

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Fifth  
Legislature***

**OF THE**

**STATE OF MAINE**

**Volume III**

**June 16, 1971 to June 24, 1971**

**Index**

**1st Special Session**

**January 24, 1972 to March 10, 1972**

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**KENNEBEC JOURNAL  
AUGUSTA, MAINE**

## SENATE

Thursday, February 24, 1972  
Senate called to order by the President.

Prayer by the Honorable Gerard P. Conley of Portland.

Reading of the Journal of Yesterday.

### Committee Reports House

The Committee on Veterans and Retirement on, Bill, "An Act Relating to Restoration to State Service." (H. P. 1579) (L. D. 2036)

Reported pursuant to Joint Order (H. P. 1573) that the same Ought to Pass.

Comes from the House, the report Read and Accepted and the Bill Passed to be Engrossed.

Which report was Read and Accepted in concurrence, the Bill Read Once and Tomorrow Assigned for Second Reading.

### Ought to Pass in New Draft

The Committee on Health and Institutional Services on, Bill, "An Act Relating to Per Diem Allowances and Expenses of Members of Board of Hairdressers." (H. P. 1477) (L. D. 1920)

Reported that the same Ought to Pass in New Draft Under New Title: "An Act Relating to Per Diem Allowances and Expenses for Members of the State Board of Barbers and State Board of Hairdressers." (H. P. 1580) (L. D. 2037)

Comes from the House, the report Read and Accepted and the Bill in New Draft Passed to be Engrossed.

Which report was Read and Accepted in concurrence, the Bill in New Draft Read Once, and Tomorrow Assigned for Second Reading.

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Reallocating Funds for Auburn-Lewiston Airport Provided by 1967 Bond Issue." (H. P. 1539) (L. D. 1997)

Reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1574) (L. D. 2031)

Comes from the House, the report Read and Accepted and the

Bill in New Draft Passed to be Engrossed, as Amended by House Amendment "A" (H-560)

Which report was Read and Accepted in concurrence and the Bill in New Draft Read Once. House Amendment "A" was Read.

The PRESIDENT: Is it now the pleasure of the Senate to adopt House Amendment "A"?

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, I wonder if some member of the Appropriations Committee would explain just what change we are making in this bond issue?

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

Mr. SEWALL of Penobscot: Mr. President and Members of the Senate: This bond issue is simply a reallocation of the monies which were approved in a previous bond issue for certain repairs and renovations to the Lewiston-Auburn Airport. No additional monies are required, and this item would go out to local referendum in the Lewiston area. As I say, no new monies are required, but a technicality would make it necessary to have this revoted on by the people in the local area.

The PRESIDENT: Is it now the pleasure of the Senate that House Amendment "A" be adopted?

Thereupon, House Amendment "A" was Adopted in concurrence and the Bill in New Draft, as Amended, Tomorrow Assigned for Second Reading.

### Senate Ought to Pass

The Committee on Public Utilities on, Bill, "An Act Relating to Interceptor Sewers and Pumping Stations of Waterville Sewerage District and Municipalities Within Kennebec Sanitary Treatment District." (S. P. 758) (L. D. 2030)

Reported pursuant to Joint Order (S. P. 754) that the same Ought to Pass.

Which report was Read and Accepted and the Bill Read once.

Under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed.

Thereupon, under further suspension of the rules, sent down forthwith for concurrence.

**Ought to Pass - As Amended**

Mr. Clifford for the Committee on State Government on, Bill, "An Act Implementing the Reorganization of the Department of Educational and Cultural Services." (S. P. 721) (L. D. 2010)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-353).

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.

**Divided Report**

The Majority of the Committee on Health and Institutional Services on,

Bill, "An Act Relating to Reporting Tumors and Establishing a State-wide Tumor Registry." (S. P. 714) (L. D. 1988)

Reported that the same Ought to Pass in New Draft Under Same Title (S. P. 766) (L. D. 2043)

Signed:  
Senator:

GREELEY of Waldo  
Representatives:  
CUMMINGS of newport  
DYAR of Strong  
PAYSON of Falmouth  
CLEMENTE of Portland  
DOYLE of Bangor  
SANTORO of Portland

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:  
Senators:

HICHENS of York  
MINKOWSKY  
of Androscoggin  
Representatives:  
BERRY of Madison  
LEWIS of Bristol  
McCORMICK of Union  
LESSARD of Lisbon

Which reports were Read.

Mr. Hichens of York moved that the Senate accept the minority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Senator from York, Senator Hichens,

moves that the Senate accept the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Graham.

Mr. GRAHAM of Cumberland: Mr. President and Members of the Senate: I am puzzled by any opposition to this bill. Perhaps I didn't make the bill clear at the hearing.

We all know that cancer is a sinister killer. One out of four families will be hit by cancer this year. Cancer is not just an old folks' disease; it is the second greatest killer of children. Shouldn't we do everything we can to fight cancer? Hence, this bill.

This is a very simple, straightforward bill. There is no money in it. I repeat, there is no money in it. We are confident that a federal grant will be forthcoming. The opponents of this bill fear that someday the legislature may have to appropriate money for this cause, but I say should we worry about what the legislature will do years hence?

By passing this bill we are doing two things: we are making cancer a reportable disease. At present it is not lawful to report cases of cancer to Maine's cancer control section. Reports are kept by many hospitals and many physicians, but they do not report to a central agency. Yet, obviously, to fight cancer we must know all we can about it, who has it, where he lives, what treatment was administered, etc. Hence, the second purpose of this bill: to set up a centralized statewide cancer registry. There some 35 questions regarding cancer will be asked, collected and evaluated. This will make the cancer control registry a centralized intelligence agency against the enemy, cancer.

This is vital because as of now cancer control in Maine has had only the mortality tables to work with, tables that are nearly two years old. All they tell us is who died of cancer. Who was cured is unknown, hence, the need of a centralized cancer registry. Hence, the need of making cancer a reportable disease.

There may be objection that in making cancer reportable we are violating personal privacy, but numerous contagious diseases are already reported; VD, for instance. Surely the aim of this bill to enable doctors to treat cancer is the greater good. Doctors and hospitals already have the information. Reporting it to a central agency where it will be coded and fed to a computer will not violate confidentiality.

This tumor or cancer registry has the approval of numerous health agencies, so I urge you to vote against the motion, and I call for a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Hancock, Senator Anderson.

Mr. ANDERSON of Hancock; Mr. President and Members of the Senate: Having had this affliction in my own household, if this bill can in any way prevent or retard this malignant growth, I am all for it. I shall go along with the Senator from Cumberland, Senator Graham.

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

Mr. HICHENS of York: Mr. President and Members of the Senate: I do not rise to argue the merits of this bill especially, but those who signed the Ought Not to Pass Report did not feel that this was going to help those with cancer in any way.

Outside of the sponsor of the bill, the proponent was a man who admittedly expects to be the director of this program, and his biggest argument was that we would get federal grants to subsidize his own job.

The doctor who is a member of our committee said that records are already kept, that patients are informed from time to time, inquired as to their health, and asked to come in for a new observation, and that he did not feel it was going to help things, although in the final analysis he did vote Ought to Pass under the new draft.

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

Mr. MINKOWSKY of Androscoggin: Mr. President and Members of the Senate: In my estimation, this particular bill here deserves the consideration of a regular session, meaning the 106th, not this special session of the 105th.

Now, in our findings with the redraft, I have come to the conclusion that the doctors in the State of Maine will be put into a special class with special privileges. They can't be sued if they divulge information that I might consider hazardous or detrimental to my family or to any citizen of the State of Maine.

