

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Ninth Legislature

OF THE

STATE OF MAINE

VOLUME II

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and
SPECIAL SESSION
1960

DAILY KENNEBEC JOURNAL

AUGUSTA, MAINE

SENATE

Tuesday, May 26, 1959

Senate called to order by the President.

Prayer by Rev. Philip G. Palmer of Waldoboro.

On motion by Mr. Hunt of Kennebec, Journal of yesterday read and approved.

Paper from the House

Bill, "An Act Establishing Columbus Day as a Legal Holiday." (S. P. 416) (L. D. 1200)

In Senate on May 20, passed to be engrossed.

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

In the Senate, on motion by Mr. Boucher of Androscoggin, the Senate voted to insist and ask for a Committee of Conference; the President appointed as Senate Conference, Senators: Boucher of Androscoggin, Lessard of Androscoggin and Hunt of Kennebec.

Enactors

The Committee on Engrossed bills reported as truly and strictly engrossed, the following bills: Bill, "An Act Relating to Open Season for Fishing on Brooks and Streams in Cumberland County." (H. P. 240) (L. D. 351)

Mr. CARPENTER of Somerset: Mr. President and members of the Senate, after a few brief remarks I am going to move indefinite postponement. I stated here last Friday that this would set up a special law for a special county in the State of Maine. That is Cumberland County. I don't think we want to get our books all disturbed, our fishing regulations, so that one might not know just where one was fishing at any particular day in the year. I think it is much better to have it uniform throughout the state. This bill was debated very thoroughly and I move its indefinite postponement.

Mr. WEEKS of Cumberland: Mr. President and members of the Senate, I rise in opposition to the motion made by the Senator from Somerset, Senator Carpenter. As he has already stated, this was fully debated. He refers to Cumberland

County as a special county. So far as I am concerned it is an extra special county.

This is a bill which we think has merit simply in conservation. Whether it has or whether it hasn't, as I said before, I wouldn't know. I am no expert on fish. I am not the oracle of fish life. I don't own the fish in Cumberland County but we would like to keep a few of them in the lakes and streams, and this has to do with streams. We feel that there is some merit in the idea that we will have better propagation, better survival of hatchery fish, if we have a later fishing date. It is something we would like to have tried out for a couple of years anyway.

This idea that it is going to clutter up the books with regulations and make things uncertain for the poor fisherman, may have some merit, but the fisherman ordinarily finds out whether or not he is fishing in a place where he has a right to fish legally. There may be some who are taken unawares, but it is up to the enforcement department to give consideration to those facts. I hope that you will not vote with the motion and I ask for a division.

Mr. HILLMAN of Penobscot: Mr. President and members of the Senate, as one of the members of the Fish and Game Committee, I will have to at least tell you the stand that I took on this measure. When this was discussed in committee we all thought that it was going to be a statewide open date. Finally after a second executive session some of the boys decided we shouldn't change the law in any way, shape or manner but should leave it as it is.

Therefore, my name was on the "jacket" as ought to pass, but after looking into this matter thoroughly and after finding there are repercussions on how we are juggling up our laws — we just tried to strengthen the act four years ago — and after talking with the Inland Fish and Game department, I have changed my mind. I think it would be a step in the wrong direction to have two opening days in the State of Maine. I don't think it would benefit the county of Cumberland in any way, shape or manner to

have a date a month later than the rest of the state. I don't think they looked at it that way, from the viewpoint of a tourist coming to fish in Cumberland County going right through to some other part of Maine that is open on April 1st. As for the fish, I took the same attitude as the Senator from Cumberland, Senator Weeks is taking. I thought that once they had liberated the fish, they would dive to some unknown part of the stream and perhaps it would be important to catch them. But as I understand it the fish that are reared and fed on liver and so forth do not. The mortality in that specie of raised fish certainly is greater than those reared in streams.

I think what they are actually trying to do in Cumberland County is to give those who like to fish, an opportunity to catch those that are liberated and the quicker you catch them as I understand it, the more we will get from each dollar spent on the rearing of these fish. Therefore I hope the motion of the Senator from Cumberland, Senator Carpenter, will prevail.

Mr. BRIGGS of Aroostook: Mr. President and members of the Senate, I rise again in support of the motion of the Senator from Somerset, Senator Carpenter to indefinitely postpone this bill. I would like to point out that while I am sympathetic with the very fair and compromising remarks made by the Senator from Cumberland, Senator Weeks, it is important I think for everyone to recognize that the people who fish the streams of the counties beyond Cumberland will be very wise if they carry along some sort of an aid to make it possible for them to know exactly where the county line begins because all of those streams outside of Cumberland and flowing in to Cumberland will be open now under their proposition on April 1st and as soon as they get to where the stream crosses the Cumberland County line, it won't be open from there on into Cumberland for another month. It could be very dangerous and very difficult trying to follow the regulations.

I think that six years of good effort by our committee was in the right direction trying to make these

regulations less complicated and to pass such a resolve as this will destroy a good deal of that very sincere effort. Therefore I hope that the motion to indefinitely postpone will prevail.

Mr. CHARLES of Cumberland: Mr. President and members of the Senate, I rise only for the purpose of answering one statement made here this morning relative to special privileges in Cumberland County. I might bring to your attention that Cumberland County should not be singled out as having special privilege because just recently I believe we have had special privileges to other counties relative to deer zoning. If we are going to discriminate between different counties on one thing, I don't see anything wrong with Cumberland County having certain privileges also.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Somerset, Senator Carpenter, that the bill be indefinitely postponed, and a division has been requested.

A division of the Senate was had.

Nineteen having voted in the affirmative and seven opposed, the motion prevailed.

