit, herewith, a letter from the Honorable Percival P. Baxter of Portland in which he offers an additional 25,025 acres of land in the Baxter State Park for public purposes.

Mr. Baxter, has, again, thoughtfully imposed no hunting restrictions within this latest gift.

Mr. Baxter, continuing the far-sighted policy proposed in his March 23rd gift, is desirous that this new grant be devoted to scientific forestry research. He points out that action today in conserving our forests will be all important to the generations who follow us. I heartily support this wise course.

I submit Mr. Baxter's generous offer and the accompanying legislation to your serious consideration as being in the public interest.

Respectfully yours,

(Signed) EDMUND S. MUSKIE
Governor

(S. P. 576)

Which communication, and the accompanying letter from the Honorable Percival P. Baxter, were read and ordered placed on file. (The full text of Mr. Baxter's letters appears in the Legislative Record under Proceedings of the House.)

Sent forthwith to the House.

Out of Order and Under Suspension of the Rules, Mr. Butler of Franklin was granted unanimous consent to introduce the following bill:

Bill "An Act Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift in Trust of Twenty-five Thousand Twenty - five (25,025) Acres, the Same Being All of Township Six (6) Range Ten (10) Including the Public Lot, W. E. L. S., Piscataquis County, State of Maine." (S. P. 574)

Mr. BUTLER of Franklin: Mr. President, the bill which is presented herewith is carrying out the message that we have just heard, a gift of ex-Governor Percival P. Baxter. This individual is giving to the State of Maine a living, perpetual memorial of a way of life. You will recall as you listened to that message of setting a standard, an inspiration for others to follow. It cannot but bring to our own minds the nature of the man himself. Has he not set an inspiration for all of us to follow? As we turn the pages of time back and look into those years in the 20's when he filled the Governor's Chair in the East room, that ever kindly face shone forth to greet everyone who crossed that portal, ever was his hand extended not for the purpose of greeting but for the purpose of helping those less fortunate, in giving assistance to those that needed it and sharing of his kindly advice. He has shared with us not only of his earthly wealth but he has shared too his own personality.

As a younger individual he was a candidate for office. How he would go through the state ever welcoming those with whom he came in contact. It was a personal interest which he had and that personal interest is now incorporated into a living memorial that we who have been privileged to know him may carry that vision through our lives, and those who have not

known him may have an example to follow. I feel very humble in being able this morning to have acted in a small behalf as his emissary in making this gift possible.

To me he has always been an inspiration. He was the first Governor I have happened to have known personally and as such with that same degree of kindness as a youngster, he gave to me his picture. I still have that picture, and as I look at it and compare it to a recent one with which I was favored only a few weeks ago, the same kind expression, the same interest in humanity is evident and as we walk through these halls and look at the painting of himself on these legislative walls, we see him with his ever constant companion during his life, his dog, ever faithful, ever kind, and have you ever known of an individual who is a lover of dogs, who is not a lover of humanity.

Truly he has given us a way of life so that it might be expressed in these words: "When our time comes to join that innumerable caravan from which none shall return, may we go not like the quarry slave, scourged to his dungeon but sustained and soothed by an unfalterable trust approach the grave like one who wraps the draperies of his couch about him and lies down to pleasant peace," a fitting memorial for a man, a gentleman, a scholar and a friend.

Thereupon, on motion by Mr. Butler of Franklin, the bill was received by unanimous consent and under suspension of the rules, without reference to a committee, was given its two several readings and passed to be engrossed.

Sent forthwith to the House.

Mr. Butler of Franklin presented the following Order and moved its passage:

ORDERED, the House concurring, in order that the record of the gift of Percival Proctor Baxter to the State of Maine as trustee in trust of 25,025 acres in Township 6, Range 10, Piscataquis County W.E.L.S. State of Maine, be complete and in enduring form, the Communication dated May 2, 1955 addressed by said Baxter to the Honorable Edmund S. Muskie, Governor and to

the Honorable Senate and House of Representatives of the 97th Legislature, together with the message of Governor Edmund S. Muskie transmitting said communication to the legislature, be printed in the Laws of 1955.

Which order received a passage.
Sent down for concurrence.

Order (Out of Order)

On motion by Mr. Collins of Aroostook, out of order and under suspension of the rules,

ORDERED, that a message be sent to the House of Representatives proposing a convention of both branches of the Legislature, to be held forthwith in the Hall of the House for the purpose of extending to His Excellency, Governor Edmund S. Muskie, an invitation to attend the Convention and to make such communication as pleases him.

Which was read and passed, and the Secretary conveyed the message.

Subsequently, a message was received from the House of Representatives, by its Clerk, Harvey R. Pease, concurring in the proposal for a Joint Convention to be held forthwith in the Hall of the House.

For proceedings of Joint Convention see House Report.

In the Senate

The Senate was called to order by the President.

Papers from the House

Bill "An Act Relating to Bartlett's Island as a Game Preserve." (S. P. 30) (L. D. 19)

In Senate on May 3, passed to be engrossed.

Comes from the House, passed to be engrossed as amended by House Amendment A (Filing 439) in non-concurrence.

In the Senate, on motion by Mr. Silsby of Hancock that Body voted to recede and concur.

Bill "An Act Relating to Directors of Corporations." (S. P. 269) (L. D. 700)

In Senate on April 27, passed to be engrossed as amended by Senate Amendment A (Filing 377)

Comes from the House, indefinitely postponed in non-concurrence.

In the Senate, on motion by Mr. Woodcock of Penobscot, that Body voted to insist on its former action and ask for a Committee of Conference.

Joint Order

WHEREAS, public interest and participation in highway safety is a recognized goal; and

WHEREAS, the last appointed Governor's Committee on Highway Safety created and encouraged the focus of public attention on the problems of reducing traffic fatalities within the State of Maine; and

WHEREAS, the Governor has indicated his interest in the highway safety problem and his intention of reconstituting the Governor's Committee on Highway Safety; now, therefore,

BE IT ORDERED, the Senate concurring, that the Legislature hereby heartily supports such reconstitution of the Governor's Highway Safety Committee at the earliest possible date; and suggests to the Governor that upon reappointment of that Committee he address a statewide appeal for participation and membership of all those interested in Highway Safety. (H. P. 1238)

Which was read and passed, in concurrence.

House Committee Reports Leave to Withdraw

The Committee on Inland Fisheries and Game on Bill "An Act Relating to Open Season on Deer." (H. P. 469) (L. D. 514) reported that the same be granted Leave to Withdraw.

The Committee on Towns and Counties on Bill "An Act to Authorize the Treasurer and County Commissioners of Washington County to Procure a Loan, and Issue Bonds of Said County Therefor for the Purpose of Adding to the Present Court House." (H. P. 1183) (L. D. 1434) reported that the same be granted Leave to Withdraw.

Which reports were read and accepted in concurrence.

Ought Not to Pass

The Committee on Highways on "Resolve Constructing Part of Route

No. 5 in York County." (H. P. 888) (L. D. 996) reported that the same Ought not to pass.

The Committee on Inland Fisheries and Game on Bill "An Act Relating to Removal of Bear Bounty in Oxford County." (H. P. 592) (L. D. 648) reported that the same Ought not to pass.

The Committee on Retirements and Pensions on recommended "Resolve Providing for State Pension for Kathleen Whitehouse of Weeks Mills." (H. P. 215) reported that the same Ought not to pass.

The Committee on Towns and Counties on recommended Bill "An Act Amending Charter of the Yorkshire Municipal Court." (H. P. 767) (L. D. 843) reported that the same Ought not to pass.

Which reports were severally read and accepted in concurrence.

The Committee on Natural Resources on Bill "An Act Providing for Clean Waters in Maine." (H. P. 1153) (L. D. 1372) reported that the same Ought not to pass.

Comes from the House, report and bill indefinitely postponed.

In the Senate, the bill was indefinitely postponed in concurrence.

Ought to Pass—as Amended

The Committee on Claims on "Resolve in Favor of Cevil A. York, North Windham, for Damage by Escapees from State School for Boys." (H. P. 702) (L. D. 770) reported that the same Ought to pass as Amended by Committee Amendment A (Filing No. 407)

Which report was read and accepted in concurrence and the resolve read once. Committee Amendment A was read and adopted in concurrence, and under suspension of the rules, the bill was given a second reading and passed to be engrossed in concurrence.

The Committee on Highways on Bill "An Act to Authorize the Construction of a Bridge Across Jonesport Reach." (H. P. 705) (L. D. 773) reported that the same Ought to pass in New Draft (H. P. 1237) (L. D. 1527) under same title.

Comes from the House read and accepted, and the Bill passed to be engrossed.

In the Senate, the report was read and accepted in concurrence and under suspension of the rules, the bill was given its two several readings and passed to be engrossed in concurrence.

Majority Report — OTP
Minority Report — ONTP

The Majority of the Committee on Legal Affairs on "Resolve Granting Master Plumber License to Ernest L. Douglass of Bangor." (H. P. 925) (L. D. 1033) reported that the same Ought to pass.
(Signed)

Senators:
WOODCOCK of Penobscot
LESSARD of Androscoggin

Representatives:
FOSTER of Mechanic Falls
MARTIN of Eagle Lake
CHILDS of Portland
QUINN of Bangor
LORD of Augusta
THOMAS of Anson
BRAGDON of Perham

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

Senator:
MARTIN of Kennebec

Comes from the House, Majority Report accepted and the resolve passed to be engrossed as amended by House Amendment A (Filing 435)

In the Senate:

Mr. WOODCOCK of Penobscot: Mr. President, I move that the Majority report of the committee be accepted.

Thereupon, on motion by Mr. Martin of Kennebec, the bill and accompanying papers were laid upon the table pending motion by the Senator from Penobscot, Senator Woodcock that the Senate accept the Majority "Ought to pass" report; and was especially assigned under Orders of the Day today.

Report A — OTP
Report B — ONTP

Five members of the Committee on Public Utilities on Bill "An Act to Promote Safety on Common Carriers by Railroad." (H. P. 1150) (L.

D. 1365) reported that the same Ought to pass.

(Signed)

Senator:

LESSARD of Androscoggin

Representatives:

OSBORNE of Fairfield
HAUGHN of Bridgton
GILMARTIN of Portland
CYR of Fort Kent

Five members of the same committee on the same subject matter, reported that the bill Ought not to pass.

(Signed)

Senators:

MARTIN of Kennebec
SILSBY of Hancock

Representatives:

SKOLFIELD of Harpswell
COOK of Portage Lake
BERNIER of Waterville

Comes from the House, Report A accepted; bill indefinitely postponed.

In the Senate, on motion by Mr. Silsby of Hancock, the bill was indefinitely postponed in concurrence.

The PRESIDENT: The Chair at this time notes in the Senate gallery a class in American History from Buckfield High School. The Senate welcomes you young people to our session today and hopes you enjoy it. The Senate invites you to come down and be personally escorted around the State House by the Senator from Oxford, Senator Fuller.

Senate Committee Reports
Ought Not to Pass

Mr. Sinclair from the Committee on Appropriations and Financial Affairs on "Resolve Providing for the Construction of a Men's Dormitory at Farmington State Teachers' College." (S. P. 146) (L. D. 340) reported that the same Ought not to pass.

Mr. Chapman from the same Committee on "Resolve Providing for Purchase of Unity Town Histories." (S. P. 291) (L. D. 801) reported that the same Ought not to pass.

Mr. Sinclair from the same Committee on "Resolve Appropriating Funds to Purchase Land for State House Parking Facilities." (S. P. 293) (L. D. 803) reported that the same Ought not to pass.

(On motion by Mr. Reid of Kennebec, tabled pending acceptance of the report.)

The same Senator from the same Committee on Bill "An Act Relating to Automobile Travel by State Employees." (S. P. 388) (L. D. 1102) reported that the same Ought not to pass.

(On motion by Mr. Martin of Kennebec, tabled pending acceptance of the report and especially assigned for Tuesday, May 10.)

Mr. Collins from the same Committee on "Resolve for Support of 'Ruggles House' in Columbia Falls." (S. P. 442) (L. D. 1234) reported that the same Ought not to pass.

The same Senator from the same Committee on Bill "An Act Relating to School Subsidy Allocations." (S. P. 455) (L. D. 1286) reported that the same Ought not to pass.

Mr. Farris from the Committee on Labor on Bill "An Act relating to Compensation for Specified Injuries Under the Workmen's Compensation Law." (S. P. 128) (L. D. 323) reported that the same Ought not to pass.

The same Senator from the same Committee on Bill "An Act Relating to Compensation Benefits Under the Workmen's Compensation Act." (S. P. 129) (L. D. 324) reported that the same Ought not to pass.

Mr. Hillman from the same Committee on Bill "An Act Relating to Compensation for Partial Incapacity Under The Workmen's Compensation Act." (S. P. 222) (L. D. 563) reported that the same Ought not to pass, covered by other legislation.

Mr. Farris from the same Committee on Bill "An Act Relating to Compensation under The Workmen's Compensation Act for Death of Employee." (S. P. 223) (L. D. 564) reported that the same Ought not to pass, covered by other legislation.

The same Senator from the same Committee on Bill "An Act Relating to Compensation for Specific Injuries Under The Workmen's Compensation Act." (S. P. 374) (L. D. 1070) reported that the same Ought not to pass.

Which reports were severally read and accepted.

Sent down for concurrence.

Ought to Pass

Mr. Collins from the Committee on Appropriations and Financial Affairs on "Resolve in Favor of the Northern Maine Sanatorium." (S. P. 143) (L. D. 342) reported that the same Ought to pass.

The same Senator from the same Committee on Bill "An Act Repealing the Merit Award Board." (S. P. 240) (L. D. 673) reported that the same Ought to pass.