Another point which I think should be stressed is that this really is an infringement at the present time on the constitutional rights of the citizens of the State of Maine.

Another point is that there is no method of enforcement of this particular bill, and it is not mandatory that the doctors report this so, in essence, there is no penalty.

As Senator Hichens has pointed out previously, we do have a cancer registry here in the State of Maine at the present time. And I think another factor that should be brought out is the reams of paperwork that this will create at the present time.

It is interesting to note the talk in reference to a federal grant, but during this particular segment of time when we are speaking of reorganization of state government and curtailing some of the operations, here, in essence, we are creating another department with staff. And these people have already made application, allegedly made application, for funds even before this department has been created.

The doctors I have checked with in my own area indicate that the purpose is good, but it does deserve more consideration and should be debated more fully, with more consideration and with more people in attendance, insofar as the public is concerned, at a regular session.

I would hope, Mr. President and Members of the Senate, that you would accept the Minority Ought Not to Pass Report of the Committee.

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

Mr. BERNARD of Androscoggin: Mr. President and Members of the Senate: I would like to make a few very brief statements concerning this bill.

I hear mentioned that this bill will infringe on the privacy of the citizens of Maine. I would point out to you that the Lewiston Daily Sun, in this morning's copy, in the column entitled "Obituaries", that if, in fact, one out of four Maine citizens are afflicted with this dreaded disease called cancer, then it seems reasonable to assume that one out of four on the obituary page have had the disease and have succumbed to it. Now, I don't see where there is any infringement of privacy in reading the obituary column; the news is there for everyone to see.

The way I see the bill and the intent is that when a doctor treats breast cancer in Lewiston, Fort Kent, or Portland, the results of his treatment, his diagnosis, and the method of his treatment will be recorded on a computerized statement at the tumor registry. A doctor in any other city may tap this bank and find out what treatment currently is being given to a patient who has a similar disease.

In talking to a doctor in Auburn, he indicated to me that there are many methods of treating a certain type of cancer. He would like to know and he would like to be able to tap into this bank to find out definitely which method shows the most promise. Until such a registry is established, apparently, he has to go by what he considers his best judgment. But what if his best judgment for a particular type of cancer is not proving to be the best for the patient? This is why he notified me of the results of what the computer bank might be able to present to him.

I am going to vote for the bill. I oppose Senator Hichens in his motion, and I would ask for a roll call when the vote is taken.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator

from Cumberland, Senator Graham.

Mr. GRAHAM of Cumberland: Mr. President and Members of the Senate: I just might mention that there is a cancer control unit in the Department of Health and Welfare, and they need this tool to better help the physicians and hospitals to treat cancer.

The registry would contain a great deal of information. For instance, the stage of the disease when diagnosed, the current rate of cancer in Maine, geographic distribution, age distribution, sex distribution, cases microscopically confirmed, description and cause of therapy, mortality rates, lengths of survival, mortality rates in regard to age and sex, and so on.

I might mention that I have in my hand letters from different medical authorities: The Kennebec Valley Regional Health Agency, the Central Maine General Hospital, State Health Planning Council, the American Cancer Society, the Maine Hospital Association, the Maine Medical Association. In addition, I have also contacted the Maine Osteopaths and the Regional Medical Program, and all these organizations endorse this registry.

I have here a letter from Dan Hanley, Executive Secretary of the Maine Medical Association. He says, "Please be assured of the full support and enthusiastic cooperation of the Maine Medical Association in your effort to establish a central tumor registry for the State of Maine." Thank you.

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

Mr. BERNARD of Androscoggin: Mr. President and Members of the Senate: I would like to make several more comments on this particular bill.

We just sat here and listened to a gentleman who stated that already somebody is shuffling in the background with the hopes of perhaps being the potential director of this particular department. I bring to the attention of that gentleman that earlier today, on Item 6-3, apparently he already consented to a bill receiving its first reading. There have certainly been a number of people in the

Lewiston-Auburn area who are shuffling around in the background desiring to be in charge of that particular little program. Now, if a doctor has come forth and indicated that he would be interested in administering this particular program, I am really all for it, because it apparently is going to take somebody with a medical background who is going to know what he is doing. Furthermore, the doctors in my area have already indicated to me personally that they are willing to go through the paperwork of reporting their particular diagnoses to this central agency.

I just ask you to think back in your minds about any incident which has taken place where perhaps one of your constituents asked you to intervene where a doctor has refused to fill out a form so that he might draw Social Security earlier because of health, or where somebody might have asked you to intervene with a doctor to get him off his butt and fill out an accident report form. I think if the doctors are willing to go out of their way to fill out papers and send them forward to this registry bank, then we should provide this tool for them.

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

Mrs. CARSWELL of Cumberland: Mr. President and Members of the Senate: I feel that it is very intelligent to continue the search for truth about our health problems for the people of the State of Maine, and I feel that this registry clinic will help us to do this. I hope that the motion to accept the Ought Not to Pass Report does not prevail.

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

Mr. HICHENS of York: Mr. President, I would just like to make a correction on the statement of the Senator from Androscoggin. I was on the phone talking to Senator Margaret Chase Smith when Item 6-3 was brought up, so I did not vote one way or the other.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from York,

Senator Hichens, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Reporting Tumors and Establishing Tumor Registry." A roll call has been requested and, under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please 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 York, Senator Hichens, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Reporting Tumors and Establishing a Statewide Tumor Registry." A Yes vote will be in favor of accepting the Ought Not to Pass Report; a No vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Hichens, Minkowsky, Tanous and Wyman.

NAYS: Senators Anderson, Bernard, Berry, Carswell, Chick, Clifford, Conley, Danton, Dunn, Fortier, Graham, Greeley, Harding, Hoffses, Johnson, Katz, Kellam, Marcotte, Martin, Moore, Peabody, Schulten, Sewall, Shute, Violette and President MacLeod.

ABSENT: Senators Levine and Quinn.

A roll call was had. Four Senators having voted in the affirmative, and twenty-six Senators having voted in the negative, with two Senators absent, the motion did not prevail.

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

Mr. GRAHAM of Cumberland: Mr. President and Members of the Senate: I move for reconsideration and hope that everyone votes against me.

The PRESIDENT: The Senator from Cumberland, Senator Graham, moves that the Senate reconsider its action whereby the motion to accept the Ought Not to Pass Report of the Committee did not prevail. Will all those

Senators in favor of reconsideration please say Yes; those opposed No.

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

The Ought to Pass in New Draft Report of the Committee was then Accepted and the Bill Read Once.

The PRESIDENT: Is it now the pleasure of the Senate that under suspension of the rules the bill be given its second reading at this time by title only?

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY of Androscoggin: Mr. President I object.

The PRESIDENT: As many Senators as are in favor of suspending the rules will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had, 25 Senators having voted in the affirmative, and two Senators having voted in the negative, under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed.

Thereupon, under further suspension of the rules, sent down forthwith for concurrence.

Mr. Hichens of York was granted unanimous consent to address the Senate.

Mr. HICHENS: Mr. President and Members of the Senate: In 1966, during the summer, those people who took advantage of a camping and bathing area in the Town of South Berwick noticed on the shores of that lake a trailer and several people, with special children, teaching them how to swim and taking care of their physical needs. Upon inquiry, we found out that this was an association called the Waban Association, a group of volunteer people interested in these retarded children and their needs and incapacities.

You have become aware as the years have transpired of the progress of this group. In 1967 the legislature voted monies to buy property on Bauneg Beg shores that this camp might be established, and since 1967, in '69 a bond issue was put out to the

people of Maine and, through a misinterpretation of the bill, many of them thought it was nothing but a camp, they could not see the purpose of it, and so it was turned down. But these people undauntedly went ahead with volunteer help, with grants and donations, and now the camp in 1971 had 267 campers, underprivileged children by the fact of their physical and mental incapacities. It was also valuable training and experience for over 400 teenaged volunteers and the 1350 members of this association.