Enactors

Bill, "An Act Relating to Local Option for Sale of Wine and Spirits in Clubs." (H. P. 424) (L. D. 608)

Bill, "An Act Refunding Gasoline and Use Fuel Taxes to Local Transit Operators." (H. P. 950) (L. D. 1346)

Bill, "An Act Relating to Number and Compensation of Special Deputy Sheriffs in Cumberland County." (S. P. 183) (L. D. 426)

Bill, "An Act Relating to Certain Per Diem Fees of Deputy Sheriffs." (S. P. 482) (L. D. 1353)

Which bills were severally passed to be enacted.

Orders of the Day

The Senate was called to order by the President.

The President laid before the Senate the 1st tabled and today assigned item being House Reports from the Committee on Education: Majority Report, ought to pass as amended by Committee Amendment

B; Minority report, ought to pass as amended by Committee Amendment A, on bill, "An Act to Authorize the Construction of Housing for the University of Maine and the Issuance of not Exceeding \$24,000,000 Bonds of the State of Maine for the Financing Thereof." (H. P. 108) (L. D. 181) tabled on May 25 by the Senator from Lincoln, Senator Dow, pending acceptance of either report.

Mr. DOW of Lincoln: Mr. President and members of the Senate, at the request of the leadership of the minority party, I have been asked to retable this bill and especially assign it for tomorrow and I so move.

The motion prevailed and the bill was retabled and especially assigned for tomorrow.

On motion by Mr. Carpenter of Somerset, the Senate voted to take from the table the 45th tabled item, being bill, "An Act Relating to Augmenting of Stored Water." (S. P. 467) (L. D. 1363) tabled by that Senator on May 22 pending enactment; and on further motion by the same Senator, the bill was passed to be enacted.

Mrs. LORD of Cumberland was granted unanimous consent to address the Senate.

Mrs. LORD of Cumberland: Mr. President, on behalf of the Cumberland County delegation, I would like to call the attention of the Senate to the passing of a member of the House, Henry Jones. He was a sincere and very honest and conscientious member and I feel it is a great loss to the legislature in his passing. I would like to ask the Senate to stand for one moment in memory of Henry Jones.

The PRESIDENT: The Chair thanks the Senator from Cumberland, Senator Lord for making these appropriate comments relative to the passing of a fellow legislator, Representative Henry Jones of South Portland. All of us who knew Mr. Jones, know that he was a kindly and able and conscientious public servant and we join the good folks of Cumberland County in mourning his passing.

Thereupon, the Senate arose and observed a moment of silence in memory of Legislator Henry Jones.

On motion by Mr. Parker of Piscataquis, the Senate voted to take from the table the 10th tabled item being, House Report from the Committee on Judiciary: ought to pass, on bill, "An Act Relating to Parking in Municipalities." (H. P. 860) (L. D. 1228) tabled by that Senator on April 9 pending acceptance of the report.

Mr. PARKER of Piscataquis: Mr. President and members of the Senate: If you will turn to your legislative document file and look at L. D. 1228, you will find that this bill relates to illegal parking in towns where they operate parking meters. To my mind, while the thought behind this bill is probably very much worthwhile, I believe this is an encroachment on what we have always considered the rights and privileges of the citizens of this great country of ours. I wish I did not feel that way, because I think the idea back of this bill was to put some teeth in our parking law. However, I think we should also be very careful when we attempt to do that, because it is very easy to pass bills and make laws and put laws on our statute books that may be used for purposes for which they were not intended.

According to this bill, if someone uses my car other than myself — my son, my wife or a neighbor — and it is parked illegally, if this bill becomes law I am liable. I cannot believe that this is what was intended when this country of ours was settled, to allow a thing of this sort to become law. I am not going to talk on this at any great length. I mistrust that there may be others here that have some feeling in the matter. So I will move that this bill be indefinitely postponed.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Piscataquis, Senator Parker, that L. D. 1228 be indefinitely postponed in non-concurrence.

Mr. WEEKS of Cumberland: Mr. President and members of the Senate: This measure is intended to clarify the law and make legal what

is already operating now. Occasionally I have the car which is registered in my wife's name and occasionally I get a tag. I don't hear any more about it, but she gets a message from the police department saying come on down and pay the tag, and it usually winds up by her paying the tag. Whether or not she is liable for that tag or whether or not she could be prosecuted has been more or less taken for granted, but the issue has been brought up in court and there is some apparent loophole. Several times in the Portland area different ones have challenged it and have gone a certain distance, at least up to the Superior Court. I am not sure but what there is a case pending now before the Supreme Court. If so, it has been there quite a while. One member of the bar was going to challenge the law the way it is now.

That more or less sums up the situation as it is. There is doubt as to whether or not in that case the owner of the car can be prosecuted for parking tags which someone else has accumulated on the vehicle. This law is designed to help our municipalities, and if the majority vote of the committee is accepted I will offer Senate Amendment A so that municipal officers will have the power under the wording of the amendment to go along with the act:

"The municipal officers may by resolution establish a method by which persons charged with violation of parking meter regulations may waive all court action by payment of specified fees within stated periods of time."

The unconstitutionality seems to be as to whether or not you can say here is my fifty cents or dollar and thereby compromise with a police officer what amounts to a criminal charge. This would make that possible. It is true that under the wording of the original act as amended it is prima facie "providing that the fact that a vehicle is in a metered parking space when the time signal on the parking meter for such space indicates no parking permitted without the deposit of coins or coins shall be prima facie evidence that said vehicle has been parked in said park-

ing space longer than the lawfully permitted period; providing the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name said vehicle is registered." It does help the municipality in policing its parking regulations.

