

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth  
Legislature*

OF THE

STATE OF MAINE

**Volume II**

May 9, 1969 to June 17, 1969

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**SENATE**

Tuesday, June 3, 1969

Senate called to order by the President.

Prayer by The Honorable Gerard P. Conley of Portland.

Reading of the Journal of yesterday.

**Papers From the House****Non-concurrent Matter**

Bill, "An Act Relating to Definition of Retail Sale Under Sales and Use Tax Law." (H. P. 102) (L. D. 110)

In the House March 5, 1969, the Minority Ought to Pass Report Read and Accepted and the Bill on March 6, 1969, Passed to be Engrossed.

In the Senate May 28, 1969, the Majority Ought Not to Pass Report Read and Accepted, in non - concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

On motion by Mr. Tanous of Penobscot, the Senate voted to Insist and Join in a Committee of Conference.

(See Action later in today's session.)

**Non-concurrent Matter**

Bill, "An Act Relating to Damage to Private Water Supplies Resulting from Alteration of Highways." (Emergency) (H. P. 445) (L. D. 569)

In the House May 20, 1969, Passed to be Engrossed as Amended by Committee Amendment "A" (H-336).

In the Senate May 28, 1969, Passed to be Engrossed as Amended by Committee Amendment "A" (H-336) and Senate Amendment "A" (S-200) in non - concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

On motion by Mr. Katz of Kennebec, the Senate voted to Insist and Join in a Committee of Conference.

**Non-concurrent Matter**

Bill, "An Act Closing the Military and Naval Children's Home and Disposing of the Property." (H. P. 757) (L. D. 977)

In the House May 23, 1969, the Bill Substituted for the Report and on May 26, 1969, the Bill subsequently Passed to be Engrossed.

In the Senate May 27, 1969, the Ought to Pass in New Draft Report Read and Accepted, in non - concurrence, and the Bill, in New Draft, on May 28, 1969, Passed to be Engrossed, in non - concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference, with the following conferees appointed on its part: BRAGDON of Perham, BENSON of Southwest Harbor, and MARTIN of Eagle Lake.

On motion by Mr. Stuart of Cumberland, the Senate voted to Insist and Join in a Committee of Conference.

**Non-concurrent Matter**

Resolve, Proposing an Amendment to the Constitution Pledging Credit of the State for Guaranteeing Portions of Certain Home Mortgages and Housing Development. (S. P. 390) (L. D. 1315)

In the Senate May 27, 1969, the Minority Ought to Pass Report Read and Accepted and the Bill on May 28, 1969, Passed to be Engrossed.

Comes from the House, the Majority Ought Not to Pass Report Read and Accepted, in non - concurrence.

Mr. Katz of Kennebec moved that the Senate Insist.

On motion by Mr. Reed of Sagadahoc, tabled and tomorrow assigned, pending the motion by Mr. Katz of Kennebec that the Senate Insist.

**Joint Order**

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the provisions of existing law concerning county estimates and finances and to determine the need for additional legislation, if any,

relating in general to county estimates and finances including but not limited to the following areas: Method and form of submission to the Legislature and Secretary of State; requirements for public hearing on budgets; accounting, reporting and audit procedures including the use of contingent accounts, reserve accounts and surplus funds; requirement that the county fiscal year be the same as that of the State; purposes of appropriation of county moneys and in addition, a determination should be made of the scope of the responsibility of the county delegation and the Joint Committee on Towns and Counties; and be it further

ORDERED, that the Committee report its findings, with such recommendations or implementing legislation as it deems necessary, at the next regular or special session of the Legislature. (H. P. 1233)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Katz of Kennebec, placed on the Special Legislative Research Table.

#### Joint Order

On motion by Mr. Logan of York,

ORDERED, the House concurring, that the Legislative Research Committee is directed to study the desirability of providing by legislative rule or alternative means a requirement that all bills and resolves be accompanied by a statement of fact provided either at the time of introduction or when reported out of Committee or at such time during the legislative process or in such manner as will lead to a suitable determination of legislative intent; and be it further

ORDERED, that the Committee report its findings and recommendations at the next regular or special session of the Legislature. (S. P. 439)

Which was Read.

On motion by Mr. Katz of Kennebec, tabled and tomorrow assigned, pending Passage.

#### Committee Reports House Refer to 105th Legislature

The Committee on Business Legislation on Bill, "An Act to Provide for Taxation and Regulation of the Associated Hospital Service of Maine." (H. P. 885) (L. D. 1144)

Reported that the same be Referred to the 105th Legislature.

Comes from the House, the report Read and Accepted.

Which report was Read.

(On motion by Mr. Logan of York, tabled until later in today's session, pending Acceptance of the Committee Report.)

The Committee on Business Legislation on Bill, "An Act Relating to Nonprofit Hospital or Medical Service Organizations." (H. P. 808) (L. D. 1047)

Reported that the same be Referred to the 105th Legislature.

Comes from the House, the Bill Substituted for the Report and the Bill subsequently Passed to be Engrossed.

Which report was Read.

(On motion by Mr. Katz of Kennebec, tabled and tomorrow assigned, pending Acceptance of the Committee Report.)

#### Ought Not to Pass

The Committee on Legal Affairs on Bill, "An Act Relating to Bids for Contractual Services Under the Auburn City Charter." (H. P. 963) (L. D. 1243)

Reported that the same Ought Not to Pass.

Comes from the House, the Bill Substituted for the Report and the Bill subsequently Passed to be Engrossed.

Which report was Read.

On motion by Mr. Tanous of Penobscot, the Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

#### Ought to Pass

The Committee on State Government on Resolve, Proposing the Acceptance of a Master Plan Prepared by the Capitol Planning Commission. (H. P. 578) (L. D. 763)

Reported that the same Ought to Pass.

Comes from the House, the report Read and Accepted and the Resolve Passed to be Engrossed as Amended by House Amendment "B" (H-428).

Which report was Read and Accepted in concurrence and the Resolve Read Once. House Amendment "B" was Read and Adopted in concurrence and the Resolve, as Amended, tomorrow assigned for Second Reading.

The Committee on State Government on Bill, "An Act to Establish Revised Boundaries for the Master Plan of the Capitol Complex Area at Augusta." (H. P. 577) (L. D. 758)

Reported that the same Ought to Pass.

Comes from the House, the report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-427).

Which report was Read and Accepted in concurrence and the Bill Read Once. House Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, tomorrow assigned for Second Reading.

**Ought to Pass  
- As Amended**

The Committee on Legal Affairs on Bill, "An Act to Amend the Charter of the City of Saco." (H. P. 695) (L. D. 895)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-407).

The Committee on Towns and Counties on Bill, "An Act to Authorize Lincoln County to Raise Money for Court House Capital Improvements." (H. P. 750) (L. D. 968).

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-412).

The Committee on Legal Affairs on Bill, "An Act Revising the Charter of the City of Biddeford." (H. P. 996) (L. D. 1298)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-411).

Come from the House, the reports Read and Accepted and the Bills Passed to be Engrossed as Amended by Committee Amendments "A".

Which reports were Read and Accepted in concurrence and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bills, as Amended, tomorrow assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Labor on Bill, "An Act Relating to Mediation Authority of State Employees Appeal Board." (H. P. 1035) (L. D. 1345).

Reported that the same Ought Not to Pass.

Signed:

Senator:

TANOUS of Penobscot

Representatives:

GOOD of Westfield

BEDARD of Saco

HASKELL of Houlton

HUBER of Rockland

DURGIN of Raymond

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Senators:

BELIVEAU of Oxford

PEABODY of Aroostook

Representatives:

CASEY of Baileyville

McTEAGUE of Brunswick

Comes from the Mouse, the Minority Ought to Pass Report Read and Accepted and the Bill Passed to be Engrossed.

Which reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I would like to mention a few words on L. D. 1345. This came out of the Labor Committee on May 1, Ought to Pass unanimously. Subsequently it was recommended to the Committee for further study as we received a letter, at the time, from a former Attorney General for the State of Maine, Frank Hancock. In his opinion, the original charter which

granted the authority to the Maine Turnpike read to the effect that this should be under the control and the authority of the Turnpike. He felt that legislation of this nature would interfere with the intent of the past legislature when they were authorized to incorporate the Maine Turnpike Authority. So, in view of that opinion, the Labor Committee, I guess, divided and submitted the report which you have before you.

This bill calls for the employees of the Maine Turnpike Authority to have the benefits of the State of Maine Employees Appeal Board. After we reported this out of committee we received a subsequent opinion from the Attorney General of the State of Maine who disagrees with the opinion of Frank Hancock. So, you can see, we are in a quandary as to the legality of such an instrument, and we are baffled. Under the circumstances, where we do have a differentiation of opinion by two great legal minds, I am going to move that we accept the Ought Not to Pass Report of the Committee.

The PRESIDENT: The Senator from Penobscot, Senator Tanous, moves that the Senate accept the Majority Ought Not to Pass Report of the Committee. Is this the pleasure of the Senate?

The motion prevailed and the Majority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

#### Divided Report

Five members of the Committee on Legal Affairs on Bill, "An Act Authorizing Municipalities to Voluntarily Consolidate." (H. P. 1068) (L. D. 1397)

Reported in Report "A" that the same Ought to Pass as Amended by Committee Amendment "A" (H-410).

Signed:  
Senators:

CONLEY of Cumberland  
KELLAM of Cumberland  
TANOUS of Penobscot

Representatives:

NORRIS of Brewer  
BAKER of Orrington

Five members of the same Committee on the same subject matter reported in Report "B" that the same Ought Not to Pass.

Signed:

Representatives:

COX of Bangor  
COTE of Lewiston  
CUSHING of Bucksport  
WHEELER of Portland  
SHAW of Chelsea

Comes from the House, Report "A" Ought to Pass as Amended Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-410).

Which reports were Read.

On motion by Mr. Tanous of Penobscot, the Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A", Filing No. H-410, was Read and Adopted in concurrence and the Bill, as Amended tomorrow assigned for Second Reading.

#### Conference Committee Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill, "An Act to Provide for Forfeiture of Vehicles Used to Transport Narcotics." (H. P. 734) (L. D. 952)

Ask leave to report: that they are unable to agree.

On the part of the House:

MacPHAIL of  
Owls Head  
HUBER of Rockland  
HARDY of Hope

On the part of the Senate:

TANOUS of Penobscot  
MINKOWSKY of  
Androscoggin  
VIOLETTE of Arrostook

Comes from the House, the report Read and Rejected, and the House having Further Insisted and Asked for a Second Committee of Conference.

Which report was Read.

On motion by Mr. Tanous of Penobscot, tabled until later in today's session, pending Acceptance of the Committee Report.

### Conference Committee Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature on

Resolve, in Favor of Town of Harrington for Medical Care of an Indigent. (H. P. 543) (L. D. 722)

Ask leave to report: that the Senate recede and concur in accepting the Majority "Ought to Pass" Report of the Committee on Claims and Pass the Resolve to be Engrossed in concurrence.

On the part of the House:

LINCOLN of Bethel  
CURTIS of Bowdoinham  
QUIMBY of Cambridge

On the part of the Senate:

PEABODY of Aroostook  
BOISVERT

of Androscoggin

Comes from the House, the report Read and Accepted.

Which report was Read.

On motion by Mr. Quinn of Penobscot, tabled and tomorrow assigned, pending Acceptance of the Committee Report.

### Senate Leave to Withdraw - Covered by Other Legislation

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Increasing Salary of Clerk of Courts and Deputy Clerk of Courts of Penobscot County." (S. P. 48) (L. D. 151)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which report was Read and Accepted.

Sent down for concurrence.

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Increasing Salaries of County Officials of Hancock County." (S. P. 74) (L. D. 195)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which report was Read.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: There are eleven items

here, starting with the last one, 6-18, running through 6-23, all leave to withdraw, in regard to county salary bills, as covered by other legislation. The other legislation that we mentioned the other day is of great importance and all Senators, I am sure, will find that it is, if we adjourn without taking action which we intend to take, or which we individually intend to take in our various counties. The vehicles which give rise to this leave to withdraw report throughout these bills are two in number and they are very important to each of us. The first one is Legislative Document 1563, and that is the Majority of the Committee on Towns Counties Report, seven of the committee reporting on 1563, and three of the committee reporting that 1564 ought to pass. Both of these measures, I believe, are down in the other branch at the present time. Everybody should study those and see how they affect their own county.

I can speak generally about them. The majority of the committee on Towns and Counties — I was not a member of the majority in this report — its report has many variances between the suggested recommended salaries in this legislative document and those approved by the various county delegations. The other legislative document, which is a Minority Report, 1564, intended to conform to the votes of the various county delegations in regard to the salaries in those counties, and also to conform to the budgeted items which were made up in large part by the salary changes. I don't know what is going to happen down below, but this vehicle will be before us before very long, and we will have a choice to make.

There is another way of approaching this, of course, and I have heard it suggested, that there might be individual amendments proposed for the majority report. I think that it would take a great deal more work to amend that to the satisfaction of every delegation in the body than it would to amend the minority report because the minority report is intended to conform to what the delegations have already selected

as the salaries for the next two years in the various counties.

I was asked earlier in the session, before we came into session, about one of these bills pertaining to one of these counties, and whether or not it should go on the table, and I make this explanation for that reason, that there is an adequate bill coming along which has the counties in mind, every county and every county salary that we have anything to say about, in these two reports that I have mentioned.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Leave to Withdraw Report of the Committee on Item 6-14?