(On motion by Mr. Butler of Franklin, tabled pending acceptance of the report and especially assigned under Orders of the Day, today.)

The same Senator from the same Committee on Bill "An Act to Reactivate a State Committee on Aging." (S. P. 282) (L. D. 793) reported that the same Ought to pass.

The same Senator from the same Committee on "Resolve Authorizing a Survey of State Government." (S. P. 441) (L. D. 1233) reported that the same Ought to pass.

Which reports were severally read and accepted, and under suspension of the rules, the bills and resolve were given their two several readings and passed to be engrossed.

Sent down for concurrence.

Ought to Pass—as Amended

Mr. Collins from the Committee on Appropriations and Financial Affairs on Bill "An Act Relating to Education of Physically Handicapped or Exceptional Children." (S. P. 147) (L. D. 338) reported that the same Ought to Pass as amended by Committee Amendment A.

Mr. Chapman from the same Committee on Bill "An Act Providing for Construction of a Women's Dormitory at the University of Maine and Appropriating Moneys Therefor." (S. P. 144) (L. D. 341) reported that the same Ought to pass as amended by Committee Amendment A.

Mr. Collins from the same Committee on Bill "An Act Relating to Driver Education." (S. P. 214) (L. D. 555) reported that the same Ought to pass as amended by Committee Amendment A.

The same Senator from the same Committee on "Resolve Relating to a Water System for the Penobscot

and Passamaquoddy Indians." (S. P. 318) (L. D. 884) reported that the same Ought to pass as amended by Committee Amendment A.

Mr. Sinclair from the same Committee on "Resolve in Favor of Portland University." (S. P. 316) (L. D. 885) reported that the same Ought to pass as amended by Committee Amendment A.

Mr. Collins from the same Committee on "Resolve Providing for a Recess Committee to Study School Finances and Needs in the State." (S. P. 317) (L. D. 886) reported that the same Ought to pass as amended by Committee Amendment A.

(Report accepted, resolve read once and tomorrow assigned for second reading)

Mr. Chapman from the same Committee on Bill, "An Act Relating to Publication of State Financial Reports." (S. P. 473) (L. D. 1342) reported that the same Ought to pass as amended by Committee Amendment A.

Mr. Hillman from the Committee on Labor on Bill, "An Act Creating the Board of Construction Safety Rules and Regulations." (S. P. 347) (L. D. 956) reported that the same Ought to pass as Amended by Committee Amendment A.

Which reports were severally read and accepted and the bills and resolves read once. Committee Amendments A were read and adopted, and under suspension of the rules, the bills and resolves were read a second time and passed to be engrossed.

Sent down for concurrence.

**Majority—OTP—N.D.—Same Title
Minority—ONTP**

The Majority of the Committee on Business Legislation on Bill, "An Act Regulating Automobile Finance Business." (S. P. 493) (L. D. 1378) reported that the same Ought to pass in New Draft (S. P. 572) (L. D. 1530)

(Signed)

Senators:

CUMMINGS of Sagadahoc
ALBEE of Cumberland
FARRIS of Kennebec

Representatives:

FAY of Portland
KINCH of Livermore Falls
WALTER of Waldoboro

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

(Signed)

Representatives:

EDGAR of Bar Harbor
WADE of Auburn
PIKE of Waterford
BLANCHARD of Wilton

On motion by Mr. Albee of Cumberland, the bill and reports were laid upon the table pending acceptance of either report and were especially assigned for tomorrow.

**Majority Report — OTP — N.D.—
Same Title**

Minority Report—ONTP

The Majority of the Committee on Labor on recommitted Bill, "An Act Relating to Medical Services under the Workmen's Compensation Act." (S. P. 205) (L. D. 499) reported that the same Ought to pass in New Draft (S. P. 560) (L. D. 1516) same Title.

(Signed)

Senators:

FARRIS of Kennebec
ST. PIERRE of Androscoggin

Representatives:

ROSS of Bath
LETOURNEAU of Sanford
WALLS of Millinocket
WINCHENPAW of Friendship

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

(Signed)

Senator:

HILLMAN of Penobscot

Representatives:

BROWN of Baileyville
CALL of Cumberland
JONES of South Portland

On motion by Mr. Farris of Kennebec, the bill and accompanying papers were laid upon the table pending acceptance of either report.

Report A—ONTP

Report B—OTP—N.D. Same Title

Five members of the Committee on Labor on Bill, "An Act Relating to Minimum Wages." (S. P. 485)

(L. D. 1354) reported (Report A) that the same Ought not to pass.

(Signed)

Senator:

HILLMAN of Penobscot

Representatives:

WINCHENPAW of Friendship

ROSS of Bath

CALL of Cumberland

BROWN of Baileyville

Five members of the same Committee on the same subject matter, reported (Report B) that the bill Ought to pass in New Draft (S. P. 573) (L. D. 1531), same title.

(Signed)

Senators:

FARRIS of Kennebec

ST. PIERRE of Androscoggin

Representatives:

LETOURNEAU of Sanford

JONES of Cumberland

WALLS of Millinocket

On motion by Mr. Farris of Kennebec, the bill and accompanying papers were laid upon the table and especially assigned for Tuesday, May 10.

The Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Relating to Pensions for Dependents of Deceased Policemen of City of Lewiston." (S. P. 163) (L. D. 357) reported:

That the Committee of Conference agreed with the earlier action of the House of Representatives by which that branch referred the above entitled matter to the 98th State of Maine Legislature for its consideration.

On motion by Mr. Lessard of Androscoggin, the bill and accompanying papers were laid upon the table pending acceptance of the Committee of Conference report.

The Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Relating to Pensions for Dependents of Deceased Firemen of City of Lewiston." (S. P. 413) (L. D. 1176) reported:

That the Committee of Conference agree with the earlier action of the House of Representatives by which

that branch referred the above entitled matter to the 98th State of Maine Legislature for its consideration.

On motion by Mr. Lessard of Androscoggin, the bill and accompanying papers were laid upon the table pending acceptance of the Committee of Conference report.

The Committee on bills in the Second Reading reported the following bills and resolve:

"Resolve for the Reappropriation of Unexpended Special Resolve Road Appropriations." (H. P. 1232) (L. D. 1518)

Which resolve was read a second time.

Mr. DUNHAM of Hancock: Mr. President and members of the Senate, I wish to present an amendment and move its adoption. This is a resolve which was appropriated in 1951 to build the approaches to the Bar Harbor Ferry. There was some delay in getting this underway. The approaches have now been built but they have been built in a slightly different location than first set out by the Highway Department. Therefore they feel in order to pay this resolve, that it should be re-appropriated. Therefore I offer this amendment and move its adoption.

The Secretary read the amendment:

Senate Amendment A to L. D. 1518, "Amend said resolve by adding at the end thereof after the figure '1500.00' the following:

‘; and be it further

Resolved: That the sum of \$25,000 appropriated under the provisions of section 1 of chapter 219 of the private and special acts of 1951 be, and hereby is, reappropriated from the general highway fund to be paid to the Canadian National Railway Company to compensate it for the building of an approach to the highway from the International Ferry.’”

Thereupon, on motion by Mr. Butler of Franklin, the resolve was laid upon the table pending motion by the Senator from Hancock, Senator Dunham to adopt Senate Amendment A, and was especially assigned under Orders of the Day today.

House — as amended

Bill "An Act Relating to Approval and Accreditation of Secondary Schools." (H. P. 343) (L. D. 422)

Which was read a second time.

Mr. Fuller of Oxford presented Senate Amendment A to Committee Amendment A to H. P. 343, L. D. 422, and moved its adoption.

The Secretary read Senate Amendment A: "Amend said amendment by striking out the underlined figure '9' in the 7th line thereof and inserting in place thereof the underlined figure '8'".

Thereupon, the Senate voted to reconsider its former action whereby it adopted Committee Amendment A; Senate Amendment A to Committee Amendment A was adopted; Committee Amendment A as amended by Senate Amendment A was adopted; and the bill as amended by Committee Amendment A as amended by Senate Amendment A thereto was passed to be engrossed in non-concurrence.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and Strictly Engrossed, the following Bills:

Bill An Act Relating to Pensions for Dependents of Deceased Policemen. (S. P. 117) (L. D. 276)

(On motion by Mr. Butler of Franklin, tabled pending passage to be enacted.)

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 of 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)

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

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

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

Which bills were severally passed to be enacted.

"An Act Accepting from Percival Proctor Baxter the Conveyance and Deed of Gift in Trust of Twenty-five Thousand Twenty-five (25,025) Acres, the Same Being All of Township Six (6) Range Ten (10) Including the Public Lot, W. E. L. S., Piscataquis County, State of Maine." (S. P. 574)

Which bill was passed to be enacted.

Orders of the Day

The President laid before the Senate the first tabled and especially assigned matter being Senate Reports from the Committee on Public Utilities: Report A "Ought to pass in New Draft A," Report B "Ought to pass in New Draft B" on bill "An Act Relating to Valuation of Property on Public Utilities for Fixing Rates." (S. P. 167) (L. D. 364) tabled on May 4 by the Senator from Kennebec, Senator Martin, pending acceptance of either report.

Mr. MARTIN of Kennebec: Mr. President and members of the Senate: The question which faced your Public Utilities Committee was rather a simple one: Should we change the law which, except for a few clarifying amendments put on by the 96th Legislature and which law has been on the books for almost forty years, or should we change the law pertaining to methods of establishing a valuation of a utility's property for rate - fixing purposes. I can sincerely say that a most sincere effort was made by your Public Utilities Committee to come up with an answer. However, as you heard the reports read, the committee was divided five to five.

I further say that I respect the views and the opinions of the signers of Report A, but I cannot agree with them. I want to be perfectly

fair with the members of the Senate. The new draft "B" which I signed is not a new law, it is the same law, but the signers of Report "B" felt that there could be some further clarifying language used which would make it even a better law, and this is all Report "B" does.

The things which impressed me were briefly these, and I will be brief. Our Supreme Judicial Court has reviewed recently the whole situation in the telephone case and in the Central Maine Power case. In my opinion the Court said this: that the Commission is the judge of the weight to be given to the various factors making up the base provided they give due consideration to all the factors; that equal weight does not have to be given to any one factor provided some weight is given to each, some consideration. The court further said that the commission is the judge of the facts.

Members of the Senate, I say that this law which has been on the books and which has been so recently construed by our highest court should not be changed.

Now I fully expected at the time of the hearing to have a lot of people come in and complain about the fact that the consumer was being treated unfairly. Such was not the case. At the hearing it was proved, and I think beyond a reasonable doubt, that the charges for domestic users in the State of Maine are lower than twelve other states. The charges for the industrial and commercial users in this State were lower than twenty-five other states and lower than all the other New England States.

Now I ask you: Does this indicate a bad law and that the consumers in this state are being hurt?

I respect the present Commissioner and I respect very highly the Commissioner who preceded him, but I sincerely feel that if these commissioners would follow the statute which has been set forth by this legislature and would follow the decisions of court that we would have no trouble in this matter.

I would like to read a letter that was sent to me under date of April 25th from the F. S. Mosley & Company, 50 Congress St., Boston, mem-

bers of the New York Stock Exchange and several others.

"Dear Mr. Martin:

For your information I wish to quote the following reply to a large buyer of power securities on an offering of four hundred shares of Central Maine Power three and a half preferred:

'My hesitation now is a bill in the Maine Legislature sponsored by the Governor and the Chairman of the Public Utilities Commission which would abolish the test of fair value established by the Supreme Court of Maine and substitute so-called honest and prudent investment. This is grossly unfair in a period of rising costs as it does not provide an adequate depreciation, annual or reserve, and if passed by the legislature I shall probably advise sale of the stock rather than purchase.' "

Again I would like to be fair and point out that the other report which is before us is not a prudent investment theory but based on original cost. However, I think that letter points out the fact that if you change the law which has been on our books so long that we will do great harm to these bondholders and stockholders and we will create a situation where perhaps it will be more costly to the companies to borrow, and that of course would have to be reflected in higher rates.

I feel that the burden of proof in any case where a change is asked is upon those coming in to change; I feel that this proof was not forthcoming, and therefore, Mr. President and members of the Senate, I move that New Draft "B" of L. D. 1505 be accepted.

Mr. LESSARD of Androscoggin: Mr. President and members of the Senate: I arise today to address you on what in my opinion is one of the most important matters of legislation that will be presented to us at this session. It is important because it affects the daily lives of every man, woman and child in this great State. It is important because we as the elected representatives of the citizens of this State have a solemn duty to legislate and promulgate laws that will be for the common good and when such matters are presented to us we should cast aside party lines, we should cease to con-

sider personal friendship and the influence of paid lobbyists. We should attempt to forego past affiliations so that we may approach the problem with a free and open mind in order that the conclusion to be reached will be one that results in a good for many rather than for a favored few.

The issue as presented to us today is not one of great complication although some have and will attempt to make it so merely, however, for the purpose of creating confusion. The basic change of the law as proposed by L. D. 364 is merely the elimination of three words, **Current Value Thereof** from the present rate laws so-called.

Now for the moment let us consider just what this does. It removes from the law a mandate to the Public Utilities Commission that it must consider the factor of current value in establishing a rate base for the establishment of a proposed rate.

Now for the moment let us consider what the words "current values" mean. Everyone will agree that these words mean reproduction costs. In other words when the Public Utilities Commission has before it a petition for the establishment of a new rate and this petition is based on evidence of current values it must make a finding of fact as to what it would cost to replace or reproduce the properties owned by the petitioning utility. This at first blush appears to be rather simple and not too involved, but instead here is where the injustices and the complications begin to set in.