I think it is desirable to help the cities and towns out with this amendment to your present law, and I believe it does remove some doubt about the legality of proceedings, especially if Senate Amendment A is adopted. I therefore oppose the motion of the Senator from Piscataquis, Senator Parker.

Mr. PARKER of Piscataquis: Mr. President and members of the Senate: In my investigation of this bill it occurred to me that the companies that operate rental cars and trucks certainly would be interested in knowing that such a bill as this was proposed at this session of the legislature, and in contacting two of those companies I found that they are definitely opposed, and I have letters from each one of them and I would like to read just one paragraph from each letter. They are long letters and I have no desire to burden the members with listening to all of them, but if anyone is interested and would like to read the letters they may do so at any time because I have them here.

In a reply from the Avis Rent-a-Car system of Portland, one paragraph, they say this: "Such a law would work a great hardship on the car rental industry. Obviously we have no control over parking violations involving cars which are rented or leased to our customers. It would be a severe penalty to make us financially responsible for these violations."

Then I got in touch with the Hertz Corporation who operate cars in our state as well as in nearly every state in the union. I might say that they called me from the Chicago office by long distance at two different times previous to writing this letter. I will read one paragraph: "After examining Legislative Document 1228 which is presently pending before the 99th Legislature of the State of Maine, we wish to state our views with regard

to this proposed legislation. If enacted, this legislation would make all car or truck rental companies prima facie liable for the parking violations of persons who rent their vehicles. Not only is this unfair to the car and truck-leasing industry but in our opinion is unconstitutional. Any presumption of liability must bear some reasonable relationship to the presumptive fact which it attempts to establish. In the case of the vehicle which is usually operated by its owner, the presumption which L. D. 1228 seeks to establish has some relationship to the presumptive fact that the vehicle was operated by its owner when it was illegally parked. In the case of the car and truck renting industry, however, the presumption that the owner illegally parked that vehicle is of course completely unrealistic. This is especially true in the case of long term leases of vehicles. In these situations the recorded owner of that vehicle may not even see it from one year to the next. Under these circumstances it would be most unfair to create a presumption which would have the effect of requiring the car and truck leasing industry to prove that it did not park the vehicle illegally."

Believing as I do that this bill is unconstitutional, I asked the Attorney General to look into the matter and give me his reply, and I would like to have the Secretary of the Senate read that reply.

The reply was read by the Secretary as follows:

"Honorable Clarence Parker,
State House,
Augusta, Maine.

Dear Senator Parker:

This is in reply to your oral request for an opinion regarding the constitutionality of L. D. 1228 entitled "An Act Relating to Parking in Municipalities."

The act sets out rules of evidence regarding parking as follows: "... providing the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered; . . ."

Applying the tests relating to prima facie presumptions as set forth in *Wiley v. Sampson-Ripley*

Co. 151 Me. 400, this bill would in my opinion be unconstitutional for the same reasons set forth in the *Wiley* case, to wit, the due process clauses of our State and Federal Constitutions.

Very truly yours,
Frank E. Hancock,
Attorney General"

Mr. WEEKS of Cumberland: Mr. President and members of the Senate: The Senator from Piscataquis, Senator Parker, referred to the fact that this is unrealistic. If there is anything unrealistic in regard to the car renting situation, I do not know of anything which is more unrealistic than the problem which is faced in your committee right now on the enforcement of parking regulations. They are trying to keep traffic moving and they are handicapped. This drawing a line between the car leasing operation and my own situation — I suppose that every time my wife receives notice that there is a tag on her car she can go down to the police department and say she was not responsible for the tag being put on that car, which would be true because the fault was mine. All this act does is establish a prima facie rule. So far as the car leasing situation is concerned, you have got a clear and easy way out: I cannot imagine running such an operation without having the time and date recorded when I lease that car by name and address, which I know is true. They have record of the specific times and who they give it to and so on, and there is nothing easier than to appear in court if they are ever called, or they might have a working arrangement whereby even an affidavit could be sent to the court house stating that "on that certain day we had no control over that vehicle and we had delivered custody and operation to another individual." That would rebut any presumption of liability or criminal responsibility.

So far as the opinion of the Attorney General is concerned, he put it on a pretty broad basis, and I would have to refer to the particular section itself to find out what part of due process is being violated. We have many statutes which set up prima facie presumptions. We have been operating with

them for a good many years and in many cases it is established in the first instance by a prima facie presumption. That merely gives you the opportunity to rebut it with whatever evidence you may have. If you do rebut it, that is the end of the case. And I cannot imagine anything easier to rebut a charge by a leasing company than by merely showing the record for that particular time, where the car was and in whose custody it was leased, to show that it was not in the car leasing company's possession or that of its agents or servants.

What is going on today then is illegal. Any time you want to go into court and say "I didn't have the car that day" and they can't prove it because they didn't see you leave the car there, then you can walk off without paying for any tags. Now that is what has been attempted in city after city. This merely attempts to correct that situation and give the cities and towns an opportunity to act legally with reference to what they are actually doing right now.

Mr. ROSS of Sagadahoc: Mr. President and members of the Senate: There are many people in our state who just oppose parking meters. I well remember when I was in the House of Representatives my colleague from Bath opposed parking meters and he opposed the principle as being double taxation, because he said he was paying his taxes for the roads and the upkeep thereof and why should he pay to park his car there. And, for some reason or other, he always used as a comparison another thing he was violently opposed to and that was advertising in movies, because he said they had a captive audience. I never could quite see that.