In the rear of the chamber this morning we have the director and his wife, and others who are assisting in this program, and I would like to have them stand at this time as I call their names so you may see these people who have given of their time and efforts for a program such as this: Mr. Mickey Batalier, Special Olympics Chairman; Mr. Wayne Wormwood, the Director of the Association; Mrs. Wormwood, Mrs. Irene Allen, and Mrs. Shirley Lavasseur. (Applause)

In the rotunda there is a display of projects of the Waban Association set up in appreciation of what you, as legislators, have done and what people all over the State of Maine have done to make this project possible.

I would like to give credit to one of our Senators this morning who has donated food for this association for this coming summer. I will not mention him by name because you can find out for yourselves who he is. But in appreciation of the work that they have done, in appreciation of the work that you, as legislators, have done, and the people especially in York County, I would ask you to take advantage of the opportunity to see this demonstration and realize, as you look at it, that "Waban" means beginning. Thank you.

### Second Readers

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

### House

Bill, "An Act Establishing a Tuition Equalization Fund for Maine



Students Entering Maine Private Colleges." (H. P. 1575) (L.D. 2032)

Which was Read a Second Time.

Mr. Katz of Kennebec then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-357, was Read.

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

Mr. SEWALL of Penobscot: Mr. President, if the good Senator from Kennebec would be willing, I would very much appreciate an explanation of this amendment.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: This does not in any respect change the substance of the bill or the intent of the bill. The bill, as it is originally written, doesn't actually appropriate the money to anybody; it just says that the college presidents shall make recommendation for the disposition of this money. All the amendment does is say that the money is appropriated to the Department of Education, and they will disburse the funds with the recommendations of the college presidents. It also gives an indication of when the funds are to be expended. I don't think it changes the substance at all.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The motion prevailed.

The Bill, as Amended, was then Passed to be Engrossed in non-concurrence.

Thereupon, under suspension of the rules, sent down forthwith for concurrence.

Bill, "An Act Relating to Kindling Out-of-Door Fires." (H. P. 1480) (L. D. 1923)

Which was Read a Second Time.

Mr. Shute of Franklin then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-355, was Read.

Thereupon, on motion by Mr. Tanous of Penobscot, tabled and Tomorrow Assigned, pending Adoption of Senate Amendment "A".

### House-As Amended

Bill, "An Act Providing Funds to Town of Mattawamkeag to Construct Municipal Buildings Destroyed by Fire." (H. P. 1525) (L. D. 1968)

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

### Orders of the Day

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

Bill, "An Act Relating to Clarifying Definitions Relating to the Potato Industry of Maine." (S. P. 762) (L. D. 2033)

Tabled — February 23, 1972 by Senator Minkowsky of Androscoggin.

Pending — Passage to be Engrossed.

Mr. Chick of Kennebec then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-354, was Read.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I rise to oppose the adoption of this amendment. This bill received quite a thorough hearing before the Committee on Agriculture, the bill came out with a unanimous Ought to Pass Report of the Committee, and one of the very vital sections of the bill is gutted by this amendment.

If I were to explain to you briefly, the way the potato deal works in Aroostook County, we have a potato dealer who may operate as a broker. If a potato dealer is operating as a broker, a farmer can be made to, and he does, guarantee those potatoes to destination. In other words, if anything happens to those potatoes on the way to market the farmer stands the loss; that is the way it should be. If, on the other hand, the dealer buys them for a given price, the farmer still can guarantee the grade to destination provided certain disclosures are made to him, that is, if he knows where the potatoes are going, the city and state, and if he knows the receiver. But the bill

provides, however, that he does not have to play blindman's buff. In other words, if it is not disclosed to him who the receiver is and where the potatoes are going, under this bill, as proposed, he does not have to guarantee the grade to destination.

This amendment, as proposed, the last section of it, would remove it, and I am sure that the Senator from Kennebec, Senator Chick, will say "Well, we want the farmer to have the right, if he wants to, to guarantee those potatoes to destination." The effect of this will be that these forms will be printed and every farmer, when they go out, the brokers will have a standard form and the farmer will guarantee the grade to destination, even when he doesn't know where they are going or he doesn't know the receiver. This is the abuse to be cured. We have had here truth in lending, we have had here truth in disclosure, and this is all that we ask in this law. We ask that the law remain as it is, and Senator Chick's amendment would change all of that.

This amendment is opposed by the farmers in Aroostook County, by the Maine Potato Commission, and I hope you will vote against it. I would ask when the vote is taken that it be taken by a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Chick.

Mr. CHICK from Kennebec: Mr. President and Members of the Senate: I would like to make one or two observations in regard to this amendment. No. 1, this bill was considered by the Committee on Agriculture and there was quite a little difference of opinion on the bill as presented. We finally agreed that we would report the bill out unanimously, with some changes, and if any member of the committee wanted to make further amendments on either the floor of the Senate or the House that it could be done.

I think on this amendment, I don't agree with the good Senator from Aroostook, Senator Harding, that this guts the bill, because I think if any producer wants to send his potatoes without having all of

the information that he should have that right, because he does not have to ship the potatoes if he doesn't want to. He is the one that makes the final decision. Secondly, I believe that if this amendment is adopted there will be a lot of confusion on the bill as it now stands, because if any producer packs potatoes, and his name is on the container, he does come immediately under the federal regulations when they go in interstate commerce. I am very sure that he would have to stand in back of the grade, size or weight, whatever he has on the container.

In conclusion, I am not going to go into this at any great length, but I just would like to point out that I do not feel that it is for the best interests of the producer in Aroostook County to pass legislation which tries to take from him the responsibility of standing in back of his product. I think the only way that their economic conditions are going to be improved is by doing a better job of packing, grading and convincing the consumer that they are really trying to do a better job.

I have talked to many of the leaders in the industry, and I will state it further on the floor of the Senate, that I believe they are attacking it from the wrong angle. If the dealers are not doing a good job for the industry up there, the organization should spend more time in organizing and providing their own shipping operations. Then I think they would get much further ahead than with the attempt that they are making in the legislative field here today.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I want to make this thing very, very clear that the farmer of Aroostook has no objection whatsoever to guaranteeing the grade to destination of his crop; he wants to stand behind it. All that he asks, however, is that he be given the facts of where this car is going and who it is going to. That is all that he asks, and he is willing to stand behind this. But with Senator Chick's amend-

ment on this, then it will make it possible for these agreements to be sent out to the farmer, there will be a standard form, he waives the agreement, and he will be playing blindsman's buff.

It is a very cruel thing, let me tell you. The farmer loads a car of potatoes, he has no idea where it is going, he doesn't know the price that it sold for, and he doesn't know the name of the receiver. This is very unfair because you pack a car differently, depending on where it is going. All he asks is that he be given this information. This is what it is all about, and Mr. Chick would take that away from him. I don't think it is fair.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Violette.

Mr. VIOLETTE of Aroostook: Mr. President and Members of the Senate: Speaking solely as a Senator from Aroostook County in District 24, I would hope that the Senate would vote against this amendment. I think that basically the bill as it is now is fair enough.

I agree with Senator Chick that this bill is not going to solve all the potato farmers' problems, and we have had marketing problems, but this is not aimed at this. I think in toto the bill as we now have it is good, I think it is in the proper interest of the farmer that he will be able to secure this information on the shipment of his product, and I think it is only fair and reasonable. I would hope that we would defeat this amendment.