The first problem to be solved is what is going to be reproduced. Is it the existing facility or is it the existing service? If it is the facility that would represent one figure but if it is the service, then it is bound to be another. It surely is reasonable to argue that if a utility company were to rebuild all of its properties it probably would not rebuild them in the same manner and with the acquired technological knowledge which they have gained over a period of years would not be forced to maintain many of the present facilities. In other words, it would seem fair to state that the Utility Company will never have to reproduce many of their present facilities in order to maintain present

or future service. Yet they say to you, give us a rate based on something which perhaps will never be replaced or reproduced.

For the sake of argument, let us for the moment give this Utility Company the benefit of the doubt and say that they will have to replace all of their facilities. Let us consider the fairness in this proposition. I have stated that current values means reproduction costs; the cost of reproducing a facility that exists today and it naturally follows that it means reproducing it at today's costs; on the other hand the facility isn't going to be replaced today, so, therefore, reproduction costs represents something in the future. So here again we are faced with another problem. We must now depend upon the members of our Public Utilities Commission to take on the role of fortune teller and soothsayers. Who can with any degree of accuracy tell us what construction costs are going to be, three, five, ten or twenty years from any given date? Yet the Utility Company says to us — give us a rate based on a current value of something no one knows what it will cost when reproduced. I will go one step further than that.

Let us assume there would not be any flux in construction costs in the next twenty years, and let us assume that the Utility Company was forced to replace all of their facilities in that period of time. It would be necessary in order for the Public Utilities Commission to establish a fair rate of return based on current values and other factors, of course, to have evidence presented to it of present values. This of course would require the services of qualified engineers and appraisers for them so they of necessity have to more or less accept the conclusions as to values as presented to them by the engineers and appraisers of the petitioning Utility Company. Here again we enter the field of conjecture. Here again mythical figures must be dealt with because you and I know with what little experience we possess that in the field of construction, bidding is very competitive and it is not unusual to find differences in amounts bid on large

construction projects varying from ten to fifty per cent.

Let me cite you an example of this. In 1926 in a New York Telephone case, the following six different estimates of fair value were made:

Majority of the Commission	\$366,915,493.00
Statutory Court	\$397,207,925.00
Minority of the Commission	\$405,502,993.00
Master's Report	\$518,753,738.00
Company Claim on "A" Appraisal	\$528,753,738.00
Company Claim on "B" Appraisal	\$615,000,000.00

The range of guesses nearly 100 per cent.

However, the most ironical part of the whole scheme is in the cost of presenting such a rate case based on current values. The irony is that John Q. Public, the consumer, must pay the freight to established higher rates for himself. You may not be aware of the fact that the cost for such presentation runs into pretty high figures. In December, 1952, the Central Maine Power Company requested a rate increase. Hearings were held intermittently between April 21 and September 28, 1953. Mr. Howard Turner, an engineer retained by the Company for the purpose of evaluating its properties testified that his charges in this case up to June, 1953, was \$122,000.00. Mr. Richard Sanborn of the Attorney General's Office stated to the Supreme Court of Maine in a brief prepared by him in this case that the Central Maine Power Company had spent \$600,000 or more on property evaluations, expert witnesses and similar expenses in the prosecution of their petition. I say to you—is it fair to force the people of Maine to reach into their pockets to pay for the services of experts retained by a Utility Company so as to establish rates based partly on conjectural and mythical figures.

Let us stop all this nonsense and give to the Public Utilities Commission of Maine the authority to establish rates that will be fair and equitable to both the consumer and the Utilities. Let us stop handing

the Commission a marked and stacked deck of cards and expect them to deal out a fair and just hand.

We had rather a lengthy hearing before the Public Utilities Committee on this bill and there appeared before us experts both as proponents as well as opponents. These men presented to the committee both sides of the question and I personally feel quite inadequate to attempt to disagree with the opponents. However, the impression I received as I listened to the presentations was that the proponents were basing their case on the illogicalness of the use of current values in the establishment of a rate base, and on the other hand, the opponents spent their time in arguing and presenting evidence of the fairness of the present existing rates.

I would like to state at this time it is not my purpose to argue or debate the reasonableness of existing rates of any utility company. That is a matter to be determined under existing law. I propose by L. D. 364 to change that existing law so that a fallacious and conjectural element will be eliminated to the end that our Public Utilities Commission will have the authority to establish rates that are fair and equitable.

Such a deletion will not result in such dire hardships as some utility companies would have you believe. Let us for a moment delve a little into this picture. How many utility companies in Maine have sought a rate increase using the current value theory as one of the elements upon which they have based their case? Only two, the New England Telephone & Telegraph Company and the Central Maine Power Company. What about the Bangor Hydro and the Maine Public Service Company and many others? They have continued to grow and prosper and render excellent service to their consumers with rates that have been established by our Public Utilities Commission for them.

What about our sister States in New England? All have long discarded the fair value theory and still their utilities continue to prosper and render service.

Doesn't it seem strange to you that the great New England Tel. & Tel. Company can exist in all of the other New England States in which they operate without the fair value theory, and yet raise their hands in horror when it is suggested that the State of Maine abandon it? Is it that the people of Maine are so individually wealthy that they can afford to give to this great company an advantage which they do not possess anywhere else in New England?

The Maine Public Service Company operates in the northern part of our State and also in the Province of New Brunswick. As a matter of fact, I am told that more electricity is generated by this Company in the Province of New Brunswick than in Maine. Let me cite to you what the Supreme Court of that Province had to say in the case of *The King vs. The Moncton Electricity and Gas Company Limited*. The case was decided in 1949. I quote: "It is a fallacy to ascertain a rate base on reproduction cost now during a time of abnormally high prices."

That is the law under which the Maine Public Service Corp. must operate in the Province of New Brunswick, but here in our State they could apply for a new rate based on fallacious current value, and under our existing law would have the right to have such current value considered and be reflected in the establishment of a new rate. Our Supreme Court has so stated in the case of *Central Maine Power Company vs. Public Utilities Commission*.

I wonder how many of us have considered the results if all the Utility Companies of Maine decided to come before the Public Utilities Commission and seek to have established for them new rates based on current values. What do you think would happen and could happen? Let us consider the Water Utility Companies. Many of these companies have been in existence for a great number of years. Their installations were made when costs of material were low in comparison to what the same materials would cost today. Suppose these Water Companies decided to avail themselves of the provisions of the existing law

and asked for new rates based on reproduction costs and this is their right under our present statutes. I leave the answer to your common sense. Water would probably be so expensive that to use it as we do today in our daily lives would be a luxury and for some people prohibitive. Yet this is the law which a few of your large Utility Companies would have you retain to their advantage.

How does the State of Maine stand in relation to other States in this country on the theory of current and fair value in rate-making? I believe this to be a fair question and one which deserves to be answered so that we can determine what our neighbors are doing in respect to problems that are common to all of us. As I stated a few moments ago, none of our sister New England States retain current or fair value in their rate-making laws. And, I am sure that the Utility Companies that operate in these States are doing so in a successful manner. As a matter of fact, thirty-six states in this country have discarded this theory, leaving Maine in the minority of twelve.

At times it seems to be a distinction to be in the minority, but there are other occasions when you begin to wonder and decide to take count of stock to see whether or not the majority could possibly be right and whether or not you are being a little bit arbitrary. On such occasions, especially when it is for the common good, I believe that we should set aside our arbitrariness and join the ranks of the majority.

One of the confusing elements in discussing the subject of utility rates is the difference between the fair rate of return, and the rate structure upon which the rate is based. Both are separate and distinct although the fair rate of return must be based on what the rate structure is determined to be. However, it is my contention that there can not be a fair rate return based on a rate structure that in and of itself is not fair. If the rate structure includes current values which I have pointed out is strictly conjectural and based on guesswork, how can you then expect to come up with a rate based on this false structure that will be

fair and equitable? Surely in the science of mathematics we can not expect a true answer if one of the equations we use is false. And likewise in philosophy, we can not use a false premise and expect to come up with a true conclusion. So I say to you, let us eliminate this guesswork and place our rate-making on a sound basis so that a fair rate of return will be given to the companies and yet protect the consumer so that he will not be made to pay for those things which do not exist.

As I stated a short time ago, I feel very inadequate to make this presentation on behalf of this proposed legislation. I only wish I possessed the knowledge and the ability to present to you the reasoning and the facts as were presented to the Public Utilities Committee by the men who appeared on behalf of this bill. A well prepared statement of the Hon. Sumner Pike, Chairman of the Public Utilities Commission of Maine, a former member of the United States securities Exchange Commission, a former member of the United States Atomic Commission, was presented, and surely such a presentment by a man with such background can not be lightly disregarded.

A personal presentation by Colonel Frank E. Southard, a former chairman of the Maine Public Utilities Commission. A man who thought so strongly against the existing statute that he resigned this important post because he felt that the people of Maine could not receive fair treatment under the present law.

Commissioner Edgar T. Corliss, a present member of the Commission presented his views in support of L. D. 364, pointing out the unfairness of the theory of current values.

Many others appeared and they too explained to our committee the injustices that occur under our present system.

Are these the type of men who in your opinion would appear before such a committee and propose the passage of legislation which they believed not to be fair and just? Do you believe that these are individuals that would stultify themselves for personal reasons or would you rather believe that they have dedicated themselves as public ser-

vants to advocate that which is good for all, rather than a few? I would rather believe the latter and I think that you would too.

The first two sentences in the proposed amendment to L. D. 364 deal with the statement of policy as to what the rate of return should be and what purposes it should accomplish. I do not believe that any of us can find any fault with such a statement and I doubt if any of the opponents to this legislation will object to it. The other changes are of a minor nature and also will not probably be objected to by the opposition.

As I stated at the beginning, the important change is the dropping of three little words: **Current Value Thereof**. These three little words in the existing law represent thousands of dollars that are taken out of our people's pockets each and every month, year after year. These three little words allow the State of Maine to stand alone amongst all of its sister New England States and say to its people, here, the utilities have the advantage. These three little words allow our State to take its place lagging behind thirty-six others instead of being up with the leaders in progress.

How long are we going to allow these situations to exist?

How long do you think that the people of our great State are going to stand by and watch legislature after legislature allow their rights to be lobbied away?

I say to you my fellow Senators that the time has come when we must stand up and be counted as to our actions on such matters as the bill before us today. We can no longer step aside from issues such as this one. The people of Maine are asking for justice and fair play and will not be satisfied with any compromise.

I urge you to give this question your most serious consideration and after you have done so, vote according to the dictates of your conscience.

Mr. WEEKS of Cumberland: Mr. President and members of the Senate, it is nice to have the Senator from Androscoggin, Senator Lessard warn us of the importance of this measure and warn us of the fact

it affects every man, woman and child in the State of Maine. It is also well for the Senator to remind us that this is a bill which affects the common good and that we as Senators in the State of Maine should approach this problem with a very open mind. It is very interesting that it just happens that twenty-five of us here today were here two years ago and I do not believe that any one of us failed to do what Senator Lessard said should be done. I think we approached it with free and open minds. I think we approached it with a viewpoint of the common good and I fully believe that we twenty-five who were there then and I dare say that those who have joined us since will continue to recognize the fact that we are legislating for everybody in the State of Maine. That includes women and children and includes facilities such as the Central Maine Power Company and the New England Telephone and Telegraph Company.

If there is an inference here that some of us who were here last time failed to perform our duty, I, in the most restrained manner possible, will inform the Senate that we did not. Possibly it might be well if some of us could review — I don't want to prey upon the patience of those of us who were here last time, but for the benefit of those who possibly haven't checked I will glance over a few events in the past and call them to your attention.

In November 1950 the New England Telephone and Telegraph Company petitioned the Public Utilities Commission for an increase in its rates alleging that its then rates were not reasonable and just taking into due consideration the fair value of the company's property devoted to its service within this state with a fair return thereon.

This matter was presented at extensive public hearings and in May 1952 the Commission rendered a decree dismissing the petition. This decree was not the unanimous decision of the commission, for one of its members took strenuous exception in the form of a dissenting opinion. Mr. Hill, a former townsman of mine, a member of the Bar

and at that time a member of the Commission and who gave very close attention to the problems of the Commission made a dissenting opinion. His views are of real importance for they clearly demonstrate the difference in thinking between those who seek to rule by arbitrary power and those who believe that the mandate of the legislature not only should but must be followed.

If you want to make a bureaucracy out of this thing let's do it but if this legislature is going to sit here and make rules, make laws, then those who operate administratively under the laws which we pass, should pay some attention to what we say. In Mr. Hill's opinion he said this: "In this company's last rate case before us I set forth at length my views as to the legal requirement of 'fair value' in Maine under Maine statutes and decisions. I still hold the same view and desire that my opinion in that case be considered herein and made a part hereof."

Now Mr. Hill's opinion is about eighteen pages long and it's right there in the record if you want to read it but the real meat of it is found in two paragraphs which I quote:

"I do not presume to express an opinion as to whether 'prudent investment' or 'fair value' is fundamentally the better theory. It is not the function of this commission to do so. That choice has already been made by the legislature, the supreme law making Body of this state. It is our function to apply the law whether we agree with it or not. It is not for us to alter, circumvent or distort it." Further along in his opinion Mr. Hill made this observation, "Economists, and courts in dealing with constitutional requirements, may assert that only the fairness of the so-called 'end result' is important. Yet the fairness of such 'end result' must itself be measured by some standard or criterion. For the purposes of this case and for the use of this commission that standard is provided by the statute. But if the commission has made no proper finding of the fair value of respondent's property, by what is the 'end result' to be measured? I see no available yardstick but the intuition of the commission-

ers. If the 'end result' idea adopted by the majority, imports discarding the formula laid down by the legislature, then this commission has cut itself loose from its statutory moorings and the whole process of rate making has likewise been set adrift for the future upon the sea of unrestrained whim and fancy. By such processes our time honored 'Government of Laws' is gradually converted into a 'Government of Men'."