I am one who is not opposed to meters because I think they really and truly regulate parking and those of us who do feel that way and who do want our parking regulated, certainly should go along with this bill because without the bill at the present time we just can't enforce the meters. It may sound harmful but I don't believe it is to make the owner liable and the Senator from Piscataquis, Senator Parker said, why should he be liable if a

friend of his was driving the car? Now as a practical purpose, if I let someone else take my car and they receive a ticket for over parking I certainly in the final analysis would collect from them that fine, or I would guarantee they would never get the car again. I think that same situation would apply so far as car rental agencies go; they might be held liable but certainly they would collect from the person to whom they had rented it.

As I said, those of us who favor meters and think that they do a job for our state must go along with this, or, in the final analysis, we just cannot enforce our meter laws.

Mr. HUNT of Kennebec: Mr. President, if this principle, or if this law could be limited to the matter of overparking in parking spaces, I would not have to worry about it, but, as my good friend, the Senator from Cumberland, Senator Weeks, has stated, this is a tort matter legally speaking, and the field of tort covers a tremendous area. You will only have to go one step beyond this, if you are going to say that the owner of the car is prima facie liable for overparking, you are in exactly the same field of legal principle when you say amend the law so that the owner of the car is prima facie liable in cases of speeding on the highway. You would have the same principle if you said: make the owner of a car liable for a hit and run driver irrespective of who was driving the car. In other words, the field of tort covers a very wide area, and while it might not be too harmful to have this principle apply in this particular situation of parking, how can you say that someone will not want to broaden the field to cover all possible torts in which a car is involved and make the owner in each and every case prima facie liable in the first instance for the damage done by that car? Certainly if I loaned my car to some friend I would not want to be the one charged with the responsibility if my car with this other person driving had sideswiped a motor vehicle. And so I hesitate to vote for something that might set a precedent which when carried further none of us would want

to see happen. If you open the door here on this minor matter, it is my feeling you may set up a precedent which may be followed further and which none of us would want to have become law.

Mr. WEEKS of Cumberland: Mr. President and members of the Senate, many years ago I had a little experience with the law of tort and where the law of tort is involved in this situation, I don't know. Tort basically is a discussion of civil rights. It has nothing to do with the criminal side of the court and all this bill deals with is the criminal side of the court. You are charged with a violation of parking regulations, a criminal matter, and you are given the opportunity to go to court, or go down to the police station if you act promptly, and pay a fifty cent fine. It has nothing to do with tort, negligence or anything else.

Again I emphasize the fact that many cases are started on the criminal side of the court and you have the negligent side of the court if you want to go there with a prima facie presumption. If you are going to defend, you can defend in several ways. You can say you weren't driving the car, you did not have the car that day and you are completely absolved. There is nothing novel about the introduction for the assistance in prosecution of a prima facie presumption.

Mr. PARKER of Piscataquis: Mr. President, we elect an attorney general with the thought in mind that it is his duty to render decisions as to the constitutionality or unconstitutionality of legislative proposals that come up before both branches of our legislature. I am quite sure that he would not put his signature to a decision that he didn't feel was a hundred percent in the nature of that in which he rendered his decision. I do not believe, Mr. President, that we have any members here in this body that want to enact a law that has been declared unconstitutional by our attorney general.

The PRESIDENT: The pending question is on the motion of the Senator from Piscataquis, Senator Parker, that L. D. 1228 be indefinitely postponed in non-concurrence, and a division has been requested.

A division of the Senate was had. Fourteen having voted in the affirmative and thirteen opposed, the motion prevailed and the bill was indefinitely postponed in non-concurrence.

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

Mr. ROGERSON of Aroostook: Mr. President and members of the Senate, I want to call your attention to two packages which appear on your desks this morning and I want to comment very briefly on each of them. First let me say that when we decided to put some products on the desks of the Senate and House this morning, we had some difficulty in deciding what should be placed on the desks, because as you know, Aroostook County is not only a very vast land but it is one so richly endowed with resources that it produces a great many things in the line of goods and services which might very well be called to your attention. We decided that we would use these agricultural products because, again as you probably well know, no area of the state and possibly of the nation is more richly endowed for agricultural purposes than is Aroostook County.

As evidence of that we have placed on your desks this morning this package of Maine potatoes, a very nice package you will notice, and in unwrapping one of these, I found that this was something a little different. Not only is this a good potato to bake, but you will notice if you will unwrap it that they are sprouted, so if you wish to plant them you just have to be very careful about cutting them and you have your seed all ready. Now, if you don't want to plant them you just remove these sprouts like this, and they are all ready for cooking. The recipes to be used are right here in this very attractive little booklet.

Now, the next product we have is a new product which wasn't in production at the time of the last legislature and this is, if possible, even better than the natural potato because, although the potato in its natural form is full of food value, in this form something new has

been added — additional vitamins. They have not said on here to keep the serving small but it might be wise not to serve too large a portion of this because of the great vitality and various other attributes of this product.

Just a word about this. It is produced in Island Falls, Maine, in a small plant which employes 105 people and every sixty hours they turn out a carload of these potato flakes and they tell me that it takes eight carloads of raw potatoes to process one carload of this potato flake. I have tried potato flakes and I find it just as good in flavor, and better, perhaps in texture, than home prepared whipped potatoes and I hope that every one of you will try them. When you do, I am sure you will call it to the attention of your friends.

Finally, I don't know whether it is because the capital city of Aroostook County is Houlton, or whether Houlton has just put out a new brochure but anyway the final thing you find on your desks is a little brochure telling you something about all the advantages of the capital city of the potato empire, Aroostook County, which of course is Houlton. Thank you.