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

Mr. CHICK of Kennebec: Mr. President and Members of the Senate: I won't prolong this, but I would just like to simply say in reply to Senator Harding that the producer does not have to ship the car of potatoes unless he wants to. He has a perfect right, if he isn't given all of the information that he feels he wants, then he should decline the order. He does not have to accept the order.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the

Senate is the adoption Of Senate Amendment "A" to Bill, "An Act Relating to Clarifying Definitions Relating to the Potato Industry of Maine." As many Senators as are in favor of the adoption of Senate Amendment "A" will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President, may I ask for a roll call?

The PRESIDENT: The Senator may ask for a roll call. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please 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 adoption of Senate Amendment "A" to Bill, "An Act Relating to Clarifying Definitions Relating to the Potato Industry of Maine." A yes vote will be in favor of the adoption of the amendment; A No vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Anderson, Berry, Chick, Dunn, Greeley, Hoffses, Johnson, Katz, Marcotte, Moore, Peabody, Schulten, Sewall and Wyman.

NAYS: Senators Bernard, Carswell, Clifford, Conley, Danton, Fortier, Graham, Harding, Hichens, Kellam, Martin, Minkowsky, Shute, Tanous, Violette and President MacLeod.

ABSENT: Senators Levine and Quinn.

A roll call was had. Fourteen Senators having voted in the affirmative, and sixteen Senators having voted in the negative, with two Senators absent, Senate Amendment "A" was not Adopted.

Thereupon, the Bill was Passed to be Engrossed.

Under suspension of the rules, sent down forthwith for concurrence.

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

Bill, "An Act Relating to Guarantees by the State Industrial Building Authority and the Maine Recreation Authority." (SP. P. 706) (L. D. 1887)

Tabled — February 23, 1972 by Senator Sewall of Penobscot.

Pending — Passage to be Engrossed.

On motion by Mr. Sewall of Penobscot, retabled and Tomorrow Assigned, pending Passage to be Engrossed.

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

Bill, "An Act Authorizing Town of Dresden to Vote on Certain Liquor Option Questions." (H. P. 1494) (L. D. 1937)

Tabled — February 23, 1972 by Senator Schulten of Sagadahoc.

Pending — Enactment.

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

Mr. SHUTE of Franklin: Mr. President, when the vote is taken, I move that it be taken by the Yeas and Nays.

The PRESIDENT: 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 at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. This is an emergency measure and requires at least a two-thirds vote of the elected members of the Senate. The pending question is the enactment of Bill, An Act Authorizing Town of Dresden to Vote on Certain Liquor Local Option Questions. A Yes vote will be in favor of enactment; a No vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Bernard, Berry, Carswell, Chick, Clifford, Conley, Danton, Dunn, Graham, Hoffses, Katz, Kellam, Marcotte, Martin,

Minkowsky, Moore, Peabody, Schulten, Sewall and Tanous.

NAYS: Senators Anderson, Fortier, Greeley, Harding, Hichens, Johnson, Shute, Violette, Wyman and President MacLeod.

ABSENT: Senators Levine and Quinn.

A roll call was had. Twenty Senators having voted in the affirmative and ten Senators having voted in the negative, with two Senators absent, and twenty being less than two-thirds of the entire elected membership of the Senate, the Bill failed of Enactment in non-concurrence.

Under suspension of the rules, sent down forthwith for concurrence.

#### Reconsidered Matter

Mr. Harding of Aroostook moved that the Senate reconsider its action whereby Bill, "An Act Implementing the Reorganization of the Department of Transportation," (H. P. 1541) (L. D. 2013), was Passed to be Engrossed.

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

Mr. BERRY of Cumberland: Mr. President, I would request a division on that motion.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Kellam.

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: I hope that this body will vote to reconsider this matter since I have an amendment I would like to offer in relation to the bill. I would explain it briefly now, if I may, so that the Senate will realize what I propose to do is to strike out the great bulk of the amendment that I have offered just yesterday relative to the transfer of the turnpike and the conveyance of the physical assets of the turnpike and so forth. In other words, that being all of the amendment below the third or fourth line, being item number eight.

The amendment which I hope to offer would be Filing No. S-356, which would merely place the turnpike under the umbrella of the Transportation Department and

would, as I say, in no way amend the Maine Turnpike Authority Law, the Private and Special Laws of 1941, so I hope the body will go along with this slight change. I feel that it is only the very minimum common sense thing to do and, as I say, would only allow for some coordination of the use of the facilities.

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

Thereupon, on motion by Mr. Berry of Cumberland, tabled until later in today's session, pending the motion by Mr. Harding of Aroostook to Reconsider Passage to be Engrossed.

#### **Reconsidered Matter**

Mr. Greeley of Waldo moved that the Senate Reconsider its action whereby the Ought Not to Pass Report "B" of the Committee was Accepted on Bill, "An Act to Authorize the Issuance of Bonds in the Amount of Five Million Dollars on Behalf of the State of Maine to Resurface Certain Highways," (S. P. 728) (L. D. 2006).

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

Mr. FORTIER of Oxford: Mr. President and Members of the Senate: I am not an engineer and I am not going to try to discuss here the physical aspects of this bill. But, although not an engineer, I have learned something throughout the years of economics and a little finance. Most of it I have learned through the school of hard knocks. I have always learned in my own personal affairs that it is not practical to borrow money beyond the life expectancy of the item which we expect to acquire.

Although not an engineer, I am willing to accept the fact that this item which we are asked to finance would probably have a life expectancy of somewhere between five and ten years, but the bond issue called for today would be for a period of twenty years. In other words, it is very, very evident that over the years we would be asked to pay for a dead horse. Ten, fifteen, or twenty years from now we would be paying for things that

would be long gone by. There would be people paying on this that wouldn't even remember when this work was done. So, I hope that you will give a glorious burial to this bill in its early transition in the legislative field and kill this bill at this time.

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

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: I find myself in rather complete agreement with the good Senator from Oxford in many of the things he says. I think the difficulty with this particular bill is that when you are dealing with highway matters it is very difficult to equate them with good financial procedures, and I am not being facetious when I say that or giving away any information of what has gone on in the past.

It is just that we have a difficult situation relative to highways, and the system in the State of Maine has been that we will see what we can do about reconstructing roads and service the public in that way. Unfortunately, it costs such a great amount of money to reconstruct highways now that we are in fact doing very little of it. I believe the present program calls for something like thirteen miles or so. In any event, you are talking something like \$400,000 a mile to rebuild highways, and at this rate it will probably take somewhere from ninety to a hundred years to work your way through the state.

This bill here is designed, as I see it, to try to stem the tide to some extent, and to allow the people of the State of Maine to have some quality highways to drive on during this interim period. It is not, strictly speaking, an effort to bond maintenance, which I believe is what the good Senator objects to. If we do not try to undertake a greater maintenance program of existing roads, or to improve the condition of many of our highways which are serviceable, these roads will become less serviceable as time goes on, they will be in greater need for reconstruction, and the reconstruction funds are not going to be there.

I feel from my service on the Transportation Committee - I always feel I learn a little bit as time goes on - and one thing I have learned is that the highway program in the State of Maine has not worked. I feel that this particular bill is a worthy bill that will allow for the upgrading of about a thousand miles of road throughout the State of Maine, and these are roads that the greatest bulk of the population is going to be using.

As to the fact that the payment on the bonds may last longer than what we would ordinarily consider the life of the improvement, the fact of the matter is that if we don't start improving some of these least used roads we are not going to have any of them to drive on. Like I say, the reconstruction program is completely inadequate, and we will not be able to serve the people as we should. So, on that basis, I would support the Senator from Waldo, Senator Greeley, and because we seldom are on the same side, I would like to see his position prevail on this particular aspect.