Thereupon, the report was Accepted.

Sent down for Concurrence.

(See action later in today's session.)

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Relating to Deputy Clerk of Courts of Hancock County." (S. P. 73) (L. D. 196)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Increasing Salary of Sheriff of Oxford County." (S. P. 153) (L. D. 436)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which reports were Read and Accepted.

Sent down for Concurrence.

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Increasing Salaries of County Officials of Cumberland County." (S. P. 181) (L. D. 583)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which report was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY of Cumberland: Mr. President, I would just like to pose a question through the Chair to a member of the Towns and Counties Committee, in

reference to this item and perhaps other items dealing with salary increases of various county officials of Cumberland County. It has been my understanding that we have had public hearings in Portland, the County Commissioners have, and also that the Cumberland County Delegation met with approval of the so-called salary increases. It is my understanding now, though I haven't seen the new bill that has been reported out of the Towns and Counties Committee — I wonder just what has taken place, have they killed all these salary increases, or have they just deleted them in some way?

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: The majority of the Committee, in its wisdom, has made considerable adjustments to Cumberland County. I think Cumberland County sort of stood out as being large in its requests for increases, and the Committee, the majority — I am speaking not about myself but about my brethren on the majority side that don't agree with me — they felt rather conservative about Cumberland County, that Cumberland County ought to be revised down a little bit because they were somewhat out of line with the rest of the State. I know the good Senator from Cumberland, Senator Berry, will appreciate this, we wanted Cumberland County to be on the same plain with the rest of the State, the majority did. Those of us in the minority felt that the delegation ought to have the last word.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Thereupon, on motion by Mr. Conley of Cumberland, tabled and tomorrow assigned, pending Acceptance of the Committee Report.

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Increasing Salaries of Judge of Probate and Register of Probate



of Penobscot County." (S. P. 180) (L. D. 584)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which report was Read.

On motion by Mr. Quinn of Penobscot, tabled and tomorrow assigned, pending Acceptance of the Committee Report.

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Increasing Salaries of County Officials of Oxford County." (S. P. 230) (L. D. 670)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which report was Read.

On motion by Mr. Beliveau of Oxford, tabled and tomorrow assigned, pending Acceptance of the Committee Report.

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Increasing Salary of Messenger of Cumberland County Superior Court." (S. P. 225) (L. D. 794)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Increasing Salary of Judge of Probate of Washington County." (S. P. 251) (L. D. 795)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Increasing Salaries of County Officials of Waldo County." (S. P. 354) (L. D. 1220)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Mr. Peabody for the Committee on Towns and Counties on Bill, "An Act Relating to Salaries of Certain County Officials of Franklin County." (S. P. 394) (L. D. 1318)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which reports were Read and Accepted.

Sent down for concurrence.

On motion by Mr. Anderson of Hancock, the Senate voted to

reconsider its action whereby on Bill, "An Act Increasing Salaries of County Officials of Hancock County" (S. P. 74) (L. D. 195) it accepted the Leave to Withdraw as Covered by Other Legislation Report of the Committee.

On further motion by the same Senator, tabled and tomorrow assigned, pending Acceptance of the Committee Report.

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

Mr. KATZ: Mr. President and Members of the Senate: I would like to advise the members of the Senate that it is certainly our intention to recess at 11:30 and I understand that both parties will hold caucuses at the time. I don't want to presume to announce this, but it is my understanding and it is our intention to reconvene at 2:30 this afternoon for those who wish to make plans.

#### Ought to Pass - As Amended

Mr. Cianchette for the Committee on Highways on Bill, "An Act Relating to Town's Matching Funds for Reconstructing State Aid Highways." (S. P. 128) (L. D. 390)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-209).

Which report was Read.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE of Somerset: Mr. President and Members of the Senate: Signing the Ought to Pass Report, I think that the thought within committee was that this bill should receive favorable action within the bodies, but based somewhat on the two cent gas tax increase. At the time we reported this out of committee we felt that the tax looked quite favorable. Of course, there has been actions since that time that make us wonder what might happen. I do hope at this time the Ought to Pass Report will be accepted, however, I think that it may be that we have to reconsider our action along this line in the event that the gas tax does not receive favorable passage.

The PRESIDENT: Is it now the pleasure of the Senate to Accept the Ought to Pass Report of the Committee?

The motion prevailed and the Bill was Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, tomorrow assigned for Second Reading.

Mr. Katz for the Committee on Education on Bill, "An Act Relating to School Construction Aid." (S. P. 124) (L. D. 386)

Reported that the same Ought to Pass as Amended by Committee Amendment "A", (S-208).

Which report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, tomorrow assigned for Second Reading.

#### Final Report

The Committee on Retirements and Pensions submitted its Final Report.

Which report was Read and Accepted.

Sent down for concurrence.

#### Second Readers

The Committee on Bills in the second Reading reported the following:

##### House

Resolve, in Favor of Matinecus Isle Plantation. (H. P. 1213) (L. D. 1545)

Which was Read a Second Time and Passed to be Engrossed in concurrence.

Bill, "An Act Relating to Excise Tax on Motor Vehicles". (H. P. 841) (L. D. 1079)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President and Members of the Senate: This would increase the excise tax on all motor vehicles, and I personally feel that we are hitting the automobiles and motor vehicles plenty in repealing the exemption on sales tax, increasing

the gas tax, and so on. I move indefinite postponement of this bill.

The PRESIDENT: The Senator from Piscataquis, Senator Martin, moves that Item 7-2, Bill, "An Act Relating to Excise Tax on Motor Vehicles" (H. P. 841) (L. D. 1079), be indefinitely postponed.

The Chair recognizes the Senator from Washington, Senator Wyman.

Thereupon, on motion by Mr. Wyman of Washington, tabled and tomorrow assigned, pending the motion by Mr. Martin of Piscataquis to Indefinitely Postpone the Bill.

#### House- As Amended

Bill, "An Act Amended the Sanford Sewerage District." (H. P. 706) (L. D. 920)

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

Bill, "An Act to Permit the Payment of School Construction Aid Upon the Completion of a Project." (H. P. 376) (L. D. 485)

Bill, "An Act to Authorize Bond Issues in the Amount of \$50,000,000 to Provide Funds for School Building Construction Under the Revised Statutes, Title 20, Sections 3457, 3458 and 3459." (H. P. 158) (L. D. 197)

Bill, "An Act Relating to the Taxation of Farm Machinery." (H. P. 1216) (L. D. 1548)

(On motion by Mr. Barnes of Aroostook, temporarily set aside.)

Bill, "An Act Relating to Mandatory Discharge of Chattel Mortgages and Notes." (H. P. 929) (L. D. 1190)

(On motion by Mr. Mills of Franklin, temporarily set aside.)

Bill, "An Act Relating to Governmental Immunity in Civil Actions." (H. P. 557) (L. D. 738)

(On motion by Mr. Beliveau of Oxford, tabled until later in today's session, pending Passage to be Engrossed.)

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

(On motion by Mr. Berry of Cumberland, temporarily set aside.)

Which were Read a Second Time and, except for the tabled matters, Passed to be Engrossed, as Amended, in concurrence.

The President laid before the Senate the matter previously set aside as requested by Mr. Barnes of Aroostook: Bill, "An Act Relating to the Taxation of Farm Machinery" (H. P. 1216) (L. D. 1548).

On motion by the same Senator, the Senate voted to reconsider its action whereby it Adopted House Amendment "A".

On further motion by the same Senator, House Amendment "A" was Indefinitely Postponed.

Thereupon, the Bill was Passed to be Engrossed in non - concurrence.

Sent down for concurrence.

The President laid before the Senate the matter previously set aside as requested by Mr. Mills of Franklin: Bill, "An Act Relating to Mandatory Discharge of Chattel Mortgages and Notes" (H. P. 929) (L. D. 1190).

On motion by the same Senator, the Senate voted to reconsider its action whereby it Adopted Committee Amendment "A".

Mr. Mills of Franklin then presented Senate Amendment "A" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-213 to Committee Amendment "A" was Read and Adopted.

Thereupon, on motion by Mr. Katz of Kennebec, tabled until later in today's session, pending the Adoption of Committee Amendment "A" as Amended by Senate Amendment "A" thereto.

The President laid before the Senate the matter previously set aside as requested by Mr. Berry of Cumberland: Resolve, Proposing an Amendment to the Constitution Providing for Convening of the Legislature at Such Times as the Legislature Deems Necessary. (H. P. 21) (L. D. 24)

On motion by the same Senator, the Bill was Passed to be

Engrossed, as Amended, in concurrence.

Bill, "An Act Concerning the Adoption of State Wards." (Emergency) (H. P. 760) (L. D. 980)

Which was Read a Second Time and Passed to be Engrossed, as Amended, in non - concurrence.

Sent down for concurrence.

#### Senate

Bill, "An Act Relating to Qualifications of Savings Bank Trustees and Other Officers." (S. P. 406) (L. D. 1370)

(On motion by Mr. Katz of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.)

Bill, "An Act Altering Formula for Retirement Under State Retirement System." (S. P. 480) (L. D. 1558)

Which was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

#### Enactors

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

An Act Relating to Licensing of Ambulance Service, Vehicles and Personnel. (S. P. 263) (L. D. 867)

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

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

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

An Act Increasing State Aid for Construction of Highways. (H. P. 32) (L. D. 33)

(On motion by Mr. Greeley of Waldo, placed on the Special Highway Appropriations Table.)

An Act Increasing Mileage Allowance for State Employees on State Business. (H. P. 308) (L. D. 395)

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

An Act Revising the Maine Mining Law. (H. P. 339) (L. D. 448)

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

An Act Redefining the Bounds of Merrymeeting Bay Game Sanctuary. (H. P. 815) (L. D. 1054)

An Act Authorizing the Legislative Bodies of Municipalities to Reapportion Council Districts. (H. P. 838) (L. D. 1076)

An Act Amending the Waterville City Charter. (H. P. 958) (L. D. 1239)

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

(On motion by Mr. Tanous of Penobscot, temporarily set aside.)

An Act to Allow Corporations to Enter Into Partnership or Joint Venture Arrangements with Other Corporations. (H. P. 1191) (L. D. 1512)

An Act Increasing Compensation of Councillors of Town of Mechanic Falls. (H. P. 1209) (L. D. 1538)

An Act relating to Retail Sale of Wine. (H. P. 1181) (L. D. 1502)

Which, except for the tabled matters, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

The President laid before the Senate the matter previously set aside as requested by Mr. Tanous of Penobscot: An Act Revising the Minimum Wage Law. (H. P. 1166) (L. D. 1487).

The PRESIDENT: The Chair recognizes the same Senator.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: As Chairman of the Labor Committee, I am most pleased to see that this bill has finally met the approval of both bodies. I think that the State of Maine can stand with great pride in making some advancements in the field of labor, especially in the area of minimum wage. I feel that we are quite far behind other States here, and I think we are coming on our own now and our people can commence to earn a living wage. With this in mind, I move the pending question.

Thereupon, the Bill was Passed to be Enacted and, having been

signed by the President, was by the Secretary presented to the Governor for his approval.

Resolve, Authorizing the Estate of David L. Hilton, Formerly of Wells, Maine, to Sue the State of Maine. (S. P. 209) (L. D. 618)

(On motion by Mr. Beliveau of Oxford, tabled until later in today's session, pending Final Passage.)

Resolve, To Reimburse Warren F. Chapman of Skowhegan for Well Damage by Highway Maintenance. (H. P. 406) (L. D. 517)

Resolve, to Reimburse Elwood A. Jepson of Norridgewock for Well Damage by Highway Maintenance. (H. P. 623) (L. D. 811)

Resolve, to Reimburse Elmer L. Rogers of Berwick for Well Damage by Highway Construction. (H. P. 719) (L. D. 937)

Resolve, to Reimburse Doris Nankervis of Franklin for Well Damage by Highway Maintenance. (H. P. 854) (L. D. 1096)

(On motion by Mr. Greeley of Waldo, the above four Resolves were placed on the Special Highway Appropriations Table.)

#### Orders of the Day

The President laid before the Senate the first tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on Claims on Resolve, Reimbursing Town of Orono for Support of Nonsettled Cases. (H. P. 762) (L. D. 982) Majority Report, Ought to Pass; Minority Report, Ought Not to Pass.

Tabled — May 28, 1969 by Senator Conley of Cumberland.

Pending — Acceptance of Either Report.

Thereupon, the Majority Ought to Pass Report of the Committee was Accepted in concurrence, the Resolve Read Once and tomorrow assigned for Second Reading.

The President laid before the Senate the second tabled and specially assigned matter:

SENATE REPORT — Leave to Withdraw as Covered by Other Legislation from the Committee on State Government on Bill, "An Act Creating a Human Rights Act for Maine." (S. P. 367) (L. D. 1280)

Tabled — May 28, 1969 by Senator Wyman of Washington.

Pending — Acceptance of Report.

Mr. Wyman of Washington then moved the pending question.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: In acquiescing, I want to make it clear that I have always understood this Leave to Withdraw to be something which the sponsor of the bill asked to have done. That is, if a sponsor wanted to get out from under a bill that he had introduced, he would indicate it to the committee and then the committee, out of courtesy to him, would grant him leave to withdraw. I want to make it awfully clear that I didn't ask to have this report come out of the committee "Leave to Withdraw."

I realize at this point I haven't any chance of defeating this motion, however, I think the right thing to do would be to dispose of this bill along with the other legislation, which we can only guess at, at one and the same time.