Mr. BRIGGS of Aroostook: Mr. President, I am hardly up to the occasion of replying to the excellent comments made about Aroostook by my dear friend and seatmate the Senator from Aroostook, Senator Rogerson but I would like to request that all of his remarks be accepted in the very capable and intelligent manner in which they were presented, with the possible exception of naming one of the towns exclusively as the capital, that of course having been his home town. I think we might have to alter that some in favor of persons who live in one of the different towns and most all of us in Aroostook, as you probably are well aware, are of the opinion that our town is the capital and the beauty spot of that great county. We would like to take advantage of this occasion and I am sure that everyone here from Aroostook County joins me in inviting each and every one of you to make a trip to our county at some time, possibly if you could arrange to do it during the season

when the potato fields are in blossom you would find that a real treat and one you would enjoy.

The PRESIDENT: The Chair would like simply to state that he concurs with the thoughts extended by his two Senate colleagues from Aroostook. I trust that you will all enjoy our famous products. I know that you are all familiar with our fresh products and this new processed potato I am sure you will likewise enjoy that.

I will just close by saying that the town of Fort Fairfield has the undisputed reputation of producing more potatoes than any other town in the world.

Mr. DOW of Lincoln: Mr. President, the Senator from Lincoln would like to state that he was born and brought up in the town of Presque Isle and he feels a little bit slighted that the brochure that has been presented to us does not even show the town of Presque Isle on the map. I would like to bring to the attention of the Senate the fact that the town of Presque Isle is one of the outstanding towns of Aroostook County, having a very large Air Base there, a State Teachers College and a State Sanatorium and other points of interest. I would feel that if I did not make these remarks that the town of Presque Isle might feel a little bit slighted, where there is no one else here to stand up for it.

Mr. BRIGGS of Aroostook: Mr. President, reluctant as I am to speak more than once on the floor of this great body that has just heaped abuse on the top of abuse, I must say that it is true, as probably every one here is aware, that one town above all others in Aroostook is recognized as the world's largest potato shipping point, and that town is Caribou. I probably would not have felt compelled to mention that except, of course, that it happens to be my home town, and inasmuch as Caribou and the neighboring town, which was the former community of the Senator from Lincoln, Senator Dow, are local rivals, I did feel compelled to put that on the record.

The PRESIDENT: If the Senate will permit the Chair to make a brief statement: The Chair still maintains that Fort Fairfield pro-

duces more potatoes and Caribou probably ships more potatoes. And I will simply say in regard to our fair community of Presque Isle, that since Senator Dow has left that community it has become a city, and that is probably why it is not listed as a town. Presque Isle is the only city in Aroostook County and we are all very proud of our one city.

The President declared a recess to the sound of the gong.

After Recess

The PRESIDENT: At this time the Chair would like to call the attention of the Senate to the fact that we have in the Senate gallery this morning a group of visiting members of the Key Club of Maine Central Institute in Pittsfield, twenty students accompanied by Lyle MacCrellis.

We are very pleased to welcome you young men — I believe the group is composed entirely of men this morning — and we trust you will enjoy and profit by your visit to the state capitol. I am sure that the entire membership of the State Senate joins me in extending to you a cordial and hearty welcome.

Mr. HILLMAN of Penobscot: Mr. President, with reference to L. D. 1228, bill, "An Act Relating to Parking in Municipalities" which earlier in the session was indefinitely postponed, I would like to state that out of respect to my City of Bangor, in which I have a lot of confidence in the officers who are running the city, I make the motion that we reconsider our action whereby this bill was indefinitely postponed, and if this motion is accepted I reserve the right to vote as I wish.

The PRESIDENT: The Chair would inquire if the Senator voted on the prevailing side?

Mr. HILLMAN: I did, Mr. President.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Penobscot, Senator Hillman, that the Senate reconsider its action whereby L. D. 1228 was indefinitely postponed earlier in today's session.

Mr. PARKER of Piscataquis: Mr. President and members of the Sen-

ate: I do not wish to oppose too strongly the motion to reconsider. I have always felt that a person has a right to change his or her mind. We did debate this at great length and it was defeated by a majority of one. However, if the Senator from Penobscot, Senator Hillman, wishes to change his vote, I wont oppose it.

The PRESIDENT: The question is: Shall the Senate reconsider its action of earlier in today's session whereby L. D. 1228 was indefinitely postponed?

The motion to reconsider prevailed; and on motion by Mr. Weeks of Cumberland, the bill and accompanying papers were laid upon the table pending consideration, and especially assigned for tomorrow.

The PRESIDENT: The Chair would like to welcome to the Senate Chamber, a group in the gallery from the Twin County 4-H Junior Leaders Association with Mrs. Stanley Libbey, Advisor; Mr. Mathan Morris, Leader; and Paul Dowe, County Club Agent. We certainly welcome all of you young people here this morning and your advisors. We trust you will enjoy and profit by your visit to the state capitol. I know that all the members of the Senate join me in extending a cordial and hearty welcome.

On motion by Mr. Woodcock of Penobscot

Recessed until two o'clock this afternoon.

After Recess

On motion by Mr. Bates of Penobscot, the Senate voted to take from the table the 38th tabled item being House Reports from the Committee on Labor: Majority Report, ought to pass with Committee Amendment A; Minority Report A, ought to pass with Committee Amendment B; Minority Report B, ought not to pass; on bill, "An Act Relating to Compensation for Injuries Under Workmen's Compensation Law." (H. P. 649) (L. D. 940) tabled by that Senator on May 21 pending consideration of the reports.

Mr. BATES of Penobscot: I now move acceptance of the majority "Ought to pass with Committee Amendment A" report of the committee.

In essence, this document would provide for an increase from the present level of \$35 to a new level of \$39 in respect to both complete and partial disability, with a maximum figure for complete disability to be established at the level of \$19,500 and a maximum figure for partial disability to be established at a figure of \$11,600. It provides for the effective date of November 30, 1959. I am speaking now for the majority report of eight members out of ten members of the labor committee, and I hope that this majority "Ought to pass with Committee Amendment A" report will be accepted.