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

Mr. DUNN of Oxford: Mr. President and Members of the Senate: It is my understanding that at the present time the Highway Department is carrying on a program that resurfaces about five hundred miles of road a year with this type of surface. Beyond that, I would just ask a division when the vote is taken.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY of Waldo: Mr. President and Members of the Senate: This bond issue involves \$5,000,000, and in the bill it says the money shall be equally divided amongst the seven divisions within the state. This amounts to \$714,285 to each division.

I asked the Chairman of the Highway Commission to contact his division engineers and ask them to give me a proposal of what they would do, providing they had this money, and I have their proposal,

which has been distributed pretty well to the members of the legislature. They came up with 1,040 miles of road.

Now, last year the state put on 535 miles of the so-called "skinny mix", at a cost of \$1,800,000 or \$3,365 a mile. They also put on 182 miles of the heavier mix on the highway at a cost of \$1,500,000, or an average cost of \$8,240 a mile. So, of the 717 miles that they applied last year, the average cost was around \$4,600 a mile.

Now, in this state there are 10,500 miles of roads for which the Highway Commission is responsible for maintenance. The way I figure it, if they put on 700 miles a year, and we have 10,500 miles of road, they are going to get around once every 15 years.

I also would like to compare what \$5,000,000 would do in highway construction. In the Maine Trail, which is a magazine put out by the Maine Good Roads Association, there is over \$67,000,000 worth of projects listed. But if you leave out the Interstate, leave out the beautification, the bridges, and a few other items in here that do not pertain to the construction of highways, you will find that there is 14.57 miles of highway listed, at a cost of \$5,127,000. Now, this is the contractor's bid price. There is no engineering or supervision involved. So I claim that \$5,000,000 will build you 13 miles of road in comparison to 1,040 miles of resurfacing.

Another thing, there is around 3,700 miles of highway within the state, and if they are building 40 miles a year or less, and I think it is less, they are getting around with reconstruction on an average of once every 90 years. So I hope you will go along with my motion.

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

Mr. FORTIER of Oxford: Mr. President, just a point of information: I would like to know how the sponsors of these bills think that we would finance a resurfacing of these same identical roads ten years from now, when we will still have ten years to pay on the old debt and the same problem is with us again.

The PRESIDENT: The Senator from Oxford, Senator Fortier, has posed a question through the Chair, which any member of the Committee may answer if he desires.

The Chair recognizes the Senator from Cumberland, Senator Kellam.

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: I think that the point is well taken, that you should not have to spend your money over and over again on the same piece of highway. What I tried to say in my initial discussion was that I feel the roadway now may be in a position where it can be saved, and that same piece of roadway ten years from now will be in a position where it cannot be saved. The cost of reconstruction is so great that we will not be able to reconstruct it ten years from now, and the repaving or resurfacing ten years from now will do no good. So it is a two-sided question.

I would agree 100 percent with anyone who says that you can't amortize an automobile over twenty years, but that is not the question here today, I don't believe. It is a question of trying to preserve existing highways and bring them up to a better standard while they are still in a condition where they can be brought up to that standard.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Waldo, Senator Greeley, that the Senate reconsider its action whereby it accepted the Ought Not to Pass Report of the Committee on Bill, "An Act to Authorize the Issuance of Bonds in the Amount of Five Million Dollars on Behalf of the State of Maine to Resurface Certain Highways." As many Senators as are in favor of the motion to reconsider will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

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

Thereupon, on motion by Mr. Greeley of Waldo, the Ought to Pass Report "A" of the Committee

was Accepted and the Bill Read Once.

Under suspension of the rules, the Bill was then given its Second Reading.

Thereupon, under further suspension of the rules, sent down forthwith for concurrence.

### **Resolution**

Out of order and under suspension of the rules, on motion by Mr. Berry of Cumberland:

### **STATE OF MAINE**

In the year of our Lord One Thousand Nine Hundred and Seventy-Two.

### **RESOLUTION**

Expressing Sympathy  
of the State Senate  
to the Honorable

Herald James Beckett

WHEREAS, the Senate has learned with regret of the illness of our esteemed good friend and former colleague, Herald J. Beckett of Eastport; and

WHEREAS, the members of the Senate of the 105th Maine State Legislature sorely miss Herald's sage advice and good humor and wish to avail themselves of those sterling qualities through his quick return to the halls of the Legislature; now, therefore, be it

RESOLVED: That we, the members of the Senate, hereby extend our sincere best wishes to the Honorable Herald J. Beckett for a speedy recovery; and be it further

RESOLVED: That an engrossed copy of this Senate Resolution signed by the President of the Senate and duly attested by the Secretary of State, be immediately transmitted by the Secretary of State to Senator Beckett at Eastport.

Which was Read and Adopted.

### **(Off Record Remarks)**

On motion by Mr. Hoffses of Knox,

Recessed until 2 o'clock in the afternoon.

### **(After Recess)**

Called to order by the President.

### **Papers From the House**

Out of order and under suspension of the rules, the Senate voted to take up the following:

**Non-concurrent Matter**

Bill, "An Act Relating to Disclosure of Economic Interests by Legislators." (H. P. 1572) (L. D. 2029)

In the House February 17, 1972, Passed to be Engrossed as Amended by House Amendments "A" (H-543) "D" (H-547) "G" (H-550) and "H" (H-551).

In the Senate February 23, 1972, Passed to be Engrossed as Amended by House Amendments "A" "D" "G" and "H" and Senate Amendment "A" (S-350) in non-concurrence.

Comes from the House, Indefinitely Postponed, in non-concurrence.

On motion by Mr. Harding of Aroostook, tabled until later in today's session, pending Consideration.

**Joint Order**

WHEREAS, the provision and availability of health care is obviously dependent on health manpower and manpower licensure affects the problems of supply, quality, geographic distribution, and use of personnel; and

WHEREAS, the shortage of health manpower, coupled with increased requirements for health care services, has resulted in a galaxy of new occupational titles; and

WHEREAS, it is estimated that nearly 200 such health occupations now exist and that there will be 20 to 25 supportive personnel for each physician in 1975; and

WHEREAS, it is recognized that needs exist to foster the growth and contributions of the various allied health personnel, to ensure high quality patient care and safety through careful employee preparation and performance and to allow employers to flexibly utilize existing manpower; and

WHEREAS, it appears that the licensing of additional health care occupations may fractionalize further the provision of health services, impede job advancement for employees and hinder management in utilizing new knowledge and technological advances; and

WHEREAS, the furtherance of health care services depends on a more unified approach for prepar-

ing, developing and using manpower in a safe and flexible manner; and

WHEREAS, no objective study of licensure and regulatory laws having an effect on health manpower utilization in Maine has ever been conducted by the Legislative Research Committee or by any other objective group representing the welfare of the people; and

WHEREAS, it is the responsibility of the Maine Legislature through the passage of legislation to protect the welfare of its citizens and to protect and promote the effective and safe utilization of health care personnel; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to conduct a detailed review of all state laws and regulations that relate to utilization of health manpower; and be it further

ORDERED, that the Legislative Research Committee shall report its findings and conclusions, together with any proposed legislation bearing upon the subject of this Order, to the next regular session of the Legislature.

(H. P. 1586)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Berry of Cumberland, placed on the Special Legislative Research Table.