I would like to have the good Senator from Washington, Senator Wyman, know that just prior to his writing this Leave to Withdraw Report there were some seven hundred people gathered on Sunday afternoon and the Sunday afternoon preceding for the precise purpose of supporting this piece of legislation. This piece of legislation was introduced for the sponsors of that same human rights rally, and I am sorry to see it going down like this on Leave to Withdraw, but as long as I can make the record straight that I didn't ask to have it withdrawn, and that I will perhaps have a chance to support similar legislation later in the session, I will acquiesce in it.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: First, my apologies to the good Senator from Franklin. This probably should have come out Ought Not to Pass, and I am perfectly willing to have it

returned to committee and have that report put on it or have the report amended.

There are three reports from the committee that are in the process of coming before the legislature, A, B and C. I would hope that one of these would meet with the approval of the good Senator from Franklin.

Once more my apologies, and I would be very happy to make any changes in the report.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Leave to Withdraw Report of the Committee?

Thereupon, the Leave to Withdraw Report of the Committee was Accepted.

Sent down for concurrence.

The President laid before the Senate the third tabled and specially assigned matter:

Bill, "An Act to Revise the Pharmacy Laws." (H. P. 1175) (L. D. 1496)

Tabled — May 28, 1969 by Senator Stuart of Cumberland.

Pending — Passage to be Engrossed.

Mr. Stuart of Cumberland then presented Senate Amendment "A" and moved its adoption.

Senate Amendment "A", Filing No. S-197, was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Stuart.

Mr. STUART of Cumberland: Mr. President and Members of the Senate: I would like to take a minute to explain this amendment. This amendment was originally L. D. 870, which had a hearing before the Committee on Health and Institutional Services. This is the belladonna amendment prohibiting the sale of certain drugs in grocery stores and supermarkets, drugs that contain belladonna.

At the hearing Dr. Fisher spoke in favor of the bill, and Lt. Nickerson of the State Police, who is in charge of the Narcotics Division, spoke in favor of it. But we reported the bill out of committee "Leave to Withdraw as Covered by Other Legislation." We discovered that this same belladonna provision was in the revision of the pharmacy laws. Then we

redrafted the pharmacy law and left out the belladonna part, and I take some blame for this. Perhaps I was influenced by the mail. I received some mail from the supermarkets and they were opposed to this. But I thought about it and considered it more, and so I feel better introducing this amendment, because I think that, if we are concerned about the problem of drug abuse, this is a good amendment. This would be in the public interest.

We are talking about drugs that contain belladonna such as Contac, Compos, Sleepeze, Sominex, Quiet World. These drugs are so available in these stores that the kids are getting them, separating out the granules and using them for their hallucinogenic properties. So, the object of this legislation is to make these drugs less available. Now, I know you will say that if they want them they will get them somewhere. That is true, but they are now so available, they are in the stores, in the college book stores, and I became very convinced at the hearing, and in talking with people since, that this is a problem. I do not believe the stores need this business, and I consider this a public health measure.

These stores will accuse us of playing God up here and that probably as the next thing we will want to take aspirin and other things out of the supermarkets, but this legislation pertains only to a few drugs which contain belladonna.

They are dangerous drugs. I know those opposed to the legislation will say well, if they are that dangerous they should require a prescription. Contac is one of the things we are talking about - I know some of you probably have used this product; I never have myself - but it is dangerous, and taking five tablets for some people could approach the lethal dose. It is contraindicated. All of these belladonna drugs are c o n t r a - indicated for people with diabetes, thyroid disease, high blood pressure, and particularly glaucoma. I just feel better about people having to go to the pharmacist to get these. I know the opponents will

say this makes more business for the pharmacist, but again I say, the pharmacist has better training and he has the training to detect some of these diseases. I am sure in the supermarket at the check-out counter nobody is looking the individual over to see whether he might be a potential thyroid case or one afflicted with high blood pressure, not that high blood pressure is that easy to detect by casual observance. But, as I say, these granules are separated out, and they do get high and commit violent and immoral acts. There are many documented reports on this subject.

I think the contra - indications are written on all of these drugs, but how many people take the time to read the fine print? If you would like to do something, although it is a small step, against the drug abuse problem, I would hope that you would support this amendment.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: I am deeply interested in this subject, and I would like to address perhaps a couple of questions to my scientific friend, the good Senator from Cumberland, Senator Stuart.

I would like to know how the public would be more protected than they are now if these Contac, Compos and Sleepeze drugs can be obtained now at Howard Johnson, for instance, if you are sleepy and you are traveling, and other places like that, how the public is going to enjoy any greater protection if the girl in the drug store is selling it than they would if the girl at the check - out counter, say at Howard Johnson's or any other store, how is the public going to get any more protection, except that there will be fewer outlets and the business will be channeled into the drug stores exclusively as many other items over the years have been which had very little to do with public health. I have reference to 1939, I think, to perhaps the most commonly known birth control device having been legislated out of every other outlet

except the drug stores for some unknown health reason, where they have enjoyed a monopoly on a product on which there has been a great mark-up over the years.

Also, I would like to ask the learned doctor whether a statement which has been made to me by a pharmacist has any merit. Ninety per cent of the work of the pharmacist is really, when you get right down to it, understanding the hieroglyphics of the doctor who has written the prescription, learning his handwriting and, secondly, moving the pills from a large bottle into a smaller bottle.

I want to say that I am going to ask before we are through with this discussion this morning for a little more time, because it has come to my attention that a very important amendment can be attached to this bill, very appropriately, which will have tremendous effect on the price of drugs in this State, and this was suggested to me in a letter by a druggist. That is that the inability of a druggist to practice his profession is very marked by a restriction upon him that prevents him from putting into a prescription the generic drug when a doctor has prescribed by a brand name the exact same chemical, please understand, in the drug. I am told that the pharmacists of this State could save the people of this State who are buying these drugs ten times - there is a mark-up very often of ten times the cost of that drug - if it were given by the exact same thing only in the generic name. I can't think of an area where we can legislate more intelligently than to correct the pharmacy laws to give that pharmacist a chance to practice his profession, to practice his five years of learning so that he can do something besides count pills from big bottles into little bottles, and to apply his intelligence in this manner to save the people of the State a good deal of money.

I have had a lot of correspondence, I have had petitions and a good many communications, orally and otherwise, and I had several conferences with pharmacists and others, and I feel that

before we get through here with this session we can enact some legislation which will be of great benefit to the druggists and pharmacists by freeing them to practice as they should be able to, rather than make just automatons and robots out of them behind their white collars and behind the glass.

I think that this is restrictive in nature; I don't see how it is particularly going to benefit the public, except it is going to channel more business into the drug stores. If the good doctor can tell us how this is going to do anything but restrict the sale of these things, I would be interested in hearing it.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Stuart.

Mr. STUART of Cumberland: Mr. President and Members of the Senate: In answer to the good Senator from Franklin, Senator Mills, it is chiefly that there will be, as you said, fewer outlets, and I think that this is a good thing. It is not my understanding that this will make these a prescription drug; it is just that they will be sold only in pharmacies.

I certainly think that a pharmacist is in a better position to make a judgment if some young people are coming in there regularly, buying one of these belladonna drugs, and he suspects that they are separating out the granules and getting high on these things, I think he would certainly be less apt to sell them to these individuals. I can't imagine that there would be any concern in a grocery store and a supermarket.

We know this is a problem. At the hearing it was brought out that the company that makes Contac is trying to change the color of the granules so they can't separate them out. So, this is a problem, and I leave it to you to decide whether you think this would help in the drug abuse problem. If you do not want to restrict the outlets, then you will oppose the amendment, but I feel it is a good thing. We talk too much about the drug problem, and this is a little small thing we could do and we know that we are on something.

We know that this is a problem from the testimony at the hearing.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Kellam.

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: I have been reading through this bill, primarily the last couple of weeks when it has been retabled, to try to ascertain the gist of it. Of course, I think we are all aware of the publicity given to the use of some of the pills, as Dr. Stuart has said, for a poor purpose. As I understand, he has said now that the amendment he proposes is, in fact, a previous bill which was killed off. In trying to correlate the various pages of the bill with the amendment, it almost appears to me that the meritorious part of the whole subject is the amendment, and it seems rather odd that the committee would forget all about that when they re-drafted the other part of the bill.

Now, I would like to point out - and I know there are very few that didn't read this in its entirety - that it appears to me this bill would prohibit the sale of almost anything at all that could be called a drug by anybody but a pharmacist. You will note that in Item 22 on Page 5 of the bill it describes the practice of pharmacy as being anyone who offers for sale or sells at retail drugs, medicine, and so forth. Then they define drugs on the previous page as being any medicinal substance or preparation recognized by the United States Pharmacopoeia. Then I notice one other item here, that nobody can engage in the practice of pharmacy other than a registered pharmacist. Then there are various criteria relative to pharmacists.

So, I would like to have the doctor tell me why this bill wouldn't prohibit anybody at all from selling aspirin? Certainly they must be listed in the medicinal journals and defined as a drug. While I would like very much to limit in any way we can the use of harmful drugs by youngsters, I don't think we should have to enter into any legislation which prohibits the sale, at usually

greatly reduced prices, the various common drugs that we do find in the discount houses. I just have a very strong suspicion that the great bulk of this bill is concerned with the protection of the pharmacists. Although I don't have anything against the pharmacists selling drugs for whatever price they want to, I know that you can buy aspirin and very common things, vitamins and so forth, at a very much reduced price in many of the discount stores, so - called. I would like to have that explained to me, and certainly my reaction now would be to be opposed to the bill in all respects except for the amendment.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Stuart.

Mr. STUART of Cumberland: Mr. President and Members of the Senate: In reply to the good Senator from Cumberland, Senator Kellam, I can only say that not being an attorney I probably haven't studied the bill in as great a detail as he has. I have to take someone's word for the drawing up of this bill.

Incidentally, if you are wondering about the document itself, the revision of the pharmacy laws, it is a good bill and it is needed by pharmacy. There have been rumors circulating in the other house and here—I don't know where they came from—that this bill was going to be killed. I don't know whether they didn't want it or what, but it is needed, and it is a good bill. It was drawn up by the President of the Maine Bar Association, Sumner Bernstein, and he went over it.

Now, it is certainly not the intent to prohibit the sale of any drug in these stores other than the belladonna drugs. If there is any question about the language, I would be glad to go over it with Senator Kellam to make sure that you can still buy aspirin in a supermarket. We are only talking about belladonna drugs.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY of Androscoggin: Mr. President, I



move the indefinite postponement of this amendment and ask for a division.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, moves that Senate Amendment "A" be indefinitely postponed. Is the Senate ready for the question? Those in favor of the motion that Senate Amendment "A" be indefinitely postponed will say "Yes"; those opposed will say "No."

The Chair will order a division. As many Senators as are in favor of the indefinite postponement of Senate Amendment "A" will rise and remain standing until counted. All those opposed will rise and remain standing until counted.

A division was had. Seventeen Senators having voted in the affirmative, and twelve Senators having voted in the negative, the motion prevailed.

Thereupon, on motion by Mr. Kellam of Cumberland, retabled and specially assigned for June 5, 1969, pending Passage to be Engrossed.

The President laid before the Senate the fourth tabled and specially assigned matter:

Bill, "An Act Relating to Expenditures under Aeronautical Fund." (H. P. 72) (L. D. 72)

Tabled — May 28, 1969 by Senator Katz of Kennebec.

Pending — Enactment.

Thereupon, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the fifth tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on Health and Institutional Services on Bill, "An Act Relating to Welfare Assistance." (H. P. 687) (L. D. 918) Majority Report, Ought to Pass; Minority Report, Ought Not to Pass.

Tabled — May 28, 1969 by Senator Katz of Kennebec.

Pending — Motion by Senator Greeley of Waldo to Accept the Minority Ought Not to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I tabled this the other day because I understood that although we didn't have funds for Medicaid, which this bill requested, that there were sections of this bill which we might be able to fund, and changes in the law that we might be willing to consider. Consequently, I would ask today that we do not accept the Minority Ought Not to Pass Report, but that we accept the Majority Ought to Pass Report and give us a chance to take a look at the amendments which a good many people have been working on for quite a bit of time. If indeed the amendments don't turn out to be palatable to us, at that time we can kill the bill. But, under the circumstances, I hope the motion to accept the Minority Ought Not to Pass Report is defeated.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Moore.

Thereupon, on motion by Mr. Moore of Cumberland, a division was had. Ten Senators having voted in the affirmative, and nineteen Senators having voted in the negative, the motion did not prevail.

Thereupon, the Majority Ought to Pass Report of the Committee was Accepted in concurrence. The Bill Read Once and tomorrow assigned for Second Reading.

The President laid before the Senate the sixth tabled and specially assigned matter:

JOINT ORDER — Relative to Legislative Research Committee Study of L. D. 1047 — Bill, "An Act Relating to Non - profit Hospital or Medical Service Organizations." (H. P. 1225)

Tabled — May 29, 1969 by Senator Katz of Kennebec.

Pending — Passage.

On motion by Mr. Logan of York, retabled until later in today's session, pending Passage.

The President laid before the Senate the seventh tabled and specially assigned matter:

**JOINT ORDER** — Relative to Legislative Research Committee study of L. D. 1144 — Bill, "An Act to Provide for Taxation and Regulation of the Associated Hospital Service of Maine." (H. P. 1226).

Tabled — May 29, 1969 by Senator Katz of Kennebec.