Mr. ROSS of Sagadahoc: Mr. President and members of the Senate: What an inapropos time to take up this very important labor question, because this afternoon I certainly miss my key opponents, the Senator from Oxford, Senator MacDonald and the Senator from Androscoggin, Senator Lessard. Here is a piece of labor legislation which would give our workingmen in the State of Maine something that I am in wholehearted accord with. I have always favored logical, progressive increases under this Workmens Compensation. I have genuine concern for our workers in the State of Maine who are injured in their line of duty on their job. I am delighted to support this and I am sorry that those two senators are not here.

Mr. FARLEY of York: Mr. President and members of the Senate: On behalf of the Senator from Oxford, Senator MacDonald and the Senator from Androscoggin, Senator Lessard, I am more than willing to accept the thanks and the clarification of the gentleman from Sagadahoc County in the interests of the small amount of compensation to be paid.

Mr. BATES of Penobscot: Mr. President, not to belabor this, I wish to correct a misstatement which I made in regard to the figure of \$11,700. That applies in respect to death benefits.

The motion prevailed and the Majority report, ought to pass with Committee Amendment A was accepted and the bill read once; Committee Amendment A was read and adopted and under suspension of the rules, the bill was given its second reading and passed to be engrossed in non-concurrence.

On motion by Mr. Hillman of Penobscot, the Senate voted to take from the table the 28th tabled item being Senate Reports from the Committee on State Government: Report A, ought to pass as amended by Committee Amendment A; Report B, ought not to pass, on "Resolve Proposing an Amendment to the Constitution to Provide for Election of Members of the Executive Council." (S. P. 356) (L. D. 1011) tabled by that Senator on May 11 pending acceptance of either report.

Mr. HILLMAN of Penobscot: Mr. President, I now move that we accept Report A, "Ought to pass as amended by Committee Amendment A," and I would like to speak briefly on Committee Amendment A. I will read it.

"The senators and representatives within and for each county to which a councillor apportionment has been made shall meet biennially, on the first Wednesday of January to elect the councillor to which their county is entitled and when it appears that one person has received a majority of the votes cast his election shall be certified to the presiding officer of the Senate."

There has been a lot of controversy as to how the council should be elected. It seems, because it has been predominantly Republican, that here is one chance where we can have bi-partisan support of an amendment on the bill that has been presented. At the present time, if this bill is accepted by the Senate and by the other body we would probably have three Democratic councillors on the Governor's Council. This does not mean that a councillor district, if it happened to be a Republican County like say the County of Sagadahoc and Androscoggin together, that when it became Sagadahoc's turn they would nominate a coun-

cillor and the delegation would vote to elect him.

This, to me, is one of the best ways to accomplish that which has been a controversial matter for a number of years, in fact I have talked about it with some of my Democratic friends and they say they like it, because they had a bill in to abolish the council. I am not going to speak further, but I hope that my motion will prevail.

Mr. CARPENTER of Somerset: Mr. President and members of the Senate: I rise to oppose this particular amendment. This bill as originally written would elect the councillors by popular election. I believe this amendment would put us back in pretty much the same way we are right now, and that is the election of the various candidates by the legislature. My feeling in the matter is that by a popular election each county who has a Democratic majority in that county would have the privilege of electing a councillor. That is one reason why I am opposed to this amendment.

Mr. FARLEY of York: Mr. President and members of the Senate: Knowing how the Senator from Androscoggin, Senator Lessard is interested in this bill, I would like to table the same until tomorrow morning.

Mr. HILLMAN of Penobscot: I appreciate the effort by the Senator from York, Senator Farley on behalf of the Senator from Androscoggin, Senator Lessard, but he has told me he would have to vote against this measure — if that has any effect upon the motion of the Senator from York, Senator Farley.

Mr. WOODCOCK of Penobscot: Mr. President, may we have a brief recess?

The motion to recess prevailed.

After Recess

The Senate was called to order by the President.

The PRESIDENT: The question before the Senate is on the motion of the Senator from York, Senator Farley, that L. D. 1011 be tabled and especially assigned for tomorrow.

The motion prevailed and the bill was tabled pending motion by Senator Hillman that the Senate accept Report A: Ought to pass as amended by Committee Amendment A.

The PRESIDENT: In reference to L. D. 940, which is Item No. 38 on Page 8, the Chair would like to correct an error in the printed calendar in which you will note that in the House the majority report was accepted. Actually in the House, the bill was indefinitely postponed.

The PRESIDENT: The Chair notes in the Senate Chamber the presence of two former distinguished gentlemen here this afternoon. The Chair would ask the Sergeant-at-Arms to escort former State Senators the Honorable Wenell Smart and the Honorable Clifford Willey of Hancock County to the rostrum. (Applause, members rising.)

On motion by Mr. Bates of Penobscot, the Senate voted to take from the table the 25th tabled item being House Report from the Committee on Labor: Ought to pass; on bill, "An Act Repealing Certain Disqualifications of Benefits Under Employment Security Law." (H. P. 397) (L. D. 580) tabled by that Senator on May 7 pending acceptance of the report; and on further motion by the same Senator, the ought to pass report was accepted and the bill read once.

Mr. Bates of Penobscot presented Senate Amendment A and moved its adoption.

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

On motion by Mr. Parker of Piscataquis, the Senate voted to take from the table the 22nd tabled item being House Reports from the Committee on Claims: Majority Report, ought to pass; Minority Report, ought not to pass; on "Resolve to Reimburse the Town of Swan's Island for Aid Extended to Leverett and Marie Carter." (H. P. 437) (L. D. 643) tabled by that Senator on

May 1 pending acceptance of either report.