A full reading of Mr. Hill's opinion clearly shows that he made every possible effort to dissuade his fellow commissioners against ignoring the law but the majority figuratively "thumbed their noses" at the legislative mandate and proceeded to dismiss the petition.

The best evidence that Mr. Hill was right is to be found in the fact that the Supreme Judicial Court of Maine to which the case had been taken by the telephone company, rendered a decision on January 27, 1953 sustaining all of the exceptions taken by the company.

In spite of the fact that the law then on the statutes had been in existence as Senator Martin has stated, for forty years and in spite of the knowledge of the chairman of the commission of the numerous court decisions based upon the law the then Chairman ranted and raved and even indicated that the court had 'changed the law' and that the legislature ought to do something about it.

As a result of his tirade, the Governor naturally and I think in that case properly considered it a matter for legislative consideration, and that is just what happened. It was considered in the legislature of 1953. He apparently couldn't understand why the Court upheld the law in preference to his personal views on the subject and so finally resigned.

As a result of this one man crusade, two bills were introduced to change this law, in the 96th Legislature. The Bills were referred to the Judiciary Committee and a day was set for a hearing. Any member of this Senate who attended the hearing will testify as to its length—it was held here in this Senate Chamber and during the time that I was here it was a pretty crowded place. The entire matter was

thoroughly and ably discussed by both the proponents and opponents. Chief among the proponents for one of the bills was the former Chairman of the Commission who had full and complete opportunity to set forth his views on the subject.

Mr. Hill, who was still serving as a member of the Commission made an appearance as an individual and stated, "I am neither a proponent nor an opponent of either of these measures but I have lived with the subject for some years." Mr. Hill had no prepared speech but he made two statements which I believe are worthy of your attention. He said, "Under the present law we have a yardstick of 'fair value' and if that is to be removed and nothing else is inserted in the place of it, then we have absolutely no standard at all. . . . There should be a standard of some kind and I don't believe in giving the Public Utilities Commission or any other commission or Body too broad or sweeping powers'. . . . 'It has been said here that the Commission has been rendered powerless to protect the public interest as a result of the court decision in the telephone case. I do not share that view.' Now here is a man who has been serving on the Commission for a good many years, thereafter resigned and took a very important position down in Pennsylvania. He wasn't dependent upon any Party or any other consideration.

"The fair value rule does not require an expensive engineering appraisal of the current costs of a utility every time a rate increase is sought. There are all kinds of reliable indices which can be relied upon to translate book costs into current costs and the courts have held that this is a proper method of determining current costs when such indices are properly applied."

Mr. Hill wound up his remarks by saying: "In closing, I simply hope that this committee and the legislature will make every reasonable effort to produce a bill that will not be devoid of safeguards, a bill that will have proper limits of some sort or contain some specific yardstick limitations so that it can be clearly understood. It should provide necessary safeguards against possible

abuse of authority by the Commission at some future time.'

It is my honest belief that Mr. Hill's testimony had greater weight with the Judiciary Committee than all the testimony offered by either the proponents or opponents for he was speaking not only from his experience in dealing with utility law but of even greater importance, from an entirely unbiased position.

Realizing the complexity and seriousness of the problem facing them, the Judiciary Committee appointed a sub-committee to study all the facts and make a report to the full committee. The sub-committee attended to its duties and subsequently the Judiciary Committee turned out a new draft of one of the two bills. The new draft was approved by the 96th legislature and that is the law as it stands today.

That is the law in which twenty-five of us here today participated and I believe we approached that problem with a free and open mind with a full realization of our responsibilities to everyone. Frankly, they found no good reason to change it fundamentally or substantially but apparently made up their minds to follow Mr. Hill's advice to the point of carefully spelling out specific yardstick limitations so they could be understood, that is, if anyone wanted to understand them.

In substance these are the changes they made: In Section 16, they struck out the words, "taking into due consideration the fair value of all its property with a fair return thereon, its rights and plant as a going concern, business risk and depreciation." But were careful to leave in this section that "The rate, toll or charge shall be just and reasonable" and that, "Every unjust or unreasonable charge for such service is hereby prohibited and declared unlawful."

Section 17 was completely rewritten and it was in this section that the legislature endeavored to clarify the law so that no future commission could have any doubt as to how a valuation of utility property should be arrived at for rate making purposes. The words "fair value" were completely eliminated and the words "reasonable value" took their place. The law now reads, "In fixing such reasonable value, the Commission

shall give due consideration to evidence of the cost of the property when first devoted to public use, original cost prudent acquisition cost to the utility, current value thereof, less depreciation on each, and any other factors or evidence material or relevant thereto."

In other words, "reasonable value" was to be a composite of the three major factors set forth in the law — original cost, prudent acquisition cost and current value. The legislature however, recognized the fact that the Commission should have some discretion in the use of these factors so it gave this discretion in the words "due consideration" but it definitely intended that these words be used in their rightful sense which doesn't mean just token consideration.

In addition to the changes which I have mentioned, a new court review section was added, which afforded additional protection for all concerned. In spite of the best efforts of the sub-committee itself and finally the legislature, the Commission, in its next major rate case again took the law into its own hands by failing to give due consideration to one of the major factors clearly spelled out in the law. I'm speaking of the Central Maine Power case which the company appealed to the Supreme Judicial Court in the firm belief that the Commission had failed to heed the legislative mandate. The Court sustained the Company's position, and a few short paragraphs taken from the Courts decision should suffice to explain their reasons for so doing. I quote from the decision:

"Only when the Commission abuses the discretion entrusted to it, or fails to follow the mandate of the legislature, or to be bound by the prohibitions of the Constitution, can this Court intervene. Then the question becomes one of law. We cannot review the Commission's findings of fact and seek to determine what rates are reasonable and just". The Supreme Court doesn't do that. It is only when the Commission fails to follow the law which we have handed down to them that the Court can interfere.

"The first task of the Commission in any rate case is to determine a rate base, that is to say, the

fair value for rate making purposes upon which the company is entitled to earn a fair rate of return. This fair value is quite distinguishable from a fair value as a basis of purchase. It is in effect a composite ascertained and fixed by giving due consideration to evidence of certain factors.

Now to digress for a few seconds. It might be interesting to all of us to know that in 1930 the cost of living index was 71 and the average charge per kilowatt hour to domestic consumers and I dare say they are the men, women and children we are considering was 6.6 cents. In 1954 the same rate was 3.1 cents. It seems to me the Committee has served a pretty effective purpose over the years.

"The Commission may not proceed with a closed mind and no disposition to be convinced by unimpeachable evidence. Due consideration requires at least reasonable and fair consideration and once a factor is well proven, not only must the Commission give consideration to it, but such factor must find reflection in the finding of value. . . The rate base here selected not only is artificially reduced by error in the original cost factor patent on the face of the decree, but gives insufficient consideration rather than appreciable reflection to the factor of current value or what might be termed the present well known economic facts of life. Rates predicated on such error must be reconsidered. The public properly demands service and to fulfill these demands the company must expand. It cannot serve or expand if its financial structure does not attract confidence."

In spite of the fact that no member of the Commission, to the best of my knowledge, had voiced any criticism or made any suggestions relative to the law while it was pending before the 96th Legislature, and the present Chairman was here and could have, the minute the court rendered its decision in the Central Maine Case the papers were full of all kinds of criticism practically all of which emanated from the Commission. Again the demand has been made that the law be changed to suit the commission's views on

the subject and that is the question we are now considering. Remarks which appeared in the papers made definite reference to the fact that twenty-five of us at least, had waited for the waning moments such as now in the 97th legislature, and slipped through a bill, which was a dastardly thing to do. As a matter of fact there was no such thing.

My views regarding any change in the basic law can be very quickly summarized. As a citizen and a utility rate payer, I am just as much interested in the price I pay for electricity, telephone service or water as anyone else and if I thought I was being ill treated I'd probably squawk as loud or as long as anyone else.

I have satisfied myself on this score by asking the Power Company to show me just exactly the full effect of their rate increase on my personal bill at my house. Here is what I found — I have a very small house.

My bills for November and December, which was before the rate increase totaled \$14.09 and the total of my bills for January and February after the rate increase was \$18.22. This sounded like quite an increase to me until it was pointed out that I used 412 kilowatt hours in November and December but in January and February I used 572 kilowatt hours so the part of my increased bill attributable to my own increased use was \$3.29 while the part caused by the increase in rates amounted to only .84 or a trifle under .01½ cents per day.

In face of the tremendously increased costs of everything I have to buy to run my home and knowing that the power company is likewise paying more for everything required to run its business — that doesn't require a brief to prove that, I just can't bring myself to believe its rates are high or that this small increase was not justified. This is how I feel from a personal standpoint.

As a member of this Senate I fully recognize my obligations to the voters who elected me to this high office and I can assure you that regardless of my personal feelings in the matter, I would vote to amend, modify or even repeal this law if

I believed it contrary to the best interests of everybody.

I do not hold this belief and I don't intend to be influenced in the matter by the fact that it seems the popular thing to blast the Utilities whether they need it or not.

The present utility law is, in my opinion, equally fair to the rate payers and to those, who by investing their savings have made these services possible.

The Committees new draft B certainly clarifies the law to the point where you would think that three intelligent men would have no real difficulty in interpreting the intent of the Legislature. You have doubtless read in the papers or heard it said that the utility companies have insisted that current value be the only factor considered in establishing a valuation for rate making purposes. This is absolutely untrue but had it been true, the document now before you clearly precludes such a possibility by adding, after setting forth the various factors which shall be considered, these words, "But no factor shall be conclusive."

This might remove some of the confusion created by the Senator from Androscoggin, Senator Lessard who seems to harp on the one factor only. I repeat, no one factor shall be conclusive. I therefore urge you to support the measure and the motion of the Senator from Kennebec, Senator Martin.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Martin, that the Senate accept the "Ought to pass in new draft B report."

Mr. SILSBY of Hancock: Mr. President and members of the Senate, I am not unmindful of the hour and I will be very brief in defending my position in signing the report B that it ought to pass. I think we all know through our experience here in this Body and we all know that we think we have done a pretty good job in drafting the law and spelling out the intent. We all think we have used good judgment and can foresee the future for the language we have used in making a particular law as to how it would be applied and yet we must all admit that the commit-

tee frequently finds difficulty with our language, trying to interpret our intent and also as to the application of the language we have used and they make certain amendments and by the same token, it comes to the floor of this Body and other amendments are added and then we have in the background the Courts who have a lot of times studied the language of the statute, and many, many times we have to stand corrected—and I can testify to that because I have been corrected a good many times by the courts.

Now we have here a law which has been on the books for this State for many, many years, and we have had it in due course brought to the attention of the Law Court. First, however, the law has been applied by our Utilities Commission.

Now I think it might be well that we all know where we stand and the problem that we are working on at this time. I do not want to confuse anybody, and I hope that each and every one of you have read the present rate-fixing law, and I refer in particular to this section and I quote:

"In fixing such reasonable value the Commission shall give due consideration to evidence of cost of the property when first devoted to public use, prudent acquisition, cost to the utility, current value thereof less depreciation and any other factors or evidence material or relative thereto."

That was the law that was passed in the legislature of Maine. And then the time came when by reason of economic conditions the utility asked the Commission to apply that law for an increase in rates, and evidence was submitted, and then we find that there was some ambiguity or some item that just didn't seem to spell out our intent, and that is those three words which have been mentioned so many times around this State House, "Current value thereof." That is the problem. There is not any issue, there is not any argument or accusation for their use. And by reason of that language the commission, after hearing the evidence—and I am not criticizing the Commission in any particular, they probably were justi-

fied, but when they came to the words "current value thereof less depreciation" in the telephone case this is how they disposed of it, and by reason of this language which I have quoted it is probably one of the reasons why this matter is here with us today to the end that we may correct and make the language plain. And when they arrived at the language in finding the rates in the telephone case, the Commission said this: "We didn't care what Judge Savage said." That didn't make a bit of difference, they didn't apply it. And our Law Court corrected the commission and corrected us also.

And now we come down to the so-called Central Maine Power case, and the language of "the current value thereof less depreciation." The commission made a finding. Under our Constitution if we are not satisfied and we feel that the tribunal that has heard our case has erred we have a right to appeal to a higher tribunal until finally we have reached the highest tribunal, and then as we say that is *res adjudicata* and we must accept it whether we believe it or not. And so by reason of this "current value thereof less depreciation" the case was taken from the commission to the Supreme Judicial Court of this state, and the real crux of the matter again was the carelessness of our language in the words "current value thereof less depreciation." And Judge Webber in his decision made this comment:

"Obviously the legislature could not have intended that the words should mean current value less depreciation. This would create a paradox as current value in and of itself reflects depreciation is not the fair value. It is apparent that the words 'less depreciation' were intended to apply to the original cost and prudent acquisition cost factors only leaving current value to reflect those factors which are ordinarily determinatives of the current value of anything."

Now by reason of that language it became our duty as legislators to correct our own mistake and this is what prompts the bill which we have before us. And so your committee after a great deal of study and listening very carefully to the able

counsel on both sides, to their criticisms and their suggestions, we drafted the "B" draft which we are now considering. It is the same law — please don't let me mislead anyone — but it is clarified and we know what it means. It says, and I think it might be well if I read part of it because I want to be clearly understood:

"In fixing such reasonable value the Commission shall give due consideration to the evidence of any factor material or relevant thereto, including cost of property when first devoted to public use, prudent acquisition cost to the utility less depreciation on each, and the current value of the property, but no factor shall be conclusive. For the purposes of this section 'cost' shall mean actual money cost or the then market value of any consideration other than money; 'prudent acquisition cost' shall mean the reasonable cost under the circumstances at the time of acquisition, and 'the current value' shall mean the net value of the property of the utility used or required to be used in service to the public and shall be determined by deducting a reasonable allowance for depreciation." It further says that no one factor shall be conclusive.