Pending — Passage.

On motion by Mr. Logan of York, retabled until later in today's session, pending Passage.

The President laid before the Senate the eighth tabled and specially assigned matter:

**JOINT ORDER** — Relative to Maine Educational Council Study of H. P. 952, L. D. 1228 and that a written report be Submitted to next regular session of the Legislature. (S. P. 483)

Tabled — May 29, 1969 by Senator Hoffses of Knox.

Pending — Passage.

On motion by Mr. Katz of Kennebec, placed on the Special Legislative Research Table.

The President laid before the Senate the ninth tabled and specially assigned matter:

**HOUSE REPORT** — Ought to Pass in New Draft Under Same Title (H. P. 1214) (L. D. 1546) from the Committee on Legal Affairs on Bill, "An Act Providing for Regulating Water Well Construction and Pump Installation." (H. P. 999) (L. D. 1301)

Tabled — May 29, 1969 by Senator Katz of Kennebec.

Pending — Acceptance of Report.

On motion by Mr. Tanous of Penobscot, retabled until later in today's session, pending Acceptance of Report.

The President laid before the Senate the tenth tabled and specially assigned matter:

Bill, "An Act Increasing Certain Fish and Game Fines." (H. P. 1204) (L. D. 1531)

Tabled — May 29, 1969 by Senator Conley of Cumberland.

Pending — Adoption of House Amendment "D", Filing H-395.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I would like to call the attention of the Members of the Senate to House Amendment "D" to L. D. 1531, particularly the third line from the bottom of the amendment. It says there "and jail sentence shall not be suspended, and an additional penalty of not more than sixty days in jail at the discretion of the court." It is just another example of how we are taking the discretion away from the courts relative to matters such as these.

I am not fully aware of what the fines are relating to all the fish and game laws, but I have been aware of the fact that they are pretty severe. It seems to me the court should be left with the discretion of imposing whatever fine, according to the statute here, that they feel is justified. So, I would like to have an opportunity to amend this and delete from the amendment the "shall not be suspended." I am not opposed to the increase in the fines, but I certainly am opposed to this type of language in the amendment. I would like the opportunity of either having it deleted or having the amendment indefinitely postponed. Perhaps some other member of the Senate will take some action on it.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: I would move to table this, except I have just been looking at it and I don't know what the House Amendment does. This is an atrocious piece of legislation. When you talk about common criminals that hold people up with guns, and you talk about mandatory fines and that sort of thing, that is one thing, but when you are talking about the fellow that catches too many fish and violates the fish and game laws, and then say that you have got to put him

in jail, that is just taking things too far.

I think we all ought to look this bill over very carefully before we give it any more life. I hope that amendment really does something to it because the bill in the raw is pretty rough. I hope somebody else will table it.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Hoffses.

Thereupon, on motion by Mr. Hoffses of Knox, retabled and tomorrow assigned, pending Adoption of House Amendment "D".

(Off Record Remarks)

On motion by Mr. Hoffses of Knox, recessed until 2:30 this afternoon.

After Recess

Called to order by the President.

The President laid before the Senate the eleventh tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on State Government on Resolve, Proposing an Amendment to the Constitution to Abolish the Council and Make Changes in the Matter of Gubernatorial Appointments and Their Confirmation. (H. P. 447) (L. D. 571) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass.

Tabled — May 29, 1969 by Senator Beliveau of Oxford.

Pending — Motion by Senator Wyman of Washington to Accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Beliveau.

Mr. BELIVEAU of Oxford: I request a roll call.

The PRESIDENT: A roll call has been requested. Is the Senate ready for the question? In order for the Chair to order a roll call, under the Constitution, it requires the affirmative vote of one - fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call rise and remain standing until counted.

Obviously more than one - fifth having arisen, a roll call is ordered. The pending question

before the Senate is the motion of the Senator from Washington, Senator Wyman, that the Senate accept the Majority Ought Not to Pass Report of the Committee on State Government on Resolve, Proposing an Amendment to the Constitution to Abolish the Council and Make Changes in the Matter of Gubernatorial Appointments and Their Confirmation. A "Yes" vote will be in favor of Accepting the Majority Ought Not to Pass Report of the Committee; a "No" vote will be opposed.

The Secretary will call the roll.

Roll Call

YEAS: Senators Barnes, Dunn, Greeley, Hanson, Hoffses, Katz, Letourneau, Logan, Martin, Moore, Peabody, Quinn, Sewall, Stuart, Tanous, Wyman, and President MacLeod.

NAYS: Senators Beliveau, Bernard, Boisvert, Cianchette, Conley, Duquette, Gordon, Kellam, Levine, and Reed.

ABSENT: Senators Anderson, Berry, Mills, Minkowsky, and Violette.

A roll call was had. Seventeen Senators having voted in the affirmative, and ten Senators having voted in the negative, with five Senators absent, the motion prevailed and the Majority Ought Not to Pass Report of the Committee was Accepted in concurrence.

The President laid before the Senate the twelfth tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on Judiciary on Bill, "An Act Providing for Implied Consent Law for Operators of Motor Vehicles." (H. P. 1030) (L. D. 1339) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass.

Tabled — May 29, 1969 by Senator Reed of Sagadahoc.

Pending — Acceptance of Either Report.

Mr. Mills of Franklin moved that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Moore.

Mr. MOORE of Cumberland: Mr. President, I would request a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I notice Senator Mills sitting back expecting an invitation to explain his side of the question, and I would extend it to him right now.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President, an invitation that I decline, and I defer to the good Senator from Cumberland, Senator Berry, if he has anything he wishes to say.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: This bill, of course, is one of the more significant ones, and I was unable to understand the viewpoint of the majority of the Committee on Judiciary. I was hoping that Senator Mills would enlighten us as to why he feels that this should not pass.

This has been found in other States and in other countries to be a significant deterrent to drunken driving, and it has resulted in a material decrease in fatalities in automobile accidents. The belief, which I shared when I first came to Augusta, that we were treading on the toes of individual liberty, the right of the individual, I have now discarded. I think the price we are paying in sacrifice of human lives to drunken driving cannot be condoned any longer. It cannot be tolerated. Certainly we are sacrificing little in the way of individual freedom if we agree when we take a drivers license that we are not going to drive drunk on the road, and that is what you are saying if you believe in this method of procedure. I do not subscribe to the high-flowing phrases that a basic individual liberty is being sacrificed. It will be my hope that the members of the Senate would share my views that the time has come and that,

if by the passage of this law we have sacrificed in some small measure our individual freedom, perhaps the return of this will be in the lives of someone dear to you, someone who will be alive who if this law had not passed would not be. I would hope that you would vote against the motion of Senator Mills, and I would request a roll call.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Beliveau.

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: This document resembles a great deal a bill that appeared in the 103rd Legislature, in the Special Session of the 103rd, and which has appeared in the Legislature for several years past and which on every occasion was soundly defeated.

It is an easy thing to say that the passage of this document would result in a reduction of the fatalities on our highways, and that would further result in the decrease in the number of personal injuries and property damage cases that arise in every day of the week. The fact remains that this cannot be documented statistically, in no State that has enacted this law has there been a causal connection, or any connection, for that matter, between the implied consent law and a reduction in fatalities. As a matter of fact, Maine in 1968 led the United States in the decreasing number of fatalities. I believe there were 29 or 39 fewer fatalities in Maine in 1968 than there were in 1967 and, of course, we did not have the implied consent bill.

Now, the theory of implied consent has been bantered around, and is a convenient way to pass laws that do in fact abridge our personal liberties. Now, this is not a very simple document that is limited solely to the theory that at the time you are issued a license to operate a motor vehicle in this State that you gladly consent to a blood, urine, or breath test. I think it is important to pursue this a little further, because I am violently opposed to this document, and I will outline to you in detail my reasons.

I cannot disagree with the goal of highway safety. I cannot disagree with this laudable end, but I do strongly disagree with the means that are going to be resorted to to accomplish this. You will recall last year that Maine adopted the operating while impaired law which, in effect, repealed the operating under the influence. Since the adoption of that bill, of that law, there has been a substantial increase in the number of convictions. In my opinion, this has resulted in the substantial reduction in highway deaths. As a matter of fact, as I said, Maine led the nation last year in the reduction of highway deaths which, of course, included the many States that do have implied consent.

I inquired of the Highway Safety Committee whether they would supply me with figures to show that there were reductions in these States that have enacted this law. They could not do so. As a matter of fact, they indicated to me that there are no figures available because there is no causal connection.

Very briefly, this document would provide that a police officer - and "police officer" means any law enforcement officer in the State, whether he be a sheriff, a municipal police officer, a state police officer, or a town constable - who has reason to believe a person is operating while impaired would stop an individual alongside the road and request he take one of these tests. Now, as I said, there are three tests: there is breathalyzer or breathometer, the urine test and the blood test. The officer would then advise the person that he has a right to take one of these three tests. If the individual fails, disagrees, or does not consent to one of these tests, then he is arrested in any event. The fact remains he is placed under arrest. If he fails to take the test, he then loses his license for six months. But if he is convicted of the crime itself, he loses his license for only three months, but that is incidental.

I think it is important at this point to review the arrest procedures here in Maine that the

police resort to every day of the year. When you are stopped by a police officer on a Maine highway and he suspects that you have been drinking—first of all, he stops you, and at that point before he makes one other statement he must place you under arrest. You are arrested, he then advises you of the availability of these three tests. Mind you, if you consent, then I assume that you are taken to the police station or to a hospital, and this is not too clear. But the fact remains that in this rural State of Maine this would impose a very real hardship on the citizens of Maine because of the location of hospitals and police stations. A breathometer machine cannot be transported in a police car. It is a very complicated, expensive piece of machinery, which retails for around \$1,000, and which every community in this State would be required to purchase, whose scientific results are highly erratic, where in England — and this country has been alluded to — the results of a breathalyzer or breathometer are unacceptable, inadmissible in a court of law. In any event, this person must then take this test. Assuming he goes down to the local cop shop and he exposes himself to this examination, and it's less than the .10 by weight of alcohol in his blood, which presumes he is innocent, the fact remains that he has been placed under arrest. He must then go to court, and, because of the seriousness of this case, he will have to retain an attorney at great expense to himself to make certain that when he appears in court the case is dismissed. He then is arrested, he must be bailed, he is fingerprinted, and he is mugged. This, of course, applies to a person whether he is guilty or not guilty, whether he is under the influence or not under the influence, whether he is impaired or not impaired. So he appears in court, retains an attorney, the case is dismissed. But, of course, he has a criminal record. Hopefully, if this record expunging bill passes, if he is acquitted it will not follow him the rest of his life. In any event, that is the procedure that would be used under this law.

Now, this differs from our present practice in that at the time that the police officer stops a person on the highway today, and before he arrests him, he has to make certain that he has sufficient evidence to sustain or support his conviction. It does not place the burden on the individual to incriminate himself.

The authors of this document, in order to make it more attractive and more reasonable, included three tests because they felt that the defendant, the person accused, should be given an option. Some people, of course, are not attracted by a needle, some others would hesitate to expose themselves to a urine test, and many people, of course, would object to a breathometer test. So, it was the intention of the author of this document, the Highway Safety people, that these three tests be available so a person will be given an option or a choice. I am quite certain that was the intent, in any event, our Supreme Court, which was asked to pass on this document as to its constitutionality concluded on Page Nine, and I quote from the opinion of the justices, "We do not impute such an intent to the legislature and we interpret the phraseology, 'tests available to him,' as meaning any one or more of the three permissible statutory tests as are reasonably available and capable of being used under all circumstances existing at the time and place of the arrest and warning, the practical considerations of time, area, distance, facilities, equipment, and test administration personnel to bear upon the reasonable availability formula adopted by the lawmakers. On the other hand, the legislation does not limit the tests available to the uncontrolled whim of law enforcement officers." Yet there is no language in this, which means, in effect, that if you are in northern Franklin County or northern Oxford County, and they do not have a breathalyzer, or do not have whatever the containers are for conducting a urine test, and you must then expose yourself to a blood test which means, of course, you go into a hospital and have the blood

removed by the appropriate individual.

There is a very real problem here that this would create for the law enforcement officer. The potential abuse by the police officers, coupled with his exposure to civil liability—and I mean by this that when a police officer stops an individual under this law, he does not have to have that amount of evidence which he must have today, which means that if a police officer stops a person who he suspects is operating while impaired, or is impaired, and then the test concludes that he was not impaired, if this were to continue the police officer could be exposed to civil liability through civil suit of false imprisonment or false arrest.

We have also enacted, or are in the process of considering, another bill in this legislature which would create the patient-physician privileged relationship. This would create another problem: if a doctor were to withdraw the blood at the request of a police officer, and the defendant or the individual complied, there is a very real legal problem as to whether or not this could be admissible in evidence. This document is filled with legal niceties and legal technicalities. This would give the so-called trial lawyers, including myself, a real field day with police officers.

What we need in this State is not more laws, not more scientific solutions, but we need to train our police officers. The document sponsored by Senator Logan and others, which would require training the police officers, this would contribute more to highway safety than this document.