Mr. PARKER of Piscataquis: Mr. President and members of the Senate, to defend my position as the signer of a minority report of the Claims Committee, I will try to explain my reasons.

First of all let me say that this resolve for the town of Swan's Island asking for reimbursement is asking for the amount of \$2643.98. The town of Swan's Island hired an attorney, Mr. Blaisdell of Ellsworth, to appear at the hearing at which this resolve was heard. He admitted that the settlement of the parties called for in this resolve, their pauper settlement was Swan's Island. But he also said that because of the economy of the municipality of Swan's Island, they were not in financial condition to take care of this bill. I have no figures on their tax rate or their indebtedness. But my whole purpose in signing the minority report was this.

I know from personal experience we have many towns in the State of Maine, both small and large, that have town paupers and a large outlay of money, taxpayers money, to care for those town paupers. My whole purpose in signing the ought not to pass report of the committee was this. That if we allow one town to require the state to pay for their poor, where are we going to stop? My town is a small town of 450 inhabitants. I know there are years when they have to dig down into their pockets to take care of their indebtedness. I know there are many other towns and cities in the same circumstances.

If you vote to pay this bill I hope you will do it with the understanding in your own mind that this is a town that is poor. They have got debt and you feel that the State of Maine should take care of their town paupers. Otherwise you would have to vote as I did in committee — ought not to pass. Because I believe that unless you are going to do this for all towns that have heavy debts on the town poor, you should not vote for it. I am going to leave it wholly up to the members here this afternoon. As far as I am concerned, I am going to move the acceptance of the ought

not to pass report of the committee.

Mr. WEEKS of Cumberland: Mr. President and members of the Senate, as one who signed the ought to pass report of the committee I rise in opposition to the motion. This is one of those bills in which you are asked to share the burden, which has been, and would be if you turn this bill down, carried by, I believe, some 400 residents. I haven't my notes here today but I don't care to delay proceedings. If I remember correctly, and I hope someone will correct me if I make a mistake or misstatement, for two terms now this legislature in its wisdom has seen fit to reimburse Swan's Island for these recurring expenditures for town paupers. I think in some respects it was something of a comedy of errors — not so comic but a series of errors — which resulted in Swan's Island being saddled with this obligation, having the settlement of these people being established there. I have a recollection of there being a court case involving these people who are now on the hands of the Swan's Island people and it never reached a definitive point. At some point in the proceedings the case was discontinued or at least the particular proceeding was dropped and upon the basis of it some gentleman there who was occupying the position possibly of overseer or selectman made the erroneous conclusion that that definitely fixed the settlement in Swan's Island and took no further steps.

That occurred at least two terms ago because this legislature, as I said before, has seen fit in its wisdom to reimburse the town twice now for expenditures made for the support of these people involved. It is a moral obligation that you can assume or not as you see fit. We, from Cumberland County or at least I am willing to share part of the burden of this handful of people on Swan's Island who have a real serious problem on their hands in this small family and it looks as though they will have them as long as they both live. I urge you to vote against the motion to accept the minority ought not to pass report.

Mr. DOW of Lincoln: Mr. President, in view of the fact that these

two people now reside in the Town of Waldoboro, I would like to ask a question of the Senator from Cumberland, Senator Weeks, or anyone else who might be able to answer it.

If this bill is paid to the town of Swan's Island who assumes the responsibility of these two paupers from that time on: does the town of Swan's Island continue to pay the town of Waldoboro for bills incurred or does the town of Waldoboro assume the responsibility?

The PRESIDENT: The Senator from Lincoln, Senator Dow, asks a question through the Chair of the Senator from Cumberland, Senator Weeks, and the Senator may answer if he chooses.

Mr. WEEKS of Cumberland: Mr. President, until these folks acquire a new settlement they will always be on Swan's Island and the town of settlement will always be Swan's Island.

Mr. STILPHEN of Knox: Mr. President and members of the Senate: This is the fourth claim bill that I have opposed. I wholeheartedly endorse the motion of the Senator from Piscataquis, Senator Parker. On two claim bills he has been on one side and I have been on the other and on two we have been together. On this, in my opinion, it is distinctly principle involved again. It looks to me as if, as long as the State underwrites this particular pauper deal down on Swan's Island that they will have to keep at it. I do not think it is right for the State of Maine to reimburse the town of Swan's Island for paupers which apparently without doubt are the sole responsibility of Swan's Island, otherwise somewhere along the line the selectmen or assessors would have determined that their settlement was elsewhere. I do not think it is very judicious on the part of Swan's Island, although I assume that the town of Waldoboro is happy to collect this money. I do not think it is good for any town, if they have continuing paupers, to keep them elsewhere rather than bring them home and take care of them in their own town.

I feel definitely that there are many other instances and many other towns throughout the State of Maine that probably have pau-

pers whom they are as unable to care for as the town of Swan's Island, and if we pass this particular measure I am sure that in the future sessions of the legislature there will be many towns come in here to do this same thing. I heartily endorse the motion of the Senator from Piscataquis, Senator Parker.

Mr. WEEKS of Cumberland: Mr. President and members of the Senate: in answer to the Senator from Knox, Senator Stilphen, I might say that of course at every legislative session there are a certain number of bills to accomplish the same result as this bill seeks to accomplish which are not considered favorably by the committee, although many of them have the same moral background. They are instrumentalities of government, and in performing your duties required of you under the constitution, if they are in bad shape it is up to us to lend some assistance to them, just like the last two legislatures have done.

Mr. WILLEY of Hancock: Mr. President, may I ask for the Committee report.