I say to you I think that is a fair, specific, concise statement, to the end that our commission can have no difficulty in applying that law. I think it is very helpful that we have had this matter brought to the attention of the court so that we can eliminate future difficulties.

Now there is just one thing more I would like to pass upon and then I will sit down. I think we should not be guilty in our viewing of this situation that we, as it has been said, cannot see the trees because of the forest. It is not two or three utilities that are concerned in this law, there are several. I will venture to say, and I wish I had time to look it up, but I think I am safe in estimating over a hundred, our telephone companies, our water companies and our power companies. My good friend, the Senator from Androscoggin, Senator Lesnard, says it is only for a few. I cannot quite go along with him, because those few legal entities, if you

want to call them that, also involve the stockholders of this state who hold stock in those companies, and I will venture to say that perhaps his "few" is a great many more than you and I might consider if we thought this matter through to the end.

I feel that this legislature has done a service in clarifying the law and in adhering to the mandates of our Supreme Judicial Court, and I think it well that we pass the committee Draft "B", and let's try it for a couple of years and see what happens.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Martin, that the Senate accept Report "B."

The Chair recognizes the Senator from Androscoggin, Senator Lessard.

Mr. LESSARD of Androscoggin: Mr. President and members of the Senate: I find no fault with the decisions as rendered by the Supreme Court of our State in the case of New England Tel. & Tel. Company vs. Public Utilities Commission or with the decision rendered in the case of Central Maine Power Company vs. Public Utilities Commission. The Supreme Court has construed the law as it exists today; they construed the law as laid out for them by the legislature of this state, and they said that these factors must be reflected in the rate to be established. That is what our Supreme Court has said, and therefore the words "current value" must be reflected in the rate as established by the Public Utilities Commission. My legislation I have presented today is to the end that the words "current value" will be deleted therefrom. Now this will not go against what the Law Court has said. The Law Court has not said that the words "current value" should be in the law; the Law Court has not said that that is a good or a bad part of the law, they have merely construed it.

Now so far today in this debate no one has gotten up and argued in regard to the mythical and phantom and conjectural figures that are produced by the words "current value." They have done as the opponents did before our committee,

justified the rates as they exist today.

I propose not to debate the existence of present rates; I am merely asking you to take from the statute the words "current value thereof," which I again want to state are conjectural, mythical and phantom.

In closing I would just like to read from the testimony at the hearing as given by Colonel Frank E. Southard — and he was talking in regard to the New England Tel. & Tel. Company:

"There is over a million dollars that a few people in Maine are paying that not another New England State has to pay for, and is the telephone service worth it? I don't think so."

Mr. FARRIS of Kennebec: Mr. President and members of the Senate: I have given this matter a great deal of thought in the last few weeks and I certainly feel that it is healthy for public discussion, and there is no question but what this matter during the last year or so has been carried the length and breadth of the State of Maine. Unfortunately, I feel that the manner in which public attention was focussed upon it, or at least the result, was a mass wave of brainwashing, because it is the impression of the public of the State of Maine that if "current value thereof" is deleted from the law that immediately there will be a reduction in rates. We who have studied this know that is not true, and even the proponents of deleting "current value thereof" state that they do not wish to debate the rate structure.

Now certainly if the rate structure was unfair they would be willing to debate it and they would come here armed with ammunition to show what the effect of "current value thereof" was on the rates in the State of Maine.

Now this is an issue which is a lawyers' haven from the point of view of debating the theory and academic questions of current value. I read the very able brief presented to the committee by Mr. Towne, and I was very much impressed with the academic aspect of it, but when you look to the record and note that since 1946 only

90 electric operating companies in the country have increased their dividends and our largest electric operating company in the State of Maine has not increased its dividends and certainly in many of these states where these companies are operating they must be operating without "current value" in their law, and here we are in Maine even with "current value" in the law, and we still cannot keep pace with the times.

Certainly our utilities in Maine have never adopted the attitude that what is good for the utilities is good for Maine. From my association, their approach has always been that what is good for the State of Maine is good for the utilities, and they have proceeded on that theory for many, many years.

So, to boil this down, I think we should apply certain tests of practicability. No. 1: Are rates unfair or unreasonable? To that I think you will have to say no, they are not unfair and they are not unreasonable. Even the proponents of deleting "current value thereof" admit that by not wanting to debate it. No. 2: Are our utilities or officers of utilities or directors receiving any undue enrichment because of the fact that we have the current value factor in our law? Certainly there is no evidence that they are deriving any unjust enrichment, and if they were you can rest well assured that we would have had that forcibly brought to our attention. No. 3: Are the investors in utilities in the State of Maine becoming unduly enriched because of the current value factor? Again the answer is in the negative. You heard my colleague, the Senator from Kennebec, Senator Martin, read the letter from the financial institution, F. S. Moseley Company in regard to what well could happen if the current value feature is deleted from our present law. Certainly at a time when we are trying to develop our State industrially and all efforts are concentrated seriously upon that, this would be a bad time to delete the words "current value thereof" because we want investors in our utilities in Maine and we want our utilities to be in a position to go forward with industrial

development, and they can only do so by having the confidence of investors.

Now nation-wide the yield from electric companies and other utilities in excess of what it is on the part of any utility here in the State of Maine. We know there is no cheap power in Maine. Mr. Pike himself has said that there is no cheap power in Maine and there is not going to be any cheap power, because to develop your hydro-electric power runs into tremendous expense and a tremendous tax problem and steam power can be generated and developed just as economically and give many tax advantages. So again I say this is no time to be changing this law. Apply the test of practicability. Forget the theory. What is good for Maine is good for the people of Maine.

I would be the first, if our rates were unfair and unreasonable and our people in this State were being unduly burdened, to stand in defense of the position of the Senator from Androscoggin, Senator Lessard, on this matter, but I certainly am not convinced, and I am convinced by the argument of my brother, the Senator from Hancock, Senator Silsby, when he says: "At least try this for a couple of years and see how it works out."

Certainly we know that if we delete "the current value thereof" we are not going to have any reduction in rates. That has been admitted. As the Senator from Hancock, Senator Silsby, has pointed out, no one factor shall be conclusive of the various factors mentioned in Report "B".

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Martin, that the Senate accept New Draft "B".

The Chair recognizes the Senator from Hancock, Senator Silsby.

Mr. SILSBY of Hancock: Mr. President, when the vote is taken I request a division.

Mr. REID of Kennebec: Mr. President, I think I would first like to answer the Senator from Androscoggin, Senator Lessard, on the question of mythical figures. In any rate case involving reproduction

cost it is true that there may be reproduction cost based on wholesale and retail and the figures will vary, but under our present law the commission would be entitled to take the lowest reproduction cost figures and then only use them as a factor along with the other composite factors involved. To me, the basically important question involved here is whether it is fair to the investor to change the law on him on the basis on which he made his investment. You can take a house which you might have bought in 1935 and paid \$5000 for, and that house would probably be worth \$10,000 today. If the State condemned it you would be justified in asking for the present fair value of it, namely the \$10,000, and you would be quite disappointed if you didn't get it. Of course you would get it. If that same \$10,000 house, because of a period of depression was only worth \$5000 twenty years from now and the State condemned it you would only be entitled to the \$5000, but that \$5000 would buy for you what the \$10,000 would buy for you today.

I just want to say a brief word about the history of the fair value statute. It began as a so-called anti-utility measure. In the late eighteen hundreds the railroads were earning on the cost to them of their facilities, but there was a severe depression and the United States and the Supreme Court ruled that the Commission could take into consideration fair value and reduce the rate base because fair value was less than cost. That is the reason for the fair value rule, and, Mr. President and members of the Senate, I am going along with Senator Martin.

Mr. LESSARD of Androscoggin; Mr. President, as stated by the good Senator from Kennebec, Senator Reid, it is true that the Public Utilities Commission can take the lowest reproduction figure, but who are these reproduction figures presented by? They are presented by the petitioning utility company to the tune of about \$600,000 to present a case. The Public Utilities Commission has no appraisers or engineers to go out and make up a set of figures for them; they must accept those which are presented to them. Is that fair? And who pays

the \$600,000? The consumers. That is what "current value" says.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Martin that the Senate accept Report B.

Mr. CHAPMAN of Cumberland: Mr. President, when the vote is taken, I ask that it be taken by the Yeas and Nays.

The PRESIDENT: To order the Yeas and Nays requires a one-fifth vote of the members present.

A division of the Senate was had. Obviously more than one-fifth having risen, the Yeas and Nays were ordered.

The Secretary called the roll:

YEAS: Senators Albee, Brown, Butler, Carpenter, Cole, Collins, Crabtree, Cummings, Dow, Dunham, Farley, Farris, Fournier, Fuller, Hall, Hillman, Jamieson, Lord, Low, Martin, Parker, Reid, Silsby, Sinclair, Weeks, Woodcock, Wyman — 27

NAYS: Senators Boucher, Boyker, Chapman, Lessard, St. Pierre — 5. Twenty-seven having voted in the affirmative and five in the negative, the ought to pass Report B was accepted, the bill read once and tomorrow assigned for second reading.

On motion by Mr. Reid of Kennebec

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

After Recess

The Senate was called to order by the President.

The President laid before the Senate, the second tabled and especially assigned matter being House Reports from the Committee on Transportation: Majority Report "Ought not to pass"; Minority Report "Ought to pass as amended by Committee Amendment A" on bill "An Act Relating to the Issuance of Operator's Licenses from Date of Birth with Notification," (H. P. 30) (L. D. 40) tabled by that Senator on May 5 pending acceptance of either report.

Mr. COLE of Waldo: Mr. President, the Committee had two of these bills before it, one an act relating to the issuance of operator's

license from the date of birth with notification which is the bill we have now before us and also one without notification. The committee reported out both bills ought not to pass and then L. D. 40 was recommitted to the Committee on Transportation in the opposite branch and the committee reported out the divided report that you have just heard.

The original bill without notification would have cost the state a loss of revenue of \$135,000. The committee offered an amendment to this bill which prorates the extension of your license to the birthday at the rate of fifty cents per quarter. In other words, if your birthday was in May you would pay \$2.50 or if in June, you would pay \$3.00. It still will cost the state a loss in revenue of from fifty to sixty-five thousand dollars due to the fact that you will have to set up a filing system and also an IBM machine and the majority of the committee felt that we could not take this loss of revenue. It seems to me the question is: do we want to do a selling job to the public in regard to the issuance of licenses from the date of birth or do we want to continue as we are now? The majority felt that if we continue as we are now, the loss of revenue will be very minor; in fact, it was brought out at the committee hearing that the additional help through the rush period amounted to from three to five thousand and I think those figures are very high.

The question is: does the Senate wish to go on record to keep the law as it is, which I think has merit due to the fact that we all know our licenses expire January first. I think the department can do a better job as it is now and I think with what experience I had in selling the sales tax, I certainly don't want the job of selling this to the public.

I move that the Majority "Ought not to pass" report be accepted.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Waldo, Senator Cole, that the Majority "Ought not to pass" report of the committee be accepted. Is the Senate ready for the question?

A division of the Senate was had. Twenty-six having voted in the affirmative and one opposed, the motion prevailed and the ought not to pass report of the committee was accepted in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the third tabled and especially assigned matter, being bill "An Act Relating to Right of Officer to Kill Dogs" (H. P. 411) (L. D. 458) tabled on May 5 by the Senator from Penobscot, Senator Hillman, pending passage to be engrossed; and on further motion by the same Senator, Committee Amendment A was indefinitely postponed and that Senator presented Senate Amendment A and moved its adoption.

The Secretary read the amendment:

Senate Amendment A to L. D. 458: "Amend said bill by striking out the last two lines thereof and inserting in place thereof the following: 'wounding or killing any domestic animal, when said dog is outside of the enclosure or immediate care of its owner or keeper.' For the purpose of this section, 'enclosure' shall mean the kennel, kennel run, or fenced-in area in which the dog is ordinarily confined."

Whereupon, on motion by Mr. Silsby of Hancock, the bill and accompanying papers were laid upon the table pending motion by the Senator from Penobscot, Senator Hillman, that the Senate adopt Senate Amendment A.

The President laid before the Senate, House Report "Ought not to pass" on "Resolve Providing for State Pension for Leverett Carter of Swan's Island" (H. P. 608) tabled by that Senator on May 5 pending acceptance of the report.

Mr. SILSBY of Hancock: Mr. President, for a very good reason, I would like to table this item and I promise that I will take it off the table early next week.

The motion to retable prevailed.

The President laid before the Senate the fifth tabled and especially assigned matter being bill, "An Act Relating to Instruction in High Schools on American Freedoms" (S.

P. 110) (L. D. 271) tabled on May 5 by the Senator from Kennebec, Senator Farris, pending motion by the Senator from Cumberland, Senator Lord, that the Senate recede and concur.

Mr. FARRIS of Kennebec: Mr. President, I move the pending question.

Mr. DOW of Lincoln: Mr. President, when the vote is taken, I move that it be taken by division.

Mr. BOUCHER of Androscoggin: Mr. President, I would like to know what the position is that the House took on this matter.

The PRESIDENT: The Secretary will read the endorsements.

The SECRETARY: In the Senate on April 14, the bill was passed to be engrossed as amended by Committee Amendment A. In the House on May 4, the bill was passed to be engrossed as Amended by House Amendment A in non-concurrence.

The PRESIDENT: The question now before the Senate is on the motion of the Senator from Cumberland, Senator Lord, that the Senate recede and concur with the House, and the Senator from Lincoln, Senator Dow has requested a division.