Finally, I want to review with you the procedure and the requirements of standards that are used in conducting these various tests. I am quoting from a Manual on the Medicolegal Aspects of Chemical Tests for Intoxication, the Committee on Medicolegal Problems, American Medical Association, entitled, "Alcohol and the Impaired Driver". In reviewing this the other evening, I ran across several paragraphs here on tests of blood, urine, saliva and breath tests. I

want to show you people exactly what the burden is upon the police officer. This is not a simple thing; this is a very scientific approach to a very sensitive problem. As a matter of fact, we know in Kennebec County we have had a breathometer or breatholizer here for several years, and I do not believe they have succeeded in convicting one person with it yet. But in any event, I quote: "Tests of blood, urine and saliva present the greatest problems for proof of accuracy, since the tests require several distinct steps, depend on highly technical laboratory procedures, and may involve the activities of several persons. Great care must be used to avoid error.

"The first step is the collection of the specimen. The person who does this must first establish the identity of the one from whom the specimen is obtained. The time the specimen was collected must also be noted, since the relation to the time of the alleged offense is important. It is also important to determine whether any alcohol has been consumed between the time of the alleged offense and the time of the collection of the specimen. It may be advisable in some instances, particularly in tests of urine, to collect two or more specimens at regular intervals with the time carefully noted." Not one specimen; two specimen of urine at various intervals. "Undue delay in obtaining a specimen should be avoided because it creates problems of test interpretation.

"Safeguards must be established and followed to assure that instruments used for collecting specimens and containers used for preserving them are not contaminated by an alcoholic antiseptic or other material which might distort test results. Use of such antiseptics or materials on the subject's skin prior to a puncture for withdrawal of blood should also be avoided. Containers in which the specimens are placed should be labeled to identify the subject, the collector, the date, and the time of collection, particularly if analysis of the specimen is to be made by someone else. No particular technical skill is required for the collection of a specimen of urine or saliva,"

which would suggest probably any person other than a nurse or a doctor could do this, "but a blood specimen should be drawn only by a physician, a registered nurse," and so forth.

"Often the chemical analysis of a specimen of blood, urine, or saliva is not performed at the place where the specimen is collected. This necessitates the transportation of the container from one location to another, with the possibility that several different persons may be involved. In that event, the container should be sealed so that there will be no chance of contamination between the time the specimen is collected and the time it is analyzed. Each person who has possession of the container at any time while it is in transit must note and be prepared to testify as to the identification, the maintenance of the seal, the time factors and the care exercised. A chain of identification for the specimen must be maintained for the entire procedure.

"The scientific analysis of the concentration of alcohol in a specimen of blood, urine, or saliva is a highly technical procedure requiring the skill and care of a pathologist, a toxicologist, a laboratory technologist, or a person with equivalent training and skill." Let us remember that our frame of reference is the State of Maine. We are a rural state and we do not possess individuals who possess this expertise or, at least, we do not have the number they do in other areas. "Many procedures have been developed for making this analysis. All of them require the use of laboratory apparatus, chemicals and measurement devices. The person making the analysis must assure himself and be prepared to testify: (1) that the apparatus used is not contaminated with any materials which might affect the analysis, (2) that the chemicals used are pure, fresh, free from deterioration, (3) that measuring devices are functioning accurately, and (4) that the specimen to be tested has not been exposed to contamination since it came into his possession."

Believe me when I tell you that the states that have adopted this

legislation have not acquired the great increase in the number of convictions that everyone would think so, because of the burden that it places on the police and those who are responsible for administering this law.

"He must also follow the required procedures for the analysis, including procedures for the detecting of interfering substances and be prepared to describe and explain these procedures. He must be able to translate the results of the analysis into terms of the per cent of alcohol by weight in the blood of the subject from whom the specimen was obtained, and to explain this scientific interpretation. Finally he must be prepared to continue the identification of the specimen which he analyzes.

Now this is what a police officer is required to do under this law. As I understand, we have 800 municipal police officers in this State, approximately 300 State Police officers, and several hundred deputy sheriffs and sheriffs. Of that number a very small percentage are trained at all in criminal investigations and the rules of evidence, and to impose this upon them would create more problems than it would solve. I want to conclude with a comment from the same book on breath tests.

"A breath test may produce inaccurate results, if the breath specimen is collected within a few minutes after the subject has had an alcoholic liquor in his mouth. For this reason, it is essential to keep the subject under observation for 15 or 20 minutes before taking the specimen, to make certain he does not partake of any alcoholic liquor. As in the case of the other types of tests, two or more tests at regular timed intervals may be desirable." Now this test, of all the tests, is clearly scientifically inaccurate and highly erratic. In England, where they have no constitution, incidentally, the motorists are exposed to a so-called breath test, but it is not a breathometer or breathalyzer; it is a balloon test which is administered at the scene where the individual is stopped. If this initial test indicates that the per-

son is operating while impaired, he is then removed to the police station or the hospital where he must then undergo one of the other two tests, blood or urine tests, because there are the only tests that are scientifically accurate. They can be administered by persons who are trained and qualified in this area. In England, as I said earlier, breath tests are inadmissible in evidence; yet in Maine we are willing to accept this proposition, when the Royal College of Surgeons has concluded that the results are highly erratic.

As a matter of fact, our neighboring State of New Hampshire—I happened to inquire this morning—they have an implied consent law—they will not permit this breathometer because it has been established and proven to be inaccurate. Finally, to further quote from this book: "All breath-testing devices include equipment for collecting breath specimens such as balloons and plastic bags, as well as mouthpieces, tubes, and various chemicals in prepackaged units. The operator must be able to testify that the collecting equipment is clean and free from contamination and that the chemical units are fresh. Most police officers are not qualified to determine whether the device is functioning accurately or whether the kind, quality and quantity of chemicals furnished are adequate for the test. For this reason, a breath-testing program should be under the supervision of someone with sufficient scientific and technical training and experience to be able to make these evaluations and to testify about them. If the results given by the device require interpretation to establish blood-alcohol levels, such qualified supervisor may also be needed for that purpose. He should also maintain a regular periodic check of the accuracy of the devices under his supervision."

Again, let us relate this requirement to our municipalities in the State of Maine. How many towns or communities in this State have these police agencies, or the personnel, mind you, assuming they are properly trained, to administer such a law?



"Some breath-test devices require weighing of a disposable unit before and after the test. In such instances a highly accurate scale is required. Also, where tests are not completed on the spot, it is essential to maintain the chain of identity during the entire procedure.

"The ordinary police operator of a breath-testing device is not qualified to give an expert opinion on the scientific reliability of the test procedure, the relationship between blood-alcohol levels and impairment of driving ability, or an estimation of the blood-alcohol level of a subject at a time prior to the time of the test. If such evidence is required, it should be supplied by a witness of recognized qualification in the field by reason of his training and experience, such as a physician, a toxicologist, a biochemist, or one having equivalent training and experience." This means, as a practical matter, the police officers which administer these tests are not able and will not be permitted to give an opinion.

We know the problems the police are having today under our present law which permits the removal of blood to determine the weight of alcohol in the blood stream. Police officers are unable today to acquire the services of a physician to withdraw blood. Physicians are concerned and apprehensive because if a person comes into his shop, and it appears that he is impaired, can he voluntarily consent to the test? They refuse today to withdraw blood, and this law does not give them any protection. This proposed document does not accomplish anything. The reason I cited and quoted from this "Committee on Medicolegal Problems of American Medical Association" is to show the practical problems that are going to be created by the passage of this document. It will place a real hardship on the communities. It will require every police agency in this State to purchase a breathometer. It will cost, at a minimum, \$1000. In spite of what the law says, the court has interpreted this document to say that you are entitled to one of those

tests, whatever test is available. If the towns don't want to go to the expense of buying one, you will have to take a urine test, you will have to take a blood test, you have to be transported to a hospital, and then the problems begin. Finally, and I want to thank you for your patience here this afternoon, I want to cite for you statistics that recently were supplied me by Maine State Highway Safety Committee: This involves the most recent releases—fatality comparisons of January 31, 1969, this year, in Maine we have 44.4 per cent change in reduction. For instance, at the time of January 31, 1968 we had eighteen highway deaths, whereas on the same date this year we had ten highway deaths. This is another conclusion, another figure, statistic, they have indicated here. Of the thirteen drivers involved in fatal accidents in the month of January, 1969, zero are reported to have been drinking intoxicating liquor. This points out very dramatically the fact that although drinking and driving don't mix—I do not condone this, and I would do anything in my power, and we have by enacting the driving while impaired law to equate a substantial increase or reduction in highway fatalities to the drinking driver, and it cannot be supported today.

I recall last evening I read an article in the Life Magazine on highways in the United States in which they said that one-third of all the accidents in this country today are caused by our highways; not by drinking drivers, but by our highways. Now the pendulum is swinging and now the folks in other areas are realizing that this emphasis on implied consent and the drinking driver is not the sole cause, is not the greatest cause of highway fatalities in this country but there are other variables and factors that must be considered.

Finally, as I said fifteen minutes ago, I want to cite to you the case that our Law Court ruled upon not too many years ago entitle State vs. Shabbeth, in which it said the State is not compelled to introduce into evidence the results of a blood test, nor is it compelled to introduce the results of blood tests un-

der this law. This bill would simply permit the driver to request the results of a blood test, which means that he would have to take the stand to rebut it. The burden would be on the driver to say that the alcohol in my system was less than .10 by weight of alcohol in my blood system. In other words, it places the burden on the defendant, compels him to prove his innocence. This is contrary to custom and tradition and the spirit of our Constitution.

For these reasons, members of the Senate, I trust you will support the pending motion, and remember that from statistics in the State of Maine in 1968 we led the country in the reduction of highway fatalities; that as of January 31, 1969 there was a 44.4 percent reduction in highway fatalities in the State of Maine, and that of the thirteen drivers involved in those accidents not one of them were reported to have been drinking any form of intoxicating beverage. Thank you very much.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I would like to stand here and say that I agree with the Senator from Oxford, Senator Beliveau, that this bill is contrary to custom and usage in the State of Maine, because custom and usage in the State of Maine involves drinking as a social pastime and getting in your car and driving. This is accepted, it is widely accepted, and I don't want to embarrass members of the Senate by pointing out that a little earlier this session in great numbers we supported the concept of Sunday liquor sales in the State of Maine. I don't care what the statistics for one month say in the State of Maine; it is a fact that Maine people are getting killed on the highway in great numbers each year because of the fact that they have been drinking and then got behind the wheel.

It is interesting to me to see the whole change in the attitude in some European Countries, where there is a party in the neighborhood, public transportation is pro-

vided for the guests to get the guests home from the party.

Now, I am not sure that I understand the subtle change in the arguments of those who would urge you to vote against this year. For two sessions past the position has been that the bill is an unconstitutional infringement on our rights and obliges us to testify against ourselves. The Law Court this year has struck down that argument. So, now the argument is that it is ineffective and is not going to result in the reduction of highway deaths.

I have a tragic feeling about highway accidents and deaths in the State of Maine that maybe Maine people aren't ready to make the commitment necessary to stop the killing. Because when Maine people are ready to make the firm commitment necessary to stop killing on the highway, at that time we will pass bills like implied consent. At that time it will not be acceptable for us to get flagged down going 85 miles an hour on the Maine Turnpike; and it is socially acceptable today. I hope that this session of the legislature is at long last ready, after listening to all the legal niceties of why in a negative fashion this bill should not be passed, I hope that this legislative session is the one that says we want to make the commitment, and we want to reject the notion that it is socially acceptable to drink and get behind the wheel. I hope that this Senate votes down the motion to accept the Ought Not to Pass Report.

The PRESIDENT: Is the Senate ready to rthe question? The pending question before the Senate is the motion of the Senator from Franklin, Senator Mills, that the Senate accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Quinn.

Mr. QUINN of Penobscot: Mr. President and Members of the Senate: As a member of the Judiciary Committee, I was one of those that voted this bill Ought Not to Pass. I have had quite a lot of experience in law enforce-

ment. I served ten years as Prosecuting Attorney in Penobscot County and four years as Judge of the Bangor Municipal Court. I have found that when enforcement officers properly investigated their cases, and brought in the adequate evidence, they got convictions.

As has been said before, the enforcing officers should be better trained to know what to look for and know how to present the evidence in the court. We have around 300 officers in the State Police alone. If they would set out check points along our highways, and stopped cars and find out the condition of the drivers, they would soon get the drunken drivers off the road. They would do it by the proper evidence, without having a citizen submit himself and be compelled to give evidence against himself. That is one of our constitutional rights as citizens; to go about our affairs independently and not be molested.

If these officers will go out there and have check points and check these drivers, they will get plenty of evidence and plenty of drivers who are under the influence of intoxicating liquor. That is the way the cases should be presented and the law enforced.

Our Constitution here in Maine, under the Declaration of Rights, states under Section Six: "In all criminal prosecutions a citizen shall not be compelled to furnish or give evidence, he shall not be compelled to furnish or give evidence against himself." Now, there isn't anything plainer than that and I don't care who interprets it. It means just exactly what it says, and further than that: "nor deprived of his life, liberty, property, or privileges."

Much has been said about this law in other States that have passed the implied consent law that it was constitutional in those States. I have investigated those constitutions and I have found none that included in that phrase "or privileges." Now, they claim the right to operate is a privilege, and it is a privilege; it is not a right. It is a privilege that can be taken away. But he cannot be deprived of his privileges but by the judgment of

his peers. Now, that means a jury trial.

The bill says, among other things, "any person who operates a motor vehicle or attempts to operate a motor vehicle within this State shall be deemed to have given consent," now there is where the compulsion comes in, "shall be deemed to have given consent to a chemical test of the alcoholic level of his blood, or urine, or breath." It goes on to say, "for the purpose of determining the alcoholic content of his blood." He shall give his blood, he is testifying against himself when he is forced to give his blood, for the purpose of determining the alcoholic content of his blood. I say to you that, in the words of our Constitution, that he shall not be compelled to give evidence against himself; that it is a very poor bill and shouldn't be passed.