**Committee Reports  
House****Divided Report**

The Majority of the Committee on Judiciary on, Bill, "An Act to Grant Adult Rights to Persons Eighteen Years of Age." (H. P. 1544) (L. D. 2000)

Reports that the same Ought to Pass in New Draft Under Same Title. (H. P. 1581) (L. D. 2038)

Signed:

Senators:

TANOUS of Penobscot  
HARDING of Aroostook  
QUINN of Penobscot

Representatives:

LUND of Augusta  
ORESTIS of Lewiston  
WHEELER of Portland  
KELLEY of Caribou



The Minority of the same Committee on the same subject matter reports that the same Ought Not to Pass.

Signed:

Representatives:

CARRIER of Westbrook  
BAKER of Orrington  
WHITE of Guilford  
PAGE of Fryeburg  
HENLEY of Norway  
HEWES of Cape Elizabeth

Comes from the House, the Majority Ought to Pass in New Draft Report Read and Accepted and the Bill, in New Draft, Passed to be Engrossed.

Which reports were Read. 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.

#### **Divided Report**

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to Penalty for Sale of Certain Drugs." (H. P. 1529) (L. D. 1972)

Reports that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot  
HARDING of Aroostook  
QUINN of Penobscot

Representatives:

LUND of Augusta  
ORESTIS of Lewiston  
WHITE of Guilford  
KELLEY of Caribou  
WHEELER of Portland  
PAGE of Fryeburg

The Minority of the same Committee on the same subject report that the same Ought to Pass in New Draft Under Same Title (H. P. 1582) (L. D. 2040)

Signed:

Representatives:

HENLEY of Norway  
HEWES of Cape Elizabeth  
BAKER of Orrington  
CARRIER of Westbrook

Comes from the House, the Minority Ought to Pass in New Draft report Read and Accepted and the Bill, in New Draft, Passed to be Engrossed as Amended by House Amendment "A" (H-571).

Which reports were Read.

Mr. Tanous of Penobscot then moved that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

Thereupon, on motion by Mr. Shute of Franklin, tabled and Tomorrow Assigned, pending the motion by Mr. Tanous of Penobscot that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

#### **Senate**

#### **Divided Report**

The Majority of the Committee on County Government on, Bill, "An Act Relating to Revenue Sharing and Financial Relief to Counties for Expenses of the Superior and Supreme Judicial Court." (S. P. 712) (L. D. 1986)

Reports that the same be referred to the 106th Legislature.

Signed:

Senators:

PEABODY of Aroostook  
DANTON of York  
MARTIN of Piscataquis

Representatives:

WIGHT of Presque Isle  
IMMONEN of West Paris  
MILLS of Eastport  
KELLEY of Southport  
HAWKENS of Farmington  
DYAR of Strong  
CHURCHILL of Orland  
PONTBRIAND of Auburn  
BERNIER of Westbrook

The Minority of the same Committee on the same subject matter reports that the same Ought to Pass as Amended by Committee Amendment "A", (S-358)

Signed:

Representative:

KELLEHER of Bangor

Which reports were Read.

Mr. Martin of Piscataquis then moved that the Senate Accept the Majority Committee Report whereby the Bill be Referred to the 106th Legislature.

Thereupon, on motion by Mr. Tanous of Penobscot, tabled and Tomorrow Assigned, pending the motion by Mr. Martin of Piscataquis that the Senate Accept the Majority Committee Report.

#### **Enactors**

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

An Act Relating to the Board of Registration in Medicine. (S. P. 720) (L. D. 1993)

An Act to Revise and Clarify Laws Relating to Group Life Insurance Under Maine State Retirement System. (H. P. 1518) (L. D. 1960)

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

### Emergency

An Act Relating to Breath-testing Equipment Used Under Implied Consent Law. (H. P. 1530) (L. D. 1973)

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I rise in opposition of the enactment of this bill. I can tell you that with this breath-testing equipment which they have, when the implied consent law was enacted, we realized that some of it is very unreliable. Therefore, the committee in its wisdom, and this legislature in its wisdom, wrote the bill so that the breath-testing equipment, in order to be used, would have to be approved by the Department of Health and Welfare. I think that is as it should be.

But now they want to have it such that if a carton is sealed that this can be prima facie evidence to be used in court, so that the Department of Health and Welfare and no person there will have to come and identify that and to show how it was proved, by whom, and what have you. I really don't object to that even, except that, the way this bill is written, this carton could be sealed by anybody. There is nothing in the bill to show the authenticity of the people who acted. There is nothing unique about the seal.

I think this presents a grave problem actually. You are entitled when evidence is used against you to know that it is authentic, that it is the real thing. Here you don't know that.

I think that, had the committee had time, we could have written the bill so that it would have given

the protection which I think people ought to have, but this bill is not so written. This is why I think it would be very unfortunate for this to become law, and I feel sure it would create a great deal many more problems than it would solve. So I hope when this comes up for a vote on enactment that you would vote against it.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I rise to oppose my good friend, Senator Harding of Aroostook, regarding this matter.

Principally, the requested amendment was as a result of a case which was heard in court. Well, first of all, perhaps I ought to explain to you the procedure used. The Department of Health and Welfare furnishes each police department and the state police with a little box container which is sealed by the Department of Health and Welfare. Inside this particular container you have all the material needed to give a breath test, so to speak. You have the little tube, the little vial, which records the alcoholic content, and you have the balloon that you blow into in another bag to regulate the amount of air which will pass through the tube. Well, apparently, the way we enacted this at the last session we stated that the equipment used to give this test must have the approval of the Health and Welfare Department. Now, at this particular hearing in court, because the state did not have an individual from the Health and Welfare Department testify in court that this did have the approval of the Health and Welfare Department, the test, of course, was thrown out and the case was dismissed.

Now, what they are asking us to do is have in each one of these little kits on the inside of the cover a stamp "Approved by the Health and Welfare Department of the State of Maine", the box is sealed with seals from the Health and Welfare Department, and then is supplied to the various police departments. In effect, this would mean that the stamp on the inside

is prima facie evidence that this equipment has been approved by the Health and Welfare Department. Lacking that, you would have to have an individual from the Health and Welfare Department who is familiar with this equipment appear on each and every case in court, that is, for anyone who would question the authenticity of the material or equipment used.

Now, the defense is not prohibited from subpoenaing the individual from the Health and Welfare Department to cross examine that individual, if he so desires, as to the authenticity of the equipment used. So, in a sense, he is not denied any rights. He still has the right to subpoena the individual to court for the hearing.

Again, as I say, this would certainly create a problem for the state to have to furnish from the Health and Welfare Department an individual for each and every solitary case that is tried to show that this equipment was approved by the Health and Welfare Department. So, I would urge you to support this measure, and I would ask for a roll call.

The PRESIDENT: A roll call has been requested. The pending question before the Senate is the enactment of An Act Relating to Breath-testing Equipment Used Under the Implied Consent Law. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please 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 enactment of Bill, An Act Relating to Breath-testing Equipment Used Under the Implied Consent Law, H. P. 1530, L. D. 1973. This is an emergency measure and in order for its enactment requires a two-thirds vote of the entire elected membership of the Senate. A Yes vote will be in favor of enactment of the bill; a No vote will be opposed.

The Secretary will call the roll.

### ROLL CALL

YEAS: Senators Anderson, Berry, Carswell, Chick, Clifford, Dunn, Fortier, Greeley, Hichens, Hoffses, Katz, Martin, Minkowsky, Moore, Peabody, Schulten, Sewall, Shute, Tanous, Violette, Wyman and President MacLeod.

NAYS: Senators Conley, Danton, Graham, Harding, Johnson, Kellam, and Marcotte.

ABSENT: Senators Bernard, Levine and Quinn.