A division of the Senate was had.

Twenty-two having voted in the affirmative and six in the negative, the motion to recede and concur prevailed.

The President laid before the Senate the sixth tabled and especially assigned matter being, Senate Report from the Committee on Towns and Counties "Ought to pass" on recommended bill, "An Act Relating to the Salary of Register of Probate, Cumberland County." (S. P. 278) (L. D. 708) tabled on May 5 by the Senator from Cumberland, Senator Weeks, pending acceptance of the report; and that Senator presented Senate Amendment A and moved its adoption.

Thereupon, the ought to pass report of the committee was accepted and the bill read once.

Mr. WEEKS of Cumberland: Mr. President, I move that reading of Senate Amendment A be dispensed with.

Mr. BOUCHER of Androscoggin: Mr. President, has this amendment been reproduced?

The PRESIDENT: The Chair would state that under the joint rules, that is not required.

Mr. BOUCHER of Androscoggin: Mr. President, I would like to have the amendment read so as to know just what I am voting on.

The Secretary read the amendment:

SENATE AMENDMENT "A" to S. P. 278, Bill, "An Act Relating to the Salary of Register of Probate, Cumberland County."

Amend said Bill by striking out all of the Title thereof and inserting in place thereof the following Title: 'An Act Relating to the Salaries of Register of Deeds and Register of Probate, Cumberland County, and Clerk Hire in Office of Register of Deeds.'

Further amend said Bill by striking out all after the enacting clause, and inserting in place thereof of the following:

"Sec. 1. R. S., c. 89, § 215, amended. That part of section 215 of chapter 89 of the revised statutes which relates to the salary of register of deeds of Cumberland county is hereby amended to read as follows:

'Cumberland, \$4,500.'

Sec. 2. R. S., c. 89, § 254, amended. That part of section 254 of chapter 89 of the revised statutes which relates to the clerk hire in the office of register of deeds, Cumberland county, is hereby amended to read as follows:

'for clerks in the office of register of deeds, \$28,000.'

Sec. 3. R. S., c. 153, § 22, amended. That part of section 22 of chapter 153 of the revised statutes which relates to the salary of register of probate of Cumberland county is hereby amended to read as follows: 'Cumberland, \$4,200.'

Thereupon, Senate Amendment A was adopted and under suspension of the rules, the bill was read a second time and passed to be engrossed.

Sent down for concurrence.

The President laid before the Senate the seventh tabled and especially assigned matter being Senate Report from the Committee on Towns and Counties "Ought to pass" on Bill "An Act Increasing the Salary of Register of Deeds for Piscataquis County" (S. P. 334) (L. D.

1080) tabled on May 5 by the Senator from Piscataquis, Senator Parker pending acceptance of the report.

Mr. PARKER of Piscataquis: Mr. President, I explained yesterday the reason for entering this bill, and since the fee bill did not pass, the only motion I can make is to indefinitely postpone this bill.

The motion prevailed and the bill was indefinitely postponed.

Sent down for concurrence.

The President laid before the Senate the 8th tabled and especially assigned matter being Senate Report from the Committee on Towns and Counties "Ought to pass" on bill "An Act Increasing Salary of Register of Probate for Piscataquis County." (S. P. 383) (L. D. 1079) tabled on May 5 by the Senator from Piscataquis, Senator Parker pending acceptance of the report; and on further motion by the same Senator, the bill was indefinitely postponed.

Sent down for concurrence.

The President laid before the Senate the ninth tabled and especially assigned matter being bill "An Act to Revise the Laws Relating to Savings Banks" (S. P. 552) (L. D. 1501) tabled on May 5 by the Senator from Kennebec, Senator Reid, pending motion by the Senator from Sagadahoc, Senator Cummings, that the Senate adopt Senate Amendment B.

Mr. REID of Kennebec: Mr. President, I yield to the Senator from Sagadahoc, Senator Cummings.

Mr. CHAPMAN of Cumberland: Mr. President, may I request that Senate Amendment B be read again?

The Secretary read the amendment.

Thereupon, Senate Amendment B was adopted.

Mr. Cummings of Sagadahoc presented Senate Amendment C and moved its adoption.

The Secretary read the amendment.

Senate Amendment C to L. D. 1501. "Amend said bill by striking out in the 1st line of paragraph F of that part designated Sec. 19-H,

the underlined words 'capable of being transferred' and inserting in place thereof the underlined words 'which may now be mortgaged to a savings bank under the provisions of paragraphs A to E, inclusive, of this subsection'.

Further amend said bill in said paragraph F by adding at the end thereof the following underlined blocked paragraph: 'The provisions of this paragraph shall apply to all banks and trust companies.'

Which amendment was adopted.

Mr. FARRIS of Kennebec: Mr. President, I now wish to offer Senate Amendment D which is another clarifying amendment along the joint tenancy line discussed yesterday afternoon. It is purely clarifying so that brothers and sisters may be brought within the provisions of the proposed legislation.

The Secretary read Senate Amendment D.

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

Amend said Bill in paragraph F of subsection V of section 19-G by striking out the period at the end of paragraph F and adding thereto the following underlined punctuation and words:

'; except that the provisions of paragraphs B, C, D and E, as to brothers and sisters, shall apply only to accounts opened after September 1, 1955 and to accounts opened prior to September 1, 1955 which may be brought within the provisions of these paragraphs by written declaration, in form prescribed by the Bank Commissioner, executed by all such depositors or share owners, and delivered to any such bank, savings bank, trust company or loan and building association, which declaration shall bind each and every signer thereof, his heirs, executors, administrators and assigns. In case such declaration be signed by one or more, but not all of the depositors named in such account or share owners, 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.'

Which amendment was adopted, and the bill as amended by Senate Amendments B, C, and D was passed to be engrossed, and on motion by Mr. Farris of Kennebec, the rules were suspended and the bill was sent forthwith to the House.

The President laid before the Senate L. D. 499, "An Act Relating to Medical Services under Workmen's Compensation Act" tabled by the Senator from Kennebec, Senator Farris earlier in today's session pending acceptance of either report.

Mr. FARRIS of Kennebec: Mr. President, this matter was the subject of quite some controversy in hearings earlier in the session. It in substance proposes to permit injured employees who are covered under the Workmen's Compensation Act to select their own physician. Under the present law the employer is compelled to provide medical and hospital services. What this proposal would do is merely make it permissive for the employee to go to his own personal physician if he so desires.

There was a lot of opposition from industry; industry presented the point of view that the employers would lose complete control and that the doctors apparently have two prices, one for the insurance companies and one for the private individual. Well, the committee did not agree with that. We certainly have great faith in the medical profession here in the State of Maine and we do not believe, a majority of the committee, that this would entail a great expenditure on the part of employers. And in measuring the humanitarian aspect of the right of an injured man to have his own personal physician as compared to the few dollars that might be involved, it was the feeling of the majority of the committee that an injured man should have the right to select his own personal physician. There are ample safeguards set up in this bill, such as the Commission may order a change in the physician at any time, and there are sample safeguards and other provisions in the Workmen's Compensation Act whereby the employer may call for examination by a physician or surgeon of his own selection, a partial

examination, and all matters in regard to the selection of physician are subject to the approval and control by the Industrial Accident Commission and could be invoked by the employer or the man who was injured if he felt he was not receiving proper medical attention.

This bill is sponsored by the Senator from Androscoggin, Senator Lessard, and I believe he has more to say about the matter and I yield to the Senator from Androscoggin, Senator Lessard.

Mr. LESSARD of Androscoggin: Mr. President, I am about all talked out. However, this bill which the Senator from Kennebec, Senator Farris, has talked to you about was presented to the Committee on Labor, and, as he has stated, the members of industry were present to object to it.

As the Senator from Kennebec, Senator Farris, has stated, it is to allow an injured workman to choose his own physician to treat him. Now I do not think that is asking too much.

A few years ago we heard a great deal about socialized medicine. I believe that the medical associations throughout our country were against it. As a matter of fact, they enlisted the aid of the American Bar Association, and we as attorneys opposed socialized medicine.

One of the great oppositions to socialized medicine is the fact that doctors would be assigned to each and every one of us. In other words, if socialized medicine came into being doctors would be registered and would be assigned so that we would be unable to choose the physician under whose treatment we were to be or who was going to treat us in case of sickness or accident.

Now if that opposition was so great at that time, being opposed by the medical associations and bar associations, why isn't it just as probable and plausible that we should oppose this kind of situation that now exists whereby if a man is injured working for an employer that he has to take the physician or surgeon assigned to him by the employer? Oftentimes it works out that perhaps had he gone to his own physician who knew his condi-

tion, who perhaps had treated him in the past, he would be able to recover a lot sooner. Also perhaps he would be placed in facilities where the doctor of his own choice is on the staff, and perhaps he would be better off from the standpoint of recovery. You and I know, and many of the doctors will so testified, that a person who has confidence in a physician or a surgeon who is taking care of him recovers a lot sooner. Confidence is probably a great percentage of the game in recovery. I do not think it is too much to ask to allow a workman to choose his own physician or surgeon. The law has been accepted in many states, and I do not think, because of the few dollars it will cost, that it is something that we should not grant the workingman of Maine. I move acceptance of the majority report.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Androscoggin, Senator Lessard, that the Senate accept the majority report of the committee.

The Chair recognizes the Senator from Penobscot, Senator Hillman.

Mr. HILLMAN of Penobscot: Mr. President, I hesitate to arise in opposition to the two previous speakers, but being a signer of the minority report I must do so. I had not expected a lengthy debate and I did not think our good Senator from Androscoggin, Senator Lessard was going to debate it lengthily, so I have a few notes.

This bill proposes to amend one of the most important provisions of our Workmen's Compensation Law—a provision that has stood the test of forty years since its enactment in 1915. This bill would allow an employee who was injured the free choice of any physician he cared to call in, and as it is drawn he could conceivably call in a doctor from Massachusetts or New York State and the employer could be compelled to pay the bill.

As the law now stands, the employer is charged with the duty of paying compensation to the employee and with furnishing and paying for his medical, surgical and paying for his medical, surgical and hospital care. These costs the employer is required to meet. Be-

cause of these duties it has always been considered reasonable and fair that the employer have the right to select the doctor.

This subject has come up many times before in previous sessions and previous legislatures have felt that an employer would select the best physician available since rehabilitation is the prime objective in every case. Experience has proved that the so-called "free choice of physician" by an employee usually results in the selection of a doctor on the basis of friendship or acquaintance rather than on the basis of qualification to administer to the particular injury and indicated course of treatment. These factors lead not only to failure of rehabilitation or delay rehabilitation, but they also result in an increase in the cost of medical and disability benefits.

Although at first it seems only fair that an injured employee should have a right to choose his own physician, it actually does not work out very satisfactorily. This statement applies not only to employers but also to the injured employee. The employers, of course, have absolutely no control over the treatments being rendered by the employee's physician under this bill. This would often result in prolonged disability periods and payments for unnecessary treatments. From the point of view of the employer, this, of course, is unnecessary expense. From the point of view of the employee, it may result in his being subjected to the discomfiture of treatments or operations which the employer's medical specialists do not feel are required.

The support of this bill seems to come mainly from one locality. As a member of the Labor Committee which heard it, I recall there was no general support for it. I believe legislation of state-wide effect and so entirely contrary to our past concepts should not be adopted merely to benefit a few in one community.

To my way of thinking, anything that needs to be remedied in that one locality can be straightened out by the local lawyers and doctors, with a little help from the Industrial Accident Commission, and without penalizing all the other employees

and employers in the State of Maine, as this bill would do if enacted.

I would not burn down the whole set of buildings to eliminate one small mouse temporarily hiding in the shed.

I move the indefinite postponement of this bill.

Mr. FARRIS of Kennebec: Mr. President, merely to clarify one point: my good friend, the Senator from Penobscot, Senator Hillman, has stated that there was support in only one locality. It is my recollection that at the hearing every labor group in the State spoke on behalf of this particular measure.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Penobscot, Senator Hillman, that the bill be indefinitely postponed. The Chair recognizes the Senator from Androscoggin, Senator Lessard.

Mr. LESSARD of Androscoggin: Mr. President and members of the Senate: It is pretty hard for me to believe that an injured party in an accident which a person is entitled to be compensated for would wait to call a doctor from Massachusetts, New York or Pennsylvania to come up before he got any treatment, and it is hard for me to believe that a person who in an accident has recently been injured would wait around until they call someone from perhaps some other town or city. That is hardly plausible, I cannot quite believe that. Also, I hate to underrate the workingman of Maine, I do not think that he is so mentally unintelligent that he is just going to have someone come in and treat him because he is a personal friend. I think perhaps he has confidence in the doctor whom he engages to come and give him treatment. You can answer the argument the same way too. Who are the doctors who work for the employers? They are friends of the employers; they are perhaps no more qualified than the family physician whom I may call in or you may call in. Those arguments, in my mind, are not strong enough to defeat a bill like this. Let us give to the workingman of Maine the right to ask for and have his own physician and doctor treat him. We have many competent doctors

throughout the State. It is hard for me to see that only those that are retained by the employer are the qualified ones and the others are not. I am sure there are many family physicians whom each one of us have had in our families for many years we feel perhaps are just as qualified to take care of an injured person as anyone the employers would hire to take care of anyone in our families.

Mr. BOYKER of Oxford: Mr. President, I would like to ask the Senator from Androscoggin, Senator Lessard, if an employee is injured and he goes to the laboratory of an employer who has a physician there, is there any expense to the employee?

The PRESIDENT: The Senator from Androscoggin, Senator Lessard, has heard the question and he may answer if he wishes.