We should depend on the enforcing officers to go out and get the evidence and properly convict a suspect without compelling him to give evidence against himself. I hope the Senate will go along and support the motion that the Majority Ought Not to Pass Report of the Committee be accepted.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: To respond to a few comments that have been made, the bill provides that persons administering and conducting chemical tests of blood, breath, and urine shall be certified for this purpose, so we are not having rank amateurs do this work.

The thirteen unfortunate deaths referred to in no way buttress against these tests. Under our present state law, a man can drive down the road blind drunk, he can kill somebody and then kill himself in the resulting accident, and the alcoholic content of his blood is not something that is admissible or goes into the public records. Only the people who have access to these records do know the horrible statistics of the people who have been killed and who had a high alcoholic content in their system at the time.

Senator Beliveau referred to what has happened in England, and I would quote from an English magazine, a news article which has the gory picture, but the subcaption is merely explaining the effect of legislation just like we are considering here this afternoon. It says: "Provisional figures issued by the Ministry of Transport of December 26 show that there have been only 86 deaths during the first four days of the holiday, which is fifty less than the preceding year, and there were fewer accidents in the same period, 307 down from 601." It concludes with this comment: "Light traffic was one result of the ever present breatholizer."

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: When we are talking about an implied consent law we are talking about convictions. This is what this law is directed at; getting convictions in your courts. I submit to you in our Superior Court cases involving this type of alleged offense we average 98 to 99 per cent convictions in Superior Court. In District Court we average 95 to 97 per cent convictions in cases in this area. If we are trying to aim at 100 per cent, then we might as well say that everybody that appears in court is guilty. Certainly out of this number that appears in court some of them must be innocent. If we are getting 98 and 99 per cent in Superior Court, accompanied by 95 to 97 per cent in District Court, I think that our present system is pretty good.

There is another area here which we have overlooked. If we pass legislation of this type, I ask you, members of the Senate, where do we draw the line? Where do we draw the line on legislation of this type? I am a licensed attorney. There are licensed engineers, doctors, real estate agents, barbers and everything else. We all have licenses of types and do you mean to tell me that future legislation in this area could well direct itself so that an individual who has a

license of any type who may be accused of any crime would have his livelihood or his license suspended for six months whether he is guilty or innocent? This is something to consider, and we are opening an avenue directly in that area. This should be considered. Once you have opened the door in this area then you will have all kinds of legislation that will be directed at people who carry licenses of various types.

Senator Beliveau from Oxford County presented a very good argument to vote in favor of accepting the Ought Not to Pass Report of the Committee. If what he read in that book is true as to the necessary qualifications to prove a case with these various intricate instruments that are going to be introduced, and our police officers that are so ill-equipped in using them, and this law would come into effect in October, none of them, to my knowledge, are trained in using any of the items that are listed here that would be used against an individual in court. I can well imagine that with an ill-trained police officer bringing these tests to court, we would be convicting, in my opinion, many, many innocent people.

Frankly, I agree that we should get rid of our drunken drivers on the highways. I support legislation and proper enforcement of law that will get rid of our drunken drivers on the highways, but I ask you, members of the Senate, that in our quest and thirst for justice, let's not enact legislation which will penalize the innocent with the guilty. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Stuart.

Mr. STUART of Cumberland: Mr. President and Members of the Senate: It seems to me that the most important point here is that that man who has had too many drinks is going to think twice before he gets behind that wheel and drives home. I think the urgent need overrides the details and objections we have heard presented here. 50,000 people, I believe it is, are dying on our highways every year from automobile accidents, and all the statistics I ever read

said that alcohol was involved in at least half of these accidents. This is something we can do now to lower this horrible death rate. I hope you will oppose the pending motion.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: We have heard from a good number of the attorneys in respect to this bill. Those who have spoken have spoken in opposition to it.

I would like to say that I have been very familiar with the implied consent bill; I think this is the second or third time it has been before the legislature that I have been a member of. I have spoken with many police officials in my area, with some who are in a position of being a chief of police and some who are just officers. I have spoken with men who hold positions in Superior Court within our State, and at least two members of the Superior Court have stated to me that they are not excited over this piece of legislation. They think that in concept and theory it was a good idea, but they feel that one of the important things we need is minimum standards relative to the training of policemen.

I think if we stop and realize for a moment that this is a piece of emotional legislation, that nobody wants to see anyone killed on our highways, because of a drunken driver, there is nobody in this room here today that is going to say that they support drunken driving. I can hardly see what the good Senator from Cumberland has pointed out, that this law is going to stop drunken drivers because it is not, no more than a convicted murderer would have been stopped because of the fact the law was on the books that the State of Maine prohibits murder.

I think what we really have to be concerned with is things that both the good Senator from Oxford County, Senator Beliveau, stated, he and Senator Quinn, in reference to the Constitution. I think the words particularly the good Senator from Penobscot spoke, that we

should give a good deal of thought to it. The fact that the Supreme Court has passed down an advisory opinion, from what I understand, is nothing more than there is no conflicting opinion for them to draw aside on, so actually it doesn't really weigh too much. In this case, I would probably say that there is nothing sacred about this.

The greatest concern that I do have, and I am afraid it hasn't been touched on here today, is that of the local police officer. I am afraid because in many cases, particularly in the rural area, most of them have very little or no training at all, and it is easy for me to conceive that, if you may have made an enemy of the so-called town policemen, he could very well wait out in front of some home or some place you may be frequenting that evening and just catch you in entrapment, and you are a guilty party whether you had one or whether you had two or three. But the fact is that he could make a great deal of trouble for you. We could also visualize road blocks being set up, again by some policemen that, as I say, might have just a grudge or have an in.

I have a copy of a police report which happened in southern Maine not too long ago. I was greatly disturbed when I saw the report because there is no question in my mind that the gentleman that made this particular arrest certainly lacked the training and qualifications of a police officer. I would be very happy to show the copy of this arrest to anybody in the Senate after we adjourn today. I would just stress that on this report the subject had been charged on four counts. I don't know which preceded the other. One was for speeding, one for noisy muffler, another was for illegal transportation of beer, and the final one was for resisting arrest. The remarks the officer made on this particular sheet stated that: "After placed under arrest while stopped by me the subject said" — and he gave him a couple of words that wouldn't be mentionable on this floor of the Senate — "He said I am not going to jail and sped off." The

officer followed on Route 136, the Beach Hill Road, and was in constant sight of the vehicle. He says he "fired three shots in the air and one into the rear bumper near the gas tank, and the subject stopped, refused to get out, and grabbed my arm. I used Mace and handcuffed him, with the help of another gentleman. The subject talked foolishly on the way to jail, but calmed down nearing the jail."

I am sure that the good Senator from Penobscot, Senator Quinn, as he stated, has a great deal of experience in the courts in reference to criminal matters, and it is obvious too that each and every one of these four charges that were brought against the particular defendant was a misdemeanor. We have here in a policeman's own handwriting that he fired his gun four times, three times in the air, and one into the vehicle. We are all well aware today of the fact of modern communications, that all he had to do was get on his radio and either called the State Police or the sheriff's department and the subject could have been apprehended with no problem at all. I have a tremendous fear of the inexperienced and over-zealous town policeman who would do more to abuse this law than he would to correct the existing problem.

I think that I am familiar enough with the subject, as far as drunken driving, I worked in the field of alcoholism and am very familiar with the so-called habits and traits of those who are afflicted with this problem. When you see a bank president go from being a bank president down to skid row, and dropping down in stature, a degree of stature like that, could never stop him from drinking, I am sure that on more than one occasion, probably more than a dozen occasions, he got behind his car wheel when he was drinking. I can't see why we put legislation on the books that states that he who operates, then it says very clearly, or attempts to operate a motor vehicle while under the influence shall be guilty of driving while impaired or driving while under the influence. The law is on the books, and I don't see why we have to harass every John Q citi-

zen coming down the highway by some inexperienced policeman who has the notion that he would like to stop someone and take him into jail, or give him a test to see if he is under the influence or operating under the influence.

I know that myself that I have been stopped on the highway a couple of times. The minute I see that blue light come on in back of me - perhaps I was speeding a little or doing a little over the speed limit—the minute that blue light appeared in my rear view mirror, I just start perspiring, I get a little weak, it isn't the fact that I feel I am guilty because I kind of have a feeling of innocence, but I wonder what he has got on his mind in back of me. That is the fear that I have. We have foul balls, there is no question about it riding around with badges. Thank God, they are at a minimum, but they are there. There isn't anybody that I know of in the courts who won't acknowledge that fact. There is nobody dealing with the police, that is, in the official capacity of being officers of the police department, that don't spot and realize that they have a couple of foul balls around. They try to curtail it. I think that the problem lies with an education of one. I don't know how we are going to educate people not to drink and drive; it has been going on for centuries. My fear of this bill is the way it would be abused and the undue harassment that the citizens would undergo. I hope that the Ought Not to Pass Report of the Committee is accepted.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I want to impose on the time of the Senate very briefly to straighten out the record in so far as the incidence of drunken driving or drinking driving in fatal automobile accidents is concerned. A little earlier we were told that in the month of January none of the accidents resulting in fatalities involved drinking drivers. In the limited time during this debate I sought to get the statistics for the last two months in the State of

Maine from the records of the Highway Safety people.

I think it is important, regardless of how you vote on this, to know exactly what the situation is in the State of Maine. In the month of March there were fifteen fatal accidents: eight of the drivers had been drinking. In the month of April, nineteen fatal accidents; nine of the drivers had been drinking. Over a two - months period exactly fifty per cent of the fatalities were caused by drivers who had been drinking.

He who looks for simple answers to complex problems is in for a disappointment. I do not suggest that this bill is a simple answer to a hopelessly complex social problem, but I do feel that inherent in this debate this afternoon is the question as to whether drinking and driving are an accepted social way of life in the State of Maine? If indeed we do abhor the notion of killing people on the highways because of impaired drivers, then perhaps this is one of the tools we should go out and get, and get now.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Reed.

Mr. REED of Sagadahoc: Mr. President and Members of the Senate: I can't understand all these good Democrats being against this legislation here.

I think basically it is true that raising the standards of the police officer is the ultimate answer, but at the same time I can't think of a better way of raising the standards of the police officer than giving him this particular power, because the people are going to demand the quality that they seek in the police officer, I feel, that is given this amount of power.

Also, I can only think of myself, especially a few years ago, and I think I might have been affected by this myself on several occasions. We talk about the innocent that will get hurt, but the thing that bothers me here is: a fellow who goes out and drinks, and he goes out and gets in an accident and kills himself, that is one thing, but just think of the

innocent people. As you get older and have a wife and children, just think how you would feel, how innocent they are, if they are out riding in a car and some fellow comes along who shouldn't be driving because he has been drinking and kills someone that close to you? Therefore, I feel that we have to think of these innocent people that are getting killed every day by the drinking driver.

Now, I don't know that this is an answer, but I think it certainly should be tried. Therefore, I would hope that the motion now before us does not pass so that we can accept the Minority Ought to Pass Report of the Committee.

The PRESIDENT: Is the Senate ready for the question? The pending question is the motion of the Senator from Franklin, Senator Mills, that the Senate accept the Majority Ought Not to Pass Report of the Committee on Bill, "An Act Providing for Implied Consent Law for Operators of Motor Vehicles." A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call rise and remain standing until counted?

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion of the Senator from Franklin, Senator Mills, that the Senate accept the Majority Ought Not to Pass Report of the Committee on Bill, "An Act Providing for Implied Consent Law for Operators of Motor Vehicles." A "Yes" vote will be in favor of accepting the Majority Ought Not to Pass Report; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Beliveau, Bernard, Boisvert, Cianchette, Conley, Duquette, Gordon, Kellam, Letourneau, Levine, Logan, Martin, Mills, Quinn and Tanous.

NAYS: Senators Anderson, Barnes, Berry, Dunn, Greeley, Hanson, Hoffses, Katz, Minkowsky, Moore, Peabody, Reed, Sewall, Stuart and President MacLeod.

ABSENT: Senators Violette and Wyman.

A roll call was had. Fifteen Senators having voted in the affirmative, and fifteen Senators having voted in the negative, with two Senators absent, the motion did not prevail.

Thereupon, on motion by Mr. Katz of Kennebec, retabled until later in today's session, pending Acceptance of the Minority Ought to Pass Report of the Committee.

The President laid before the Senate the thirteenth tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on State Government on Bill, "An Act Creating the Unclassified State Employees Salary Board." (H. P. 9) (L. D. 9) Report "A", Ought to Pass in New Draft Under Same Title (H. P. 1212) (L. D. 1541) Report "B", Ought Not to Pass.

Tabled — May 29, 1969 by Senator Wyman of Washington.

Pending — Acceptance of Either Report.

On motion by Mr. Wyman of Washington, the Ought to Pass in New Draft Under Same Title Report "A" of the Committee was Accepted in non-concurrence, the Bill in New Draft Read Once and tomorrow assigned for Second Reading.

The President laid before the Senate the fourteenth tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on State Government on Bill, "An Act Transferring Arson Investigation Authority from Insurance Department to the Department of the Attorney General." (H. P. 181) (L. D. 220) Majority Report, Ought to Pass in New Draft Under Same Title (H. P. 1190) (L. D. 1509) Minority Report, Ought Not to Pass.