The PRESIDENT: The Secretary will read the committee reports.

The committee reports were read by the Secretary.

Mr. WILLEY of Hancock: Mr. President, in view of the fact that Swan's Island is in my territory, I am going to go along with the majority report and I oppose the motion of the Senator from Piscataquis, Senator Parker.

Mr. DOW of Lincoln: Mr. President, in view of the fact that these two people are now in my town, I would like to make the picture a little clearer to the Senate.

This involves a mother and a son. The son is probably thirty or thirty-two years of age, and because of certain facts, it appears that the expense of whatever the town is spending to maintain them is going to be quite heavy for some time, because he is a young man and he is physically incapacitated. Among other things, he has a wooden leg. Two years ago when I was in the secondhand business he came to my store and wanted to know if I had any secondhand wooden legs and I had none, so he said that it would cost \$300 for a new one. He had broken his leg and he needed

another one. Through the efforts of the Lions Club in Waldoboro and others, we saw that he did have a wooden leg.

The point that I am trying to bring out is that this is going to be something that will continue for some time, and the expense probably is a little heavier than the average case.

The PRESIDENT: The question is on the motion of the Senator from Piscataquis, Senator Parker, that the Senate accept the Minority ought not to pass report of the committee in non-concurrence.

A viva voce vote being doubted by the Chair,

A division of the Senate was had. Thirteen having voted in the affirmative and seven opposed, the motion to accept the Minority Report in non-concurrence prevailed.

On motion by Mr. Bates of Penobscot, the Senate voted to take from the table the 15th tabled item being House Reports from the Committee on Labor: Report A, ought to be adopted; Report B, ought not to be adopted; on Joint Resolution Memorializing Congress to Equalize Wage Rates Between Boston and Kittery - Portsmouth Naval Shipyards (H. P. 913) (L. D. 1287) tabled by that Senator on April 23 pending acceptance of either report; and that Senator yielded to the Senator from Sagadahoc, Senator Ross.

Mr. ROSS of Sagadahoc: Mr. President and members of the Senate: Although I had thought I might make a long talk on this bill I will not take up too much of your time.

As you see, this bill would equalize wages between Boston and Kittery with the overall thought of equalizing wages all over our country. This Senate usually votes against memorializing Congress. We elect our Senators and Representatives to Congress and we elect them because we feel they are competent and we trust their judgment. Now here we have a topic of vital interest to the future economy of our country. Washington has always set the policy that the local economy will set the wage rates when government installations are involved, and this would completely reverse this procedure and it

certainly would be a dangerous precedent. I am sure you know the history of similar legislation. A bill was introduced last year in Congress and passed both the House and Senate, but it was so important and did carry so much weight that eventually it received a presidential veto.

If we were just talking about Kittery, Maine, I think perhaps we should make this request, but, in the final analysis, we are not talking about just Kittery Maine, we are talking about a nationwide situation that I certainly think should be handled by our competent persons in Washington without any interference from us, and I move that the resolution be indefinitely postponed.

Mr. FARLEY of York: Mr. President and members of the Senate: This resolution means an awful lot to those who are employed in the Kittery Naval Yard coming from our section of the county, but I believe the Senate is ready for action on this bill.

I move that when the vote is taken that it be taken by a division.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Sagadahoc, Senator Ross, that L. D. 1287 and both reports be indefinitely postponed; and a division has been requested.

A division of the Senate was had.

Fourteen having voted in the affirmative and seven opposed, the motion to indefinitely postpone in non-concurrence prevailed.

On motion by Mr. Briggs of Aroostook, the Senate voted to take from the table the 1st tabled item being Joint Resolution Relative to Creation of "Favorable Business Climate" in Maine (H. P. 801) tabled by that Senator on March 6 pending adoption.

Mr. BRIGGS of Aroostook: Mr. President and members of the Senate: This is a joint resolution relative to our creation of a favorable business climate in Maine. It is also some other things which probably would be just as well unmentioned, but some of the things about it which I think should be mentioned are the items which it contains: It wishes to create an atmos-

phere in which the triumverate of government, management and labor live cooperatively and harmoniously in full recognition of their interdependence and mutual interest. The creation of such an atmosphere — especially 'atmosphere', which is the rarest of all elements and the most difficult, probably, to define, along with the rest of the wordy items in this sentence are almost enough to describe the way to weigh the contents of this resolution. I do not think that resolutions are a thing which are beneficial to this body or to the other. Anyway, I have heard it said that the pending arrival of a large industry was dependent upon the passage of this item, and now that it seems fairly certain that the industry has arrived I suppose we can say that it is no longer needed and that we wont have to ask our 99th Maine Legislature to examine all proposed legislation in terms of its effect upon this favorable business climate and that we wont have to advise that the resolution be distributed to the heads of the department of State government with the request that they examine their every discretionary act in terms in its effect on this favorable climate, etc., etc.

I should have moved at the outset and I do now, that this resolution be indefinitely postponed.

Mr. HILLMAN of Penobscot: Mr. President, I rise in opposition to the motion of my good friend, the Senator from Aroostook, Senator Briggs, as I was the one who presented the resolution to this body. It happened so long ago that there are cobwebs all over it and I do not remember what I did say at that time. Anyway, I am opposed to the motion.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Briggs, that the Joint Resolution be indefinitely postponed.

Mr. BRIGGS: Mr. President I ask for a division.

A division of the Senate was had.

Eleven having voted in the affirmative and ten opposed, the motion prevailed and the Joint Resolution was indefinitely postponed in non-concurrence.

On motion by Mr. Hillman of Penobscot

Adjourned until tomorrow morning at nine-thirty o'clock in the morning.