Mr. LESSARD of Androscoggin: I am sorry, Mr. President, I did not hear the question.

The PRESIDENT: The question that the Senator asks, as the Chair understands it, in a compensation case if the employee goes to the first-aid facilities of the employer is any charge made to the employee by the employer.

Mr. LESSARD: Mr. President, I do not believe there is.

The PRESIDENT: The Senator has indicated an answer in the negative.

The Chair recognizes the Senator from Kennebec, Senator Reid.

Mr. REID of Kennebec: Mr. President, I am going to support the motion of the Senator from Penobscot, Senator Hillman, on one basis: the employer does foot the bills, and in the absence of any showing that he has made improper selections of physicians — and in all the discussion I have heard there is no such showing — I think the employer ought to be able to select the physician.

Mr. WOODCOCK of Penobscot: Mr. President, I have been very interested in this bill from the moment it was introduced and I have made inquiry into it, and from what I have been able to discover the situation is hardly serious now. Again, from what I have heard I know of no case where the employees' rights have been violated, and, as is very

often the case, the employee as a practical matter does get the doctor whom he wants through his own choice, or if not through the manifestations of the law on the books. So the situation as I see it is going along pretty well and I say: why throw in any monkey-wrench? And so far as the analogy between this and socialized medicine which the Senator from Androscoggin, Senator Lessard, brought it seems to me there is the possibility of a difference between the federal government picking a physician and an employer picking a physician for a man.

Mr. PRESIDENT, I would request a division when the vote is taken.

Mr. BOUCHER of Androscoggin: Mr. President and members of the Senate: I did not intend to enter into this debate, but being an employer I want to go along with this bill that the employee should have the choice of his physician.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Penobscot, Senator Hillman, that the bill be indefinitely postponed. The Senator from Penobscot, Senator Woodcock, has asked for a division. Is the Senate ready for the question?

As many as are in favor of the motion of the Senator from Penobscot, Senator Hillman, that the bill be indefinitely postponed will rise and stand until counted.

A division was had.

Twenty having voted in the affirmative and ten in the negative, the motion to indefinitely postpone prevailed.

Sent down for concurrence.

The PRESIDENT: The Chair lays before the Senate the next tabled and specially assigned matter, Bill "An Act Repealing the Merit Award Board," (S. P. 240) (L. D. 673) tabled earlier in today's session by the Senator from Franklin, Senator Butler, pending acceptance of the "Ought to pass" report of the committee, and the Chair recognizes the Senator from Franklin, Senator Butler.

Mr. BUTLER of Franklin: Mr. President and members of the Senate: This bill was tabled by myself for the simple reason that it seemed to me that if the Merit Award Board ever had any reason for com-

ing into being in the first place, and it must have otherwise it would not have been created, it does seem as if we should give serious consideration before we are willing to dispense with that Merit Award Board and to fall back on patronage to fill those offices. It is on that account that I move the indefinite postponement of the bill and when the vote is taken I request that it be taken by a division.

The PRESIDENT: The Senator from Franklin, Senator Butler moves that the bill be indefinitely postponed. Is the Senate ready for the question?

As many as are in favor of the indefinite postponement of the bill will rise and stand until counted.

A division was had.

Fourteen having voted in the affirmative and nine in the negative, the motion prevailed and the bill was indefinitely postponed.

Sent down for concurrence.

The PRESIDENT: The Chair lays before the Senate the next tabled and specially assigned matter, Majority Report "Ought to pass", of the Committee on Legal Affairs on "Resolve Granting Master Plumber License to Ernest L. Douglas of Bangor," (H. P. 925) (L. D. 1033) tabled by the Senator from Kennebec, Senator Martin earlier in today's session pending the motion of the Senator from Penobscot, Senator Woodcock, that the Senate accept the majority "Ought to pass" report of the Committee, and the Chair recognizes the Senator from Kennebec, Senator Martin.

Mr. MARTIN of Kennebec: Mr. President and members of the Senate, if you care to look at L. D. 1033 you will see the statement of facts, but I will briefly outline them.

This act calls for the granting of a master plumber's license to one individual named Ernest L. Douglas of Bangor. The situation arose that Mr. Douglas started in business in 1912 as a plumber and later became President of Bangor's largest plumbing concern, C. H. Babb Company. When the plumbing act was passed some years ago there was contained in there a grandfather's clause which stated that certain in-

dividuals, if the company applied to the plumbing division, could be licensed under that clause.

At the hearing Mr. Douglas said he thought his name had been submitted by his form, but as it turned out it was not, so therefore under the grandfather clause he did not receive his master plumber's license. He now comes and asks that we rectify this mistake by passing a special act for him. I certainly do not have anything against Mr. Douglas and he appeared to be a very honorable gentleman, but I do know from past service in this legislature that I have voted against such bills for a veterinarian, a doctor, a druggist, an embalmer and an electrician, and I think all these bills were defeated. They were all on the same basis, that some mistake had been made.

Now after the hearing every effort was made to work this matter out. As I understand it, Mr. Douglas actually has enough credit so that all he would have to do if he took the examination would be to receive thirty points, and I am sure that with Mr. Douglas's intelligence he could receive thirty points if he took the state examination.

This to me is simply a matter of principle. I again say I have nothing against Mr. Douglas, but I do feel that he could and should, like all others, come down to the State Board and take an examination.

If you vote with the majority — and it is a nine to one report — you will simply be opening the door to many, many such cases in the future. I therefore move, Mr. President, that this bill be indefinitely postponed.

Mr. WOODCOCK of Bangor: Mr. President, Mr. Douglas is a man of probably some sixty years of age who has been in the plumbing business in Bangor, as Senator Martin has stated, for some thirty or thirty-five years. He is the head man over there in the C. H. Babb Company which is our largest plumbing outfit in the Queen City, and Mr. Douglas was qualified under the grandfather clause to receive a master plumber's license. Through inadvertence, through a company error, not through his own, his name was not on the company list when they ap-

plied for this blanket exception to the law as it went through, and that oversight remained unknown for a number of years until such time as Mr. Douglas decided that he would like to have a master plumber's license, having been in business for some time. I also frankly think it was a matter of sentiment with him; he wanted to put it on his bedroom wall, and I think he has a right to. Now as to the reason why he doesn't come over and appear before the Board, we in the majority on the Legal Affairs Committee felt that since he was qualified through the exemption of the grandfather's clause and since through no fault of his own there was an oversight, that he should be entitled to receive that which honorably was his had the application been made in due course.

That in brief was the thinking of the Legal Affairs Committee. There is no question but what a general court such as we are can grant him this license. After all, this is the only matter in issue, and we are not here to speculate on how many more may follow in the years to come.

Mr. HILLMAN of Penobscot: Mr. President and members of the Senate; I want to agree with my colleague the Senator from Penobscot, Senator Woodcock, and I want to give a few dates.

When I went onto the present farm where I live this Mr. Douglas put our bathroom in. That was in 1929, so he has been practicing plumbing for a good many years, and to me he deserves the recognition we are trying to give him today.

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

A viva voce vote being doubted

A division of the Senate was had.

Eight having voted in the affirmative and eighteen opposed, the motion to indefinitely postpone did not prevail.

Thereupon, one motion by Mr. Woodcock of Penobscot, the ought to pass report was accepted in concurrence, House Amendment A was read and adopted in concurrence

and under suspension of the rules, the resolve was given its two several readings and passed to be engrossed in concurrence.

The PRESIDENT: The Chair lays before the Senate H. P. 1232, L. D. 1518, "Resolve for the reappropriation of unexpended special resolve road appropriations," tabled earlier in today's session by the Senator from Franklin, Senator Butler, pending the motion of the Senator from Hancock, Senator Dunham, that the Senate adopt Senate Amendment "A", and the Chair recognizes the Senator from Franklin, Senator Butler.

Mr. BUTLER of Franklin: Mr. President and members of the Senate, I tabled this measure this morning out of sympathy, sympathy for those of you who have not had the opportunity to be so expeditious and enterprising in looking after your own communities as my good friend, the Senator from Hancock, Senator Dunham has done. Mind you, only yesterday we passed this consolidated resolve and today he comes in with an amendment for \$25,000 to be allocated. Now that is a commendable piece of business, and I feel that in view of the fact that everybody wants to protect everybody that we must not do any injustice to our highway programs, that certainly there must be some other senators around here who may have some unexpected road resolves in their locality, and in order to prevent any inequality they should have the same opportunity of getting them into this bill. I therefore would like to have the opportunity of retabbling this measure until next Tuesday so that you can go home or go down to the State Highway Department and try to find out if there is anything there that you haven't got yet, and if so tack it on, and I am sure that with the attitude which has been prevailing you will be successful in your measure. Now if that request is not granted then of course you and you alone are going to be the only ones that are going to stop the others great inequality. Now not wishing to attempt to railroad anything through—

Mr. SILSBY of Hancock: Mr. President—

The PRESIDENT: For what purpose does the Senator rise?

Mr. SILSBY: Mr. President, I rise to a point of order.

The PRESIDENT: The Senator may state his point.

Mr. SILSBY: That the Senator from Franklin, Senator Butler, is debating his motion to table.

The PRESIDENT: The Chair would rule that the Senator is debating a motion which is debatable and that is the adoption of Senate Amendment "A". The Senator may proceed.

Mr. BUTLER of Franklin: Mr. President, I was simply explaining that if the motion should prevail what might happen as a result, and my good friend, the Senator from Hancock, having pinned my ears back, so to speak, on this measure, I move that when the vote is taken it be taken by a division.

Mr. DUNHAM of Hancock: Mr. President, I dislike to have this measure tabled. I cannot see any connection between this resolve and those that it happens to be connected with. This State entered into certain agreements with the Canadian Pacific Railroad to build a ferry. Subsequently the legislature passed a resolve for \$25,000 to build an approach in Bar Harbor to this ferry. They did not use the money at that time because it took so long to negotiate. It was no fault of the contractor that the money wasn't spent at that time. This is only a technicality that we should make it legal for the Highway Commission to be able to pay this money at this time because during the interim the approaches were changed just a bit, and they thought that they went to work and changed them. It is just a technicality, the money is there and all we have to do is do a little paper work. I hope that the motion of the Senator from Franklin, Senator Butler, does not prevail.

The PRESIDENT: Did the Chair hear a motion from the Senator?

Mr. BUTLER of Franklin: Mr. President, I made the motion that the bill lie on the table.

The PRESIDENT: The Chair apologizes to the Senator.

The question before the Senate is on the motion of the Senator from

Franklin, Senator Butler that the bill and accompanying papers lie upon the table and be especially assigned for Tuesday.

Is the Senate ready for the question.

A viva voce vote being doubted A division of the Senate was had.

Thirteen having voted in the affirmative and sixteen in the negative, the motion to table did not prevail.

The PRESIDENT: The question now before the Senate is on the motion of the Senator from Hancock, Senator Dunham, that the Senate adopt Senate Amendment A.

Mr. FARRIS of Kennebec: Mr. President, I would like to inquire through the Chair, of the Senator from Hancock, Senator Dunham, just who would pay this \$25,000 if the state did not. I do not quite understand what this is all about.

The PRESIDENT: The Senator from Hancock, Senator Dunham has heard the question and may answer if he wishes.

Mr. DUNHAM of Hancock: Mr. President, I understand that the money is already allocated to pay this bill. It was appropriated in 1951 and never was used and due to the fact that it has been relocated, the attorney for the Highway Commission says that it must be reappropriated in order to pay it at this time.

Mr. FARRIS of Kennebec: Mr. President, do I understand that this approach has already been built and now it is a question of making payment?

Mr. DUNHAM of Hancock: Yes, Mr. President, that is right.

Mr. FARRIS of Kennebec: Mr. President, if we do not go along with this, who has spent this money and not been reimbursed. Who is going to suffer?

Mr. DUNHAM of Hancock: Mr. President and members of the Senate, I think the town of Bar Harbor would be stuck with it.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Hancock, Senator Dunham, that the Senate adopt Senate Amendment A. Is the Senate ready for the question?

A division of the Senate was had.

Twenty-one having voted in the affirmative and five in the negative,

the motion prevailed, Senate Amendment A was adopted and the bill as amended was 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 Relating to Definition and Duties of 'Owner' in Motor Vehicle Laws." (H. P. 1187) (L. D. 1450) tabled by that Senator on May 5 pending motion by the Senator from Franklin, Senator Butler that the Senate adopt Senate Amendment A.

Mr. REID of Kennebec: Mr. President, the other day when the Senator from Franklin, Senator Butler offered an amendment and at the same time castigated the Judiciary Committee in his own inimitable way, I was quite taken by surprise because in the back of my mind I was quite certain this was a department bill.

Between then and now I have had an opportunity to find out what the facts are and I simply will relate them and I afterwards plan to go along with the Senator on his amendment.

There seems to be a racket developing over the country in order for the illegitimate trucking industry to escape paying proper registration fee. Mr. MacDonald of the Secretary of State's department drafted an act which found its way into the Judiciary Committee in order that the State of Maine might not be deprived of a loss of upwards of tens of thousands of dollars as a result of this type of racket.

His original draft was objectionable to many of the representatives of the legitimate trucking industry and he reported to the Judiciary Committee that he would withhold the bill for a while until all parties could get together and write a re-draft which would satisfy everybody. In due course that was done, and the Judiciary Committee reported it out ought to pass.

Senator Butler tabled the bill, for what reason at that time I do not know, but a day or two ago the Public Utilities Commission in inspecting the bill evidently found that if the bill passed as now written, they would lose about \$20,000 in dedicated revenue which I believe

they get from selling for a price of \$5.00 some kind of P.U. plate. If they lose that dedicated revenue it would hurt that department of course. If the bill went through as written, I don't think the \$20,000 would be lost to the state in general because some of these trucks would have to register and the offset might be a saving. However, I agree with the Senator from Franklin, Senator Butler, that it would be unfortunate to take dedicated revenue away from the Public Utilities and therefore I would move the pending question which I believe, is the adoption of Senate Amendment A and I will go along with the Senator.