Tabled — May 29, 1969 by Senator Wyman of Washington.

Pending — Motion by Senator Barnes of Aroostook to accept the Majority Ought to Pass Report in New Draft.

Thereupon, the Majority Ought to Pass in New Draft Report of the Committee was Accepted in concurrence, the Bill in New Draft

Read Once and tomorrow assigned for Second Reading.

The President laid before the Senate the fifteenth tabled and specially assigned matter:

SENATE REPORT — Ought Not to Pass as Covered by Other Legislation from the Committee on Education on Bill, "An Act Relating to the Distribution of School Subsidy." (S. P. 161) (L. D. 535)

Tabled — May 29, 1969 by Senator Kellam of Cumberland.

Pending — Acceptance of Report.

Thereupon, the Ought Not to Pass as Covered by Other Legislation Report of the Committee was Accepted.

Sent down for concurrence.

The President laid before the Senate the sixteenth tabled and specially assigned matter:

SENATE REPORTS — from the Committee on Towns and Counties on Bill, "An Act Creating Oxford County Commissioner Districts." (S. P. 462) (L. D. 1525) Majority Report, Ought to Pass; Minority Report, Ought Not to Pass.

Tabled—May 29, 1969 by Senator Wyman of Washington.

Pending — Motion by Senator Peabody of Aroostook to Accept the Majority Ought to Pass Report.

Thereupon, the Majority Ought to Pass Report of the Committee was Accepted, the Bill Read Once and tomorrow assigned for Second Reading.

The President laid before the Senate the seventeenth tabled and specially assigned matter:

Bill, "An Act Creating the Maine Power Commission." (S. P. 471) (L. D. 1536)

Tabled—May 29, 1969 by Senator Hoffses of Knox.

Pending — Passage to be Engrossed.

On motion by Mr. Boisvert of Androscoggin, retabled and tomorrow assigned, pending Passage to be Engrossed.

The President laid before the Senate the eighteenth tabled and specially assigned matter:



SENATE REPORT—Ought Not to Pass from the Committee on Business Legislation on Bill, "An Act to Revise the Credit Union Law." (S. P. 200) (L. D. 609)

Tabled—May 29, 1969 by Senator Logan of York.

Pending—Acceptance of Report.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Logan.

Mr. LOGAN of York: Mr. President and Members of the Senate: I took advantage of the long weekend to go over this bill in detail and to discuss it with a number of people. It seems, in retrospect, that the committee came down a little hard on this document because of our rejection of the central credit union concept. There are parts of it that do indeed have redeeming merit.

An agreeable amendment has been reached, agreeable to all of those who are quite concerned with this matter, and I intend to submit this amendment. I, therefore, move that we substitute the bill for the report.

The PRESIDENT: The Senator from York, Senator Logan, now moves that the Senate substitute the bill for the Ought Not to Pass Report of the Committee. Is this the pleasure of the Senate?

The motion prevailed.

Thereupon, the Bill was Read Once and tomorrow assigned for Second Reading.

The President laid before the Senate the nineteenth tabled and specially assigned matter:

Bill, "An Act Relating to Weekly Benefits for Total Unemployment Under Employment Security Law." (H. P. 694) (L. D. 894)

Tabled—May 29, 1969 by Senator Cianchette of Somerset.

Pending — Passage to be Engrossed.

On motion by Mr. Moore of Cumberland, retabled and tomorrow assigned, pending Passage to be Engrossed.

The President laid before the Senate the twentieth tabled and specially assigned matter:

Bill, "An Act Increasing Compensation of Councilmen and

Mayor of City of Augusta." (H. P. 1205) (L. D. 1532)

Tabled—May 29, 1969 by Senator Katz of Kennebec.

Pending — Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I received this morning a communication from the City of Augusta indicating that the City Council has asked belatedly that this bill be killed. I, therefore, move that this bill be indefinitely postponed.

Thereupon, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the twenty-first tabled and specially assigned matter:

Bill, "An Act to Regulate Home Solicitation Sales." (H. P. 758) (L. D. 978)

Tabled — May 29, 1969 by Senator Hoffses of Knox.

Pending — Passage to be Engrossed.

On motion by Mr. Hoffses of Knox, retabled and tomorrow assigned, pending Passage to be Engrossed.

The President laid before the Senate the twenty-second tabled and specially assigned matter:

Bill, "An Act to Give Relief to Elderly Persons from the Increasing Property Tax." (S. P. 474) (L. D. 1550)

Tabled — May 29, 1969 by Senator Reed of Sagadahoc.

Pending — Passage to be Engrossed.

On motion by Mr. Moore of Cumberland, retabled and tomorrow assigned, pending Passage to be Engrossed.

The President laid before the Senate the twenty-third tabled and specially assigned matter:

Bill, "An Act Relating to the Water and Air Environmental Improvement Commission." (S. P. 322) (L. D. 1084)

Tabled — May 29, 1969 by Senator Barnes of Aroostook.

Pending — Passage to be Engrossed.

Mr. Berry of Cumberland then presented Senate Amendment "A" and moved its adoption.

Senate Amendment "A", Filing No. S-211, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: This Senate Amendment "A" basically is merely to elaborate a little bit on the language. However, it does change the bill in just really two basic matters: it keeps the Water and Air Environmental Improvement Commission at ten members and deletes from the bill the provision that their pay should be increased from ten to fifty dollars a day, both of which seemed to be in order.

Thereupon, Senate Amendment "A" was Adopted and the Bill, as Amended, Passed to be Engrossed. Sent down for concurrence.

The President laid before the Senate the twenty-fourth tabled and specially assigned matter:

Bill, "An Act Providing for a State Pilotage System for the Penobscot Bay and River, Maine." (S. P. 338) (L. D. 1136)

Tabled — May 29, 1969 by Senator Mills of Franklin.

Pending — Passage to be Engrossed.

On motion by Mr. Beliveau of Oxford, retabled and tomorrow assigned, pending Passage to be Engrossed.

The President laid before the Senate the twenty-fifth tabled and specially assigned matter:

Bill, "An Act Relating to Time of Payment of Salaries of Members of the Legislature." (H. P. 1008) (L. D. 1310)

Tabled — May 29, 1969 by Senator Hoffes of Knox.

Pending — Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: I think this is a very laudable purpose, but apparently the purpose cannot be accomplished with

any practical legislation. I, therefore, regretfully move indefinite postponement of the Bill.

Thereupon, the Bill was Indefinitely Postponed.

The President laid before the Senate the twenty-sixth tabled and specially assigned matter:

Bill, "An Act Relating to Comparative Negligence in Civil Actions." (S. P. 89) (L. D. 251)

Tabled—May 29, 1969 by Senator Tanous of Penobscot.

Pending — Passage to be Engrossed.

On motion by Mr. Mills of Franklin, retabled and tomorrow assigned, pending Passage to be Engrossed.

On motion by Mr. Wyman of Washington, the Senate voted to reconsider its action of earlier in today's session whereby it voted to Insist and Join in a Committee of Conference on Non-concurrent Matter: Bill, "An Act Relating to Definition of Retail Sale Under Sales and Use Tax Law" (H. P. 102) (L. D. 110).

The same Senator then moved that the Senate Adhere.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that the Senate adhere. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: It has been the custom of the two bodies in matters of this nature to have these matters referred to a committee of conference when we haven't been able to agree on these items. I certainly would hope that the Senate would go along and oppose Senator Wyman's motion on this and vote to carry this through to a committee of conference as originally moved this morning. I think we owe the bill this much. It has carried a tremendous amount of weight in the House and narrowly missed passage in the Senate last week. I certainly hope that we would not break faith with our usual custom and send it to a committee of conference. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: We debated this very thoroughly last week. The Senate went on record against the bill. The only purpose I can see in a committee of conference is to see if the Senate will reverse itself again, which I hope it doesn't. I hope the Senate will support my motion to adhere.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Thereupon, on motion by Mr. Tanous of Penobscot, a division was had. Nineteen Senators having voted in the affirmative, and nine Senators having voted in the negative, the motion to Adhere prevailed.

On motion by Mr. Sewall of Penobscot, the Senate voted to take from the Special Appropriations Table Bill, An Act Appropriating Funds to Office of Chief Medical Examiner (H. P. 403) (L. D. 514)

The PRESIDENT: The Chair recognizes the same Senator.

Mr. SEWALL of Penobscot: Mr. President and Members of the Senate: I believe you would agree with me that this is in the nature of a true emergency. We have been informed by the Chief Medical Examiner and also by the Governor's Council, that this office has run out of funds for the carrying out of autopsies, and there is apparently several instances where this has to be done as justice is waiting the results of these tests. Therefore, I move the enactment of this L. D.

Incidentally, the price tag on this bill is \$15,000.

Thereupon, this being an emergency measure and having received the affirmative vote of 30 members of the Senate was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the first matter tabled

earlier in today's session, by Mr. Logan of York:

The Committee on Business Legislation on Bill, "An Act to Provide for Taxation and Regulation of the Associated Hospital Service of Maine" (H. P. 885) (L. D. 1144).

Reported that the same be Referred to the 105th Legislature.

Comes from the House, the report Read and Accepted.

Which report was Read.

Thereupon, on further motion by Mr. Logan of York, retabled and tomorrow assigned, pending Acceptance of the Committee Report.

The President laid before the Senate the second matter tabled earlier in today's session, by Mr. Tanous of Penobscot:

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill, "An Act to Provide for the Forfeiture of Vehicles Used to Transport Narcotics" (H. P. 734) (L. D. 952) ask leave to report: that they are unable to agree.

On the part of the House:

MACPHAIL of

Owls Head

HUBER of Rockland

HARDY of Hope

On the part of the Senate:

TANOUS of Penobscot

MINKOWSKY of

Androscoggin

VIOLETTE of Aroostook

Comes from the House, the report Read and Rejected, and the House having further Insisted and Asked for a Second Committee of Conference.

The same Senator then moved Acceptance of the Report of the Committee of Conference.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: This bill is, in my opinion, and I think in the opinion of many of us, a bill which should in some form survive this legislative session. I would hope that the members of the Judiciary Committee would be able to hammer out something here, and I think an additional committee of con-

ference is very much in order and worth the effort. I would hope you vote against the motion of Senator Tanous.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President, I just want to point out that just one member of the Judiciary Committee served on that committee of conference. All the rest of them were from other committees.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: In the committee of conference we had one hundred per cent attendance and we gave this bill, I think, all the merit it deserved. We discussed it, and many of the proponents for the bill in the House hadn't realized the full concept and leaned our way on the disagreeing action which is reported here today. I certainly hope the Senate will support my motion, and let's get on with the other business that we have. Thank you.

The PRESIDENT: Is the Senate ready for the question? The pending question is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the report of the committee of conference. As many Senators as are in favor of accepting the report of the committee of conference will say "Yes"; those opposed, "No."

The Chair is in doubt and will order a division. As many Senators as are in favor of accepting the report of the committee of conference will rise and remain standing until counted. All those opposed will rise and remain standing until counted.

A division was had. Eighteen Senators having voted in the affirmative, and eleven Senators having voted in the negative, the motion prevailed.

Sent down for concurrence.

The President laid before the Senate the third matter tabled earlier in today's session, by Mr. Katz of Kennebec:

Bill, "An Act Relating to Mandatory Discharge of Chattel Mortgages and Notes" (H. P. 929) (L. D. 1190).

Pending - Adoption of Committee Amendment "A" as Amended by Senate Amendment "A" thereto.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I want to express myself as a little confused by the amendment. I understand that under present law there is a limitation on which these papers are discharged and presumed to be of no significance anyway. The amendment seems to cover a particular kind of note, but it doesn't cover the case of the retailer who has a continuing line of credit. I am not quite sure what is accomplished by the amendment, and I would pose this as a question through the Chair to any member who might care to answer.

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to any member who might care to answer.

The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: We felt by the amendment that we withdrew perhaps fifty per cent of the objections to this bill and that it was a very material concession we made, however, it doesn't hurt the main principle of the bill. The bill said two things. One, that upon payment of a note which was secured by a chattel mortgage, or an instrument of security, that it should be forthwith and immediately returned to the maker. That would be very difficult in branch banking where the notes are not kept at the branch where the note may be paid. So that was stricken out completely, well knowing, as we do in commerce, that notes do get returned, but the need for immediate return was not apparent, so that was taken out.

The other thing, which was the real bite of the bill, was that when a note is secured, the person re-

ceiving the payment, the holder of the note, who receives that payment, has been protected during that period he has held the note by the secured instrument being recorded in the town clerk's office or wherever it may be recorded. Having had that protection, of course, that is a blemish on the record of the debtor to the extent that anyone looking up his record finds that note, finds that mortgage against his property, and it is fair to him, we felt, that it should then be discharged once it is paid. We considered it analogous to the situation where a person pays off his real estate mortgage. No one would think of leaving the real estate records encumbered by mortgages over the years without having them discharged. It can be just as damaging to anybody's credit and anyone's reputation for paying his bills if he has a whole flock of those things in a town clerk's office, which may be just as substantial as any mortgage, so that part is left in.

I want to assure my good retailer friend that this wasn't intended to encumber the merchants of the State with any undue hardship, and I don't think that it would.