A roll call was had. Twenty-two Senators having voted in the affirmative, and seven Senators having voted in the negative, with three Senators absent, and twenty-two being two-thirds of the entire elected membership of the Senate, 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 matter tabled earlier in today's session by Mr. Berry of Cumberland: Bill, "An Act Implementing the Reorganization of the Department of Transportation", (H. P. 1541) (L. D. 2013)

Pending - the motion by Mr. Harding of Aroostook to Reconsider Passage to be Engrossed.

Mr. Kellam of Cumberland then moved that the Bill be tabled and Tomorrow assigned, pending the motion by Mr. Harding of Aroostook to reconsider Passage to be Engrossed.

On motion by Mr. Berry of Cumberland, a division was had. Fourteen Senators having voted in the affirmative, and fourteen Senators having voted in the negative, the motion to table did not prevail.

The PRESIDENT: As many Senators as are in favor of the motion of the Senator from Aroostook, Senator Harding, that the Senate reconsider its action whereby the Bill was Passed to be Engrossed will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Thirteen Senators having voted in the affirmative, and fifteen Senators having

voted in the negative, the motion to reconsider did not prevail.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Harding of Aroostook: Bill, "An Act Relating to Disclosure of Economic Interests by Legislators." (H. P. 1572) (L. D. 2029)

Pending - Consideration.

Mr. Anderson of Hancock then moved that the Senate Recede and Concur.

On motion by Mr. Harding of Aroostook, a division was had. Four Senators having voted in the affirmative, and twenty-five Senators having voted in the negative, the motion to Recede and Concur did not prevail.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I have an amendment which I would like to offer on this, and to do that I believe the first motion I should make is to recede.

The PRESIDENT: The Senator from Aroostook, Senator Harding, moves that the Senate recede from its action whereby this Bill was Passed to be Engrossed. Is this the pleasure of the Senate?

The motion prevailed.

On further motion by Mr. Harding of Aroostook, the Senate voted to reconsider its action whereby Senate Amendment "A" was Adopted.

The same Senator then presented Senate Amendment "A" to Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-359, to Senate Amendment "A" was Read and Adopted. Senate Amendment "A", as Amended by Senate Amendment "A" thereto, was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

#### **Papers from the House**

Out of order and under suspension of the rules, the Senate voted to take up the following:

#### **House**

#### **Ought to Pass As Amended**

The Committee on State Government on Bill, "An Act

Implementing the Reorganization of the Department of Secretary of State." (H. P. 1635) (L. D. 1978)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (H-557).

The Committee on State Government on, Bill, "An Act Relating to Relocation Assistance and Land Acquisition in State Projects." (H. P. 1554) (L. D. 2015)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (H-558)

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 Inherent Managerial Functions Under the Municipal Employees Labor Relations Law." (H. P. 1531) (L. D. 1974)

Reports that the same Ought to Pass in New Draft Under New Title: "An Act to Clarify the Scope of Collective Bargaining Under the Municipal Employees Labor Relations Law." (H. P. 1583) (L. D. 2041)

Signed:

Senator:

TANOUS of Penobscot

Representatives:

GENEST of Waterville

KELLEY of Machias

McTEAGUE of Brunswick

SIMPSON of Millinocket

LINCOLN of Bethel

ROLLINS of Dixfield

The Minority of the same Committee on the same subject matter reports in Report "A" that the same Ought to Pass as Amended by Committee Amendment "A" (H-561).

Signed:

Senator:

MARCOTTE of York

Representatives:

LEE of Albion

BEDARD of Saco

The Minority of the same Committee on the same subject matter reports in Report "B" that the same be referred to the 106th Legislature.

Signed:

Representatives:

WHITZELL of Gardiner

GOOD of Westfield

Comes from the House, Minority Report "A" Read and Accepted and the Bill (H. P. 1531) (L. D. 1974) Passed to be Engrossed as Amended by Committee Amendment "A" (H-561) and House Amendment "A" (H-569).

Which reports were Read.

Mr. Marcotte of York moved that the Senate Accept the Minority Ought to Pass Report "A" of the Committee be Accepted.

The PRESIDENT: The senator from York, Senator Marcott, moves that the Senate accept Report "A" of the Committee in concurrence. 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: I am sure that many of you have received many letters concerning this particular bill. Perhaps many of you are confused as to the content of this bill as well.

If you will recall, those of you who were here in the 104th Session, we enacted this Public Employees Collective Bargaining Bill at that particular session. It had gone to Legislative Research, it had been studied thoroughly, had been reported from Legislative Research and the bill was enacted in a quite similar and substantial form as had been reported from Legislative Research. The law has been in effect a little less than two years. They have been working under it a little less than two years.

Now, we have this L. D. 1974 before us, which seeks to change the law in one of the most important phases, and I not only mean change, but radically change the law from what it presently is. It seems to me that where we have only been operating under this particular law for a little less than two years, first of all, it hasn't had the time to prove whether it is a workable law or not.

Now, they have had a problem with this in Biddeford, in this particular section that they are trying to amend, and because of one single solitary problem in the State of Maine they come to the legislature and seek to amend the law. This just doesn't seem fair because you have got one problem. And may I mention to you that we have had over two hundred cases negotiated between public employees in the teachers field with the towns, over two hundred negotiations that have been conducted since this has come into law, and we have run into one instance where apparently a lot of problems have arisen, and now they seek to amend the law. Fine, I would agree if we could amend the law and it would remedy the problem. But unfortunately, 1974 in my opinion, would greatly add to the problems of negotiations in this area.

The reason I say this is because I have done much research in this area. There are approximately twenty-five states that have enacted legislation in this area of the ability of public employees to collectively bargain. I have researched every one of these states, and the vast majority of these states use similar language to what we have here in Maine presently in our law, or the language which is proposed in the majority report of the committee. There is one state in this country that used the language proposed in L. D. 1974, and that is Pennsylvania. Pennsylvania has the proud distinction of saying that they have had eighty strikes because of their particular law that they have there, that particular section of the law which the sponsor of this bill seeks to adopt under our Maine law.

I certainly oppose this, and I oppose it very strongly. Apparently, the representative of the teachers is not a most well-liked individual, as far as the school boards are concerned, and certainly because an individual is not popular is no reason to enact legislation to get even with him, because I feel that this bill would greatly harm our collective bargaining law in the state, and

I say this very sincerely. It would greatly harm our collective bargaining law for public employees. I can only compare this, gentlemen and madam, because I am a great enthusiast of sports, with basketball, and many of the problems that have arisen out of this is because on one side of the bargaining table you have got school teachers, people who have gone to school and have got college degrees, masters degrees, who are well educated, and on the other side of the table you have got rotating school board members because every year there are two school board members that come up, and they come in off the street and try to negotiate with people who have been involved in negotiations before, and granted, it is difficult for them to negotiate equally on a par, but not because of the law, but because of the ability of the parties to negotiate. This is the problem.

Now, if the school boards in the state would retain professional negotiators when they are needed, I think their position would be equalized, as far as the education of the parties or the ability of the parties to negotiate is concerned. This is the problem, in my opinion. From my observation across this state, the reason we are having problems is because of the lack of knowledge on the part of the school board to negotiate these contracts. If you go to union towns like in my area Millinocket and East Millinocket, most of our school board members are union people, and they know how to negotiate, believe me, and they don't have any problems in arriving at a contract with the teachers. They are able, and they have been educated in negotiating because they are union people.

I can only compare this law to the instance of sports I mentioned a moment ago; if you take a good basketball team, like we usually have at Stearns, you know, they usually far surpass the other teams, or Schenk, but because of their ability in this field, the athletic field, the opposition is usually squashed because they don't have the experience. So, lo and behold, they come out with a law in basketball that if a team is as

good as Sterns or Schenk, that this team won't be able to dribble the ball on the floor. So you are going to even it off by passing a law that they won't be able to dribble. Well, I wouldn't mind that too much because I think they could get by with passing the ball, but this bill would also stop them from passing the ball. Now, what have you done? You have cut their legs right out from underneath them and there is no chance at all for survival. I submit to you that accepting the Minority Ought to Pass Report would, in substance, do what I have mentioned, so I ask that you vote against the motion, and let's accept the Majority Report which is based on the National Labor Relations Law, which would literally open up hundreds of cases under that National Labor Relations Law which these school boards and teachers could look to for guidance. This is the bill we ought to pass, the new draft of the committee. We have amended this to read actually in the same language as utilized in our National Labor Relations Law. They could look to all of these cases, and we have hundreds of cases to look to for guidance in this area, so I ask that you vote against the motion of the Senator from York, Senator Marcotte, and then vote to accept the Majority Report of the Committee. Thank you.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I arise to oppose the motion of the Senator from York, Senator Marcotte. I was going to subscribe to most everything the Senator from Penobscot said about his favorite team, Stearns, except that Cony doesn't pass or dribble so well, but we shoot like mad.

Since this law was passed I have had a very, very interesting personal experience. I have been involved in education at the legislative level, and on four separate occasions I have been called upon to sit in other parts of the state in collective bargaining situations. I never had any experience with it at all. I went into it like a babe in the woods, and I think that,

all told, I spend something like seventy hours either sitting around a table formally between the negotiating parties or working over the reports afterwards in fact finding missions, and it really has been an education. I found it fascinating, and I found that it has completely changed my attitude towards labor legislation as it pertains to public employees. It is important because the area of organization of public employees is the fastest growing part of the labor movement of the United States today, and many of us feel very uneasy about it.

Of all the groups in public service today, there is no group that I have more respect for than the volunteer, and frequently unpaid, member of the local school board, these are the people who are the guts, the backbone, of the education system. But I also found, as the Senator from Penobscot, Senator Tanous, says, that there is extraordinary inexperience, a trepidation, on the part of one side of the table when they come in, and they see on the other side of the table not only the teachers but the representatives of *Un i s e r v*, MTA, as well as the teachers local bargaining group. And, without naming the communities, I want to say that in one community that I witnessed I saw collective bargaining really work because the chief spokesman for the board was a man who was known to all of us, Bud Kneeland. Bud sat on his side of the table, he was extremely well prepared, he was extremely knowledgeable and, by gosh, he was in command of his part of the table, and it was give and take on both sides. But all too frequently the board is in the process of gaining this experience, and the board really isn't functioning too well.

The superintendents are dedicated people who are involved in another strange area in the educational big leagues these days, collective bargaining, and the system really hasn't worked that well from the viewpoint of the local board of education because they are in the process of gaining experience, even as Senator Tanous said. But when you stop and think how long it has taken the American

system of collective bargaining in the private sector to emerge so that we live with it, we are comfortable with it, it is woven into the fiber of American life, it is too much to expect that this law which we passed at the 104th would be working perfectly right today.

I share the feelings of the Senator from Penobscot, Senator Tanous, that the bill in its original form, as presented to this session, that this bill would probably do more damage than it would do good. Collective bargaining is between groups of people of good faith on both sides of the table. There is no obligation on either side to yield, but there is an obligation to talk and there is an obligation to negotiate. And I think that system is probably working much better today than the 104th Legislature had any right to expect when it tentatively and with a little trepidation got into this area for the first time. So, I also hope that you defeat the motion before us, and then I would presume that the Senator from Penobscot, Senator Tanous, is going to move that we accept the majority report of the committee.

The PRESIDENT: The Chair recognizes the Senator from York Senator Marcotte.

Mr. MARCOTTE of York: Mr. President and Members of the Senate: I think it is unfortunate that the Senator from Penobscot, Senator Tanous, would put this as a fight in the City of Biddeford. I think the problem goes much further and, as a matter of fact, throughout the entire state.

I think the main point of concern here, and I am not going to elaborate at length, but our main point of concern is that we insure that our teachers are not hurt in negotiations, and this bill merely eliminates that portion of the negotiations that deals with educational policies. We are not in any way violating the teachers' rights to negotiate on wages, pensions, insurance, terms and conditions, etc. This all remains as part of the law.

I think that an awful lot of the literature that you received from your school teachers was as a

result of misunderstanding, because a number of teachers I spoke with, after explaining what the bill did, were not really that strong opponents of the bill. They had been told that if this bill became law they could no longer negotiate on these personal matters, the salaries, pensions, and what have you.

Now, I think that we owe a responsibility to our taxpayers and our school board, who should be able to dictate policies within the school system, and not get it from within by the teachers or the employees, if you will. Now, this does not mean that the teachers will not have the opportunity to consult and recommend; they have this opportunity, and I am sure that in most cases the school board more than welcomes their recommendations. Again, I would hope very much that you would support the Minority Report, as the other body did on a two-to-one basis, and that you would support my motion.

The PRESIDENT: Is the Senate ready for the question. The pending question before the Senate is the motion of the Senator from York, Senator Marcotte, that the Senate accept the Minority Ought to Pass Report "A" of the Committee on Bill, "An Act Relating to Inherent Managerial Functions Under the Municipal Employees Labor Relations Law."

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, I request a roll call.

The PRESIDENT: 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 at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please 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 York, Senator Marcotte, that on Bill, "An Act Relating to Inherent Managerial Functions Under the Municipal Employees Labor Relations Law,"

Report "A", Ought to Pass, be accepted. A Yes vote will be in favor of accepting Report "A"; a No vote will be opposed.

The Secretary will call the roll.

### ROLL CALL

YEAS: Senators Berry, Chick, Clifford, Conley, Danton, Dunn, Fortier, Greeley, Hoffses, Kellam, Marcotte, Martin, Minkowsky, Moore, Peabody, Schulten and Wyman.

NAYS: Senators Anderson, Carswell, Graham, Harding, Hichens, Johnson, Katz, Sewall, Shute, Tanous, Violette and President MacLeod.

ABSENT: Senators Bernard, Levine and Quinn.

A roll call was had. Seventeen Senators having voted in the affirmative, and twelve Senators having voted in the negative, with three Senators absent, the motion to Accept the Ought to Pass Report "A" prevailed.

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

Mr. MARCOTTE of York: Mr. President, I move that we reconsider our action whereby we accepted the Minority Report "A", and I hope that you would vote against me.

The PRESIDENT: The Senator from York, Senator Marcotte, moves that the Senate reconsider its action whereby it accepted the Ought to Pass Report "A".

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. Tanous of Penobscot moved that the Bill be tabled and Tomorrow Assigned, pending the motion by Mr. Marcotte of York to Reconsider Acceptance of the Ought to Pass Report "A".

On motion by Mr. Berry of Cumberland, a division was had. Twelve Senators having voted in the affirmative, and sixteen Senators having voted in the negative, the motion to table did not prevail.

The PRESIDENT: As many Senators as are in favor of the motion of the Senator from York, Senator Marcotte, to reconsider its action whereby the Senate Accepted Report "A" please say yes; those opposed No.



A viva voce vote being taken, the motion to reconsider did not prevail.

Thereupon, the Bill was Read Once. Committee Amendment "A" was Read and Adopted.

Mr. Berry of Cumberland then moved that under suspension of the rules the bill be given its Second Reading.

On motion by Mr. Katz of Kennebec, a division was had. Seventeen Senators having voted in the

affirmative, and eleven Senators having voted in the negative, and seventeen being less than two-thirds of those Senators present and voting, the rules were not suspended.