Thereupon, Senate Amendment A was adopted and the bill as amended was passed to be engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Lessard of Androscoggin, the Senate voted to take from the table Committee of Conference report on the disagreeing action of the two branches of the legislature on bill "An Act Relating to Pensions for Dependents of Deceased Policemen of City of Lewiston" (S.P. 163) (L.D. 357) reporting that the Committee of Conference agreed with the earlier action of the House of Representatives by which that branch referred the above matter to the 98th State of Maine Legislature; which bill and report were tabled by that Senator earlier in today's session pending acceptance of the committee report; and on further motion by the same Senator, the bill was recommitted to the same Committee of Conference.

Sent down for concurrence.

On motion by Mr. Lessard of Androscoggin, the Senate voted to take from the table Committee of Conference report on the disagreeing action of the two branches of the legislature on bill, "An Act Relating to Pensions for Dependents of Deceased Firemen of City of Lewiston" (S.P. 413) (L.D. 1176) reporting that the Committee of Conference agreed with the earlier action of the House of Representatives by which that branch referred the above matter to the 98th State

of Maine Legislature; which bill and report were tabled by that Senator earlier in today's session pending acceptance of the committee report; and on further motion by the same Senator, the bill was recommitted to the same Committee of Conference.

House Papers — Out of Order

Bill "An Act Making Supplemental Appropriations for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1956 and June 30, 1957, and to provide Additional Revenue to General Fund."

(H.P. 1229) (L.D. 1512)

In Senate on May 5, passed to be engrossed as amended by Senate Amendment A.

Comes from the House, receded from engrossing, Senate Amendment A indefinitely postponed in non-concurrence, House Amendment A (Filing No. 468) adopted, and the bill passed to be engrossed as amended by House Amendment A.

In the Senate:

The Secretary read House Amendment A.

Mr. REID of Kennebec: Mr. President, I move that the Senate recede and concur.

The motion prevailed and the Senate voted to recede and concur with the House.

Mr. BOUCHER of Androscoggin: Mr. President and members of the Senate, again I repeat what I have said before, that we seem to be in a very great hurry to dispose of this most important bill. This is probably the most important bill that we have to pass in this session and I for one would like to have a little time to study the new message from the Governor, which we heard today in Joint Session, concerning this bill. I do not believe we should rush this through at this time. I do not like to call this railroading, but it smells of it. We certainly acted very quickly after the House acted, even quicker on a matter that is mighty important to the citizens of Maine. Therefore, Mr. President, I move that this bill lie on the table and be especially assigned for next Tuesday.

Mr. REID of Kennebec: Mr. President—

The PRESIDENT: For what purpose does the Senator rise?

Mr. REID of Kennebec: Mr. President, I wish to ask for a division on the motion to table.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Androscoggin, Senator Boucher that the bill be laid upon the table and be especially assigned for Tuesday next, and the Senator from Kennebec, Senator Reid has asked for a division. Is the Senate ready for the question?

A division of the Senate was had. Seven having voted in the affirmative and twenty-one in the negative, the motion to table did not prevail.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Reid, that the bill pass to be engrossed as amended by House Amendment A. Is the Senate ready for the question?

A division of the Senate was had. Twenty-two having voted in the affirmative and six opposed, the motion prevailed and the bill was passed to be engrossed as amended by House Amendment A in concurrence.

On motion by Mr. Dow of Lincoln, the Senate voted to take from the table House Report from the Committee on Highways "Ought not to pass" on "Resolve Relating to Anticipation of State Aid Funds by the Town of Bremen" (H. P. 775) (L. D. 858) tabled by that Senator on April 29 pending motion by the Senator from Piscataquis, Senator Parker that the Senate accept the report.

Mr. DOW of Lincoln: Mr. President and members of the Senate, for the purpose of making a brief explanation of this bill, I would like to present the following facts, but before I do so I would ask the Secretary to read the status of the bill as it is now.

The Secretary read the endorsements on the bill.

Comes from the House the resolve having been substituted for the report and passed to be engrossed.

Mr. DOW of Lincoln: Mr. President and members of the Senate, the town of Bremen, in order to finish a State Aid road project and having about 75 feet to go to complete the road, overdrew its State Aid account \$509.08. In order to avoid the unnecessary expense of moving in the equipment again, the selectmen authorized the foreman to finish the road supposing it could anticipate on next year's funds, as it has been allowed to do in the past. When the selectmen applied to the Highway Commission for the anticipation, they were told by the new Commissioner that a new ruling had been made and that no town could anticipate ahead on any state funds. The selectmen were not notified of this change in regulations previous to the overdraft. This road was built under state specifications and accepted by the State Highway Commission. It was good sound business to complete this dead end road at this time because it saved about \$200 in moving in and out the equipment nearly half the amount of the overdraft.

The town of Bremen has no anticipation of road funds of any kind at this time. This resolve is not opposed by the Highway Commission at this time and the resolve extends only to the year 1955. It involves only this road that is completely finished and requires no further building. It requires no additional money from any source whatever except the State Aid funds passed by this legislature and due the town of Bremen this year.

Bremen is a small town with a population of only about 400 people. They have a tax rate of 92 mills and cannot afford to absorb this overdraft. The town has tried to get full value for every dollar spent in highway construction and they feel that in building 1700 feet of road for approximately \$5300 under state specifications is a good job that has been done without the state coming in and telling them to go back this year and spend twice as much more as the job cost to do last year while they were there.

The State Highway Commission should approve or disapprove each anticipation upon the merits of each town's particular problem and not

have a ruling that would affect all towns alike because they don't have problems that are all alike. I have a list of towns that have anticipated at this time and the number of years involved. There are 66 towns that have anticipated funds, and they range anywhere from one year up to ten.

Mr. President, I move that the motion by Senator Parker of Piscataquis be indefinitely postponed.

Mr. PARKER of Piscataquis: Mr. President and members of the Senate, I am very reluctant to debate on this anticipation of State Aid funds for the town of Bremen. I can state truthfully that I have a whole lot of sympathy for any town that finds that in order to finish construction of their State Aid projects, in order to get a certain distance as many towns do in completing their projects, for instance if they are part way up a small hill they will put in town funds to finish construction and get to the top of the hill. Many times they come to a culvert and it is necessary to put that culvert in and in order to do that they use town funds to complete it. It is done by many towns in the state of Maine every year. If this was the only town that was going to use town funds, that would be something that perhaps would not be too serious, but the committee in listening to the evidence presented and considering what might be a precedent, it was unanimous that this one ought not to pass. I believe if this is allowed to be paid to the town of Bremen, that we have established something that many many towns in the State of Maine will be asking for and are certainly as much entitled to. Mr. President, I still hope that the ought not to pass report of the committee will be accepted.

Mr. DOW of Lincoln: Mr. President, I would just like to point out again that this road was finished and this money spent by the town in anticipation before they knew anything about the new regulation that they could not anticipate money and they did this in order to save approximately one half the cost by having to stop the construction and having to move

the equipment out and then having to move it back in. It just seems like good business to me to do what they did.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Lincoln, that the bill be substituted for the ought not to pass report of the committee.

Mr. BUTLER of Franklin: Mr. President and members of the Senate, certainly I must concur with the result of the Highway Committee report as presented by the Senator from Piscataquis, Senator Parker. However, in his reasoning I can't quite follow him because he has stated a premise which is going to cause an injury as I understand it, an injury to the plan of the commission and by permitting this he is going to create an injury to this particular town. When we take into consideration the special road resolves we are putting in for \$500,000 to look after unfortunate deals, I think that here is an unfortunate circumstance. Thus far every time I have spoken on these road resolves the measure has failed but nevertheless I am going to support the ought not to pass report.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Lincoln, Senator Dow, that the bill be substituted for the ought not to pass report.

Mr. SINCLAIR of Somerset: Mr. President, I would like to ask through the Chair, a question of the Senator from Lincoln, Senator Dow, and maybe more than one question. Are there any additional funds to come from the state to take care of this?

The PRESIDENT: The Senator has heard the question and may answer if he wishes.

Mr. DOW of Lincoln: Mr. President, I don't believe so, or they would not have spent their own money except in anticipation of what they thought they could get. I might say also they have no further funds for roads that they are building from anticipated funds.

Mr. SINCLAIR of Somerset: Mr. President, may I ask one more question? Do I understand that this

money will come out of the town's share of State Aid funds in the coming biennium?

Mr. DOW of Lincoln: Mr. President, I do not know whether I can answer that or not. I understand that they used their own money in anticipation of funds they would get in the next year. Under the new regulation by the Commissioner they will not get them because they have ruled not to allow towns to anticipate funds in the future.

I do not believe I have answered your question but that is all that I know about it.

Mr. COLE of Waldo: Mr. President and members of the Senate, I think here again, as the Senator from Franklin, Senator Butler has said, that we have a matter of principle involved. Many towns do extend their State Aid construction due to the fact as has been stated that the road ends in a dangerous spot. If we go ahead and pay Bremen the amount of money they ask for, it seems to me we are setting a precedent that would be very dangerous. I know in my county towns do the same thing, take it out of the unappropriated surplus and if we pay the town of Bremen, it seems to me we are inviting every town in the State of Maine to overdraw and come in in anticipation of funds. This is a matter of principle.

Mr. BOUCHER of Androscoggin: Mr. President and members of the Senate, I am glad to see that for once, the good Senator from Piscataquis, Senator Parker and I are in agreement. If we pass this measure, this would be creating a bigger and better pork barrel.

Mr. SILSBY of Hancock: Mr. President, I understand the issue we are now considering to be as follows; and if I am wrong I want Senator from Lincoln, Senator Dow to correct me. It is my understanding that this road was built, and they had a little more money to spend to complete the project and they did do that. The Commission changed its ruling after they had spent the money. If my understanding is correct, it seems to me that we would not be establishing any precedent if they had reason to believe that they would receive the

money or had never been served notice to the contrary then they certainly should have their money in anticipation.

Mr. DOW of Lincoln: Mr. President, I do not believe the towns would build roads now in the future in anticipation of funds because they know now that they can't do that but at the time they completed this road they did not know about this regulation. That is the point I am trying to make.

Mr. PARKER of Piscataquis: Mr. President, I do not want to prolong this debate but certainly any town that overdraws an account, a highway account, particularly one in which the state and town are in joint funds, it seems to me should know that when they overdraw that account they are doing it with town funds. I believe that is the point that has been brought out. I ask for a division.

Mr. DOW of Lincoln: Mr. President, I would like to answer the Senator from Piscataquis, Senator Parker in this way, that 66 towns were allowed to anticipate this money at the approval of the commission at the time this road was built. They did not do anything other than what many other towns have done, and are still doing.

Mr. PARKER of Piscataquis: Mr. President, I assure you that this is the last time I will ask to be recognized on this question. Just for the information of the members, in the many years that I have been somewhat interested in highways I have learned that if a town wishes to anticipate in advance a year or more as we have been able to do up until the last year or year and a half, in order to do that it is necessary that the selectmen of the town apply to the Highway Commission for permission to anticipate state aid funds more than the biennium. That is the reason that the towns know they are allowed to anticipate, that they have additional funds available. Any town that would spend their own money without having applied for anticipated funds certainly is doing it with town funds, with their own funds, and the only way they could do it legally would be to have applied to the Highway Commission

to get their O.K., their permission to anticipate in advance.

Mr. BOYKER of Oxford: Mr. President, this is the experience which I have had in the town of Bethel with the Highway Commission 12 years ago. Money was appropriated for a certain piece of road in Bethel but the money had been spent in some other locality so I went to the Highway Commission to get permission to build that road anticipating money to come along and pay for it later. They gave me and the town that permission and I remember that in that meeting the question was asked of Mr. Barrows if they did that in Massachusetts—that is, build roads in anticipation of money to come along later and pay for it, and Mr. Barrows said "Yes" and Mr. Murray said if they could do that in Massachusetts, we could do it in Maine and so I went ahead and built the road and we got the money.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Lincoln, Senator Dow to substitute the resolve for the ought not to pass report, and the Senator from Piscataquis, Senator Parker, has requested a division.

A division of the Senate was had.

Sixteen having voted in the affirmative and eleven opposed, the motion prevailed, the resolve was substituted for the report, given its first reading and tomorrow assigned for second reading.

On motion by Mr. Lessard of Androscoggin, the Senate voted to take from the table Senate Report from the Committee on Judiciary

"Ought not to pass" on bill, "An Act Relating to Descent of Real Estate in Divorce Cases." (S. P. 38) (L. D. 135) tabled by that Senator on March 15 pending consideration of the report.

Mr. LESSARD of Androscoggin: Mr. President, I move that the bill be substituted for the ought not to pass report of the committee.

Mr. REID of Kennebec: Mr. President, I understand that Senator Lessard of Androscoggin has an amendment which has the approval of the committee and I wish to go along with him on his motion.

Thereupon, the bill was substituted for the report and read once.

Mr. Lessard of Androscoggin presented Senate Amendment A and moved its adoption.

Senate Amendment A to L. D. 27: "Amend said bill by adding at the end thereof the following underlined paragraph: 'No such rights acquired under the provisions of said sections 63 and 65 after September 1, 1955, shall be effectual against the libelee or any other person, unless said abstract of the decree of divorce shall have been recorded, in the manner hereinabove provided, within 1 year from the date of said decree of divorce.'"

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

On motion by Mr. Reid of Kennebec

Adjourned until Monday, May 9 at nine o'clock in the morning, E. S.T.