Quite a lot was said at the committee hearing about tampering with the Uniform Commercial Code, and these were lawyers telling us that we couldn't do this thing. As a matter of fact, the sponsor of this bill, who comes from my county, presented his idea for drafting in one of the departments of the State. The draft that came out is the L. D. and it is almost exactly contrary to what he wanted. He was told that the bankers didn't like the bill and they didn't see that it had a ghost of a chance of getting through and generally tried to discourage him. Well, it accomplishes a very simple thing and, it seems to me, a very fair thing. I don't think it is at all impossible, and I don't think it is going to be a hardship or it is going to distort the Uniform Commercial Code. I will admit that it struck quite a lot of fire. A lot of people said it was a bad bill, a bad precedent, and all that sort of thing. I hope that the good Senator won't be incon-

venienced by it if it does become law.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Thereupon, on motion by Mr. Katz of Kennebec, retabled and tomorrow assigned, pending the Adoption of Committee Amendment "A" as Amended by Senate Amendment "A" thereto.

The President laid before the Senate the fourth matter tabled earlier in today's session, by Mr. Beliveau of Oxford:

Bill, "An Act Relating to Governmental Immunity in Civil Actions." (H. P. 557) (L. D. 738)

Pending — Passage to be Engrossed.

Thereupon, on further motion by the same Senator, retabled and tomorrow assigned, pending Passage to be Engrossed.

The President laid before the Senate the fifth matter tabled earlier in today's session, by Mr. Katz of Kennebec:

Bill, "An Act Relating to Qualifications of Savings Bank Trustees and Other Officers." (S. P. 406) (L. D. 1370)

Pending — Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: As there is an amendment being prepared upstairs at the moment, and rather than table this until tomorrow, we are going to be going for another fifteen minutes, so perhaps there might be some merit in having this tabled by some one until later in today's session.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Stuart.

Thereupon, on motion by Mr. Stuart of Cumberland, retabled until later in today's session, pending Passage to be Engrossed.

The President laid before the Senate the sixth matter tabled earlier in today's session, by Mr. Beliveau of Oxford:

Resolve, Authorizing the Estate of David L. Hilton, Formerly of Wells, Maine, to Sue the State of Maine. (S. P. 209) (L. D. 618)

Pending — Final Passage.

Thereupon, the Resolve was Finally Passed and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the seventh matter tabled earlier in today's session, by Mr. Logan of York:

**JOINT ORDER** — Relative to Legislative Research Committee study of L. D. 1047 — Bill, "An Act Relating to Non-profit Hospital or Medical Service Organizations." (H. P. 1225)

Tabled — May 29, 1969 by Senator Katz of Kennebec.

Pending — Passage.

Thereupon, on motion by Mr. Katz of Kennebec, placed on the Special Legislative Research Table.

The President laid before the Senate the eighth matter tabled earlier in today's session, by Mr. Logan of York:

**JOINT ORDER** — Relative to Legislative Research Committee study of L. D. 1144 — Bill, "An Act to Provide for Taxation and Regulation of the Associated Hospital Service of Maine." (H. P. 1226)

Tabled — May 29, 1969 by Senator Katz of Kennebec.

Pending—Passage.

Thereupon, on motion by Mr. Katz of Kennebec, placed on the Special Legislative Research Table.

The President laid before the Senate the ninth matter tabled earlier in today's session, by Mr. Tanous of Penobscot:

**HOUSE REPORT** — Ought to Pass in New Draft Under Same Title (H. P. 1214) (L. D. 1546) from the Committee on Legal Affairs on Bill, "An Act Providing for Regulating Water Well Construction and Pump Installation." (H. P. 999) (L. D. 1301)

Tabled — May 29, 1969 by Senator Katz of Kennebec.

Pending — Acceptance of Report.

Thereupon, the Ought to Pass in New Draft Report of the Com-

mittee was Accepted in concurrence and the Bill in New Draft Read Once.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I have been quite concerned about this bill. I was at the hearing, although I did not speak for or against the bill. I have reviewed the original legislation carefully. I have reviewed the redraft more carefully, and I still have a number of questions in my mind which I still consider basic to the bill.

This sets up a complete new set-up, and the title of the new revised bill is "An Act Providing for Regulating Water Well Construction and Pump Installation." It should properly be called a Bill to Establish the Well Contractors' Board, which it does as soon as it gets inside Page No. 1. The bill sets up a detailed breakdown of the classification of people that will be licensed and regulated. The titles are Master Driller, Journeyman, Apprentice Driller, Pump Installer, Pump Installer Apprentice. The members of the board are members of the Well Drillers' Association.

The bill is quite inclusive. The only people who are exempt are people who actually dig their own well for their permanent residence. Everybody else must use a licensed well driller as set up by this legislation.

I have seen many instances where two cottage owners will get together, or perhaps more, and they will pool their resources and construct their own well. This would be out in this instance.

There is no provision made in the bill for the education of these licensed people I mentioned. The only way one can ever be qualified is to get a position with a well contractor in the appropriate grades. Presumably you would start down as either an apprentice driller or a pump installer apprentice, and this more or less, in my opinion, sets up quite a closed shop. There certainly should be educational alternatives to this very laudable, practical approach, but no one should be prohibited from getting

into the profession if he wants to study. No one can be a pump installation contractor — and this, of course, is the people who are running the show — unless he was a pump contractor prior to January 1, 1968. That pretty well closes the door on anybody getting in under the grandfather clause.

In my opinion, there is somewhat of a duplication of coverage when they start to talk about the type of construction, and say that a well constructed on a lot less than 100 feet by 150 feet; this is a prerogative we have given to the Division of Sanitary Engineering of the Department of Health and Welfare. There is a limitation that flatly says that no well shall be constructed nearer than 150 feet from a preparation or storage area of spray materials, fertilizer or toxic chemicals, I think this is a very loose definition and, once again, a limitation in the statutes, when actually the limitations should be entirely handled by the Division of Sanitary Engineering.

I had hoped this bill would come out a little bit different. I know there has been interest in this field for a long time, but I am afraid that this isn't particularly good legislation, for the reasons that I have listed and quite a few others.

The PRESIDENT: The Secretary will now read House Amendment "A".

House Amendment "A", Filing No. H-391, was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Moore.

Mr. MOORE of Cumberland: Mr. President and Members of the Senate: I am opposed to this piece of legislation. I don't think it is necessary. I think one thing it would do is make sure that we are going to pay more to have a well drilled. It is going to create another department or bureau within the Department of Health and Welfare.

The original bill had a price tag on it of just under \$30,000, but they have eliminated that. You can rest assured the price will be back here next year.

As far as pump installing, of course, that is done by plumbers. Anyone who is doing the plumbing, putting the water into your house,

they install the pumps. Under this bill here they have got to buy a license. They are licensed anyway, but they have to have a forty dollar license, and it says that it shall be renewed each year. I move indefinite postponement.

The PRESIDENT: The Senator from Cumberland, Senator Moore, now moves that Legislative Document 1546, Bill, "An Act Providing for Regulating Water Well Construction and Pump Installation" and all its accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: In defense of the Legal Affairs Committee on this bill, if I remember, right, it came out unanimous Ought to Pass, we discussed it quite at length. There were many, many people that appeared on this bill and they were all proponents.

Now, we were led to believe that for several sessions there has been legislation introduced of this type and that the well drillers in the State of Maine were strongly opposed to the prior bill until, I guess, it was agreed that they would join the committee and attempt to come up with some legislation which would be acceptable to all. We thought at least that this was the bill that would be acceptable to everybody.

I know there are problems with it, but I think it is a beginning in this area. The good Senator from Cumberland, Senator Berry, mentions a lot of good points which perhaps could be worked out. I think the legislation in itself is good, and I feel there perhaps ought to be some amendments on it. I do have one to propose if the report is held.

I know all of us are against controls, but I think this is an area that ought to be controlled, because you have many, many well drillers that go about, who really aren't qualified well drillers, they will put a well in on somebody's land, the people pay an exorbitant price for having it done, and then they find it isn't located in the right spot or it is too close to a septic tank or a sewer. These people have paid out good money,

had a well dug, and then find out that they can't use it because the existing legislation on the books claims that it is illegal in that location. So, all we were trying to do with this bill, in my opinion, was consolidate all these weak points and try to get one legislative document together which would answer the problems that they are having in this field.

I have no personal interest in this and very little knowledge in this area, but the arguments we had in committee were good, and I have a letter here from one of the parties that prepared it, who points out the many aspects of this bill which are very necessary, and many of the arguments which perhaps ought to be discarded, especially in the money area. The Health and Welfare Department feels that the income that is going to be derived from this will be sufficient to pay for the administration of the bill. We can nit-pick at every piece of legislation that comes before us, I am sure. Perhaps we are successful at times, and maybe sometimes we kill good legislation in doing that.

I would at least hope that it makes its initial step, that the committee report is accepted, and let's look into it a little more. Then if the bill is not worthy, at a later stage, I am sure, we won't have any trouble killing it. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Moore.

Mr. MOORE of Cumberland: Mr. President and Members of the Senate: I was quite interested in what Senator Tanous from Penobscot said about this assuring them that a well driller wouldn't drill too close to a cesspool or manure pile. Well, if they don't know enough not to do it now, I am sure this bill won't make any difference to them. The men that are around drilling wells that are successful, they don't need this. This is an organization they want to set up so that they will have better control over the rates that are being charged.

In my area there are several well drillers, all capable men, and

they do a good job. I don't think there is any reason for this. This bill has been indefinitely postponed in the House, and I feel that we should go along today and save time here.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Cumberland, Senator Moore, that Bill, "An Act Providing for Regulating Water Well Construction and Pump Installation" be indefinitely postponed.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Thereupon, on motion by Mr. Tanous of Penobscot, a division was had. Twenty-two Senators having voted in the affirmative, and eight Senators having voted in the negative, the Bill was Indefinitely Postponed in concurrence.

The President laid before the Senate the tenth matter tabled earlier in today's session, by Mr. Katz of Kennebec:

HOUSE REPORTS — from the Committee on Judiciary on Bill, "An Act Providing for Implied Consent Law for Operators of Motor Vehicles." (H. P. 1030) (L. D. 1339) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass.

Pending—Acceptance of Either Report.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: We have debated this bill thoroughly today and I hope we can proceed to take a definite vote one way or another on it today without further delay. I move acceptance of the Ought to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Beliveau.

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: I request a division on this vote. I don't think it is necessary to repeat the arguments that were presented earlier, but I do want to point this out, and then I will sit



down: the proponents, those who support this document, the concept itself, argue with universal and general statements, but at no time have they alluded or referred to the document itself to discuss in detail exactly what would happen here. We are all for highway safety, we all want to reduce the highway fatalities, but it is our opinion, and many of us believe, that this is not the document that will accomplish this end. So, I urge the members of the Senate to vote against the pending motion to accept the Ought to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President, I request a roll call on this vote. I would like to see just how constant the vote is.

The PRESIDENT: The Senator from Piscataquis, Senator Martin, requests a roll call. In order for the Chair to order a roll call, under the Constitution, it requires the affirmative vote of one-fifth of all Senators present and voting. All those Senators in favor of ordering a roll call will rise and remain standing until counted.

Obviously more than one fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion of the Senator from Kennebec, Senator Katz, that the Senate accept the Minority Ought to Pass Report of the Committee on Bill, "An Act Providing for Implied Consent Law for Operators of Motor Vehicles." A "Yes" vote will be in favor of accepting the Minority Ought to Pass Report of the Committee; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Anderson, Barnes, Berry, Dunn, Greeley, Hanson, Hoffses, Katz, Moore, Peabody, Reed, Sewall, Stuart, Wyman and President MacLeod.

NAYS: Senators Beliveau, Bernard, Boisvert, Cianchette, Conley, Duquette, Gordon, Kellam, Letourneau, Levine, Logan, Martin, Mills, Minkowsky, Quinn and Tanous.

ABSENT: Senator Violette.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, I would like to change my vote from "Yes" to "No."

The PRESIDENT: The Secretary will record the change.

A roll call was had. Fourteen Senators having voted in the affirmative, and seventeen Senators having voted in the negative, with one Senator absent, the motion did not prevail.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, having voted on the majority side, I move that the Senate reconsider its action whereby it failed to accept the Minority Ought to Pass Report of the Committee.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Hoffses.

Mr. HOFFSES of Knox: Mr. President, I move this item lie upon the table until tomorrow.

The PRESIDENT: The Senator from Knox, Senator Hoffses, moves that Bill, "An Act Providing for Implied Consent Law for Operators of Motor Vehicles," be tabled and specially assigned for the next legislative day.

The Chair recognizes the Senator from Oxford, Senator Beliveau.

Thereupon, on motion by Mr. Beliveau of Oxford, a division was had. Fifteen Senators having voted in the affirmative, and sixteen Senators having voted in the negative, the motion to table did not prevail.

Mr. Katz of Kennebec was then granted leave to withdraw his motion to Reconsider.

Thereupon, on motion by Mr. Conley of Cumberland, the Senate voted to reconsider its action whereby it failed to accept the Minority Ought to Pass Report of the Committee.

Mr. Hoffses of Knox then moved that the Senate stand adjourned until 9 o'clock tomorrow morning.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS: Mr. President, is the motion to adjourn debatable?

The PRESIDENT: The Senator may ask for a division.

Mr. MILLS: I have a matter to be reconsidered being held. It can't be reconsidered —

The PRESIDENT: The Senator is out of order.

Mr. MILLS: I ask for a division, Mr. President.

Thereupon, a division was had. Seventeen Senators having voted in the affirmative, and thirteen Senators having voted in the negative, the motion prevailed.

Adjourned until 9 o'clock tomorrow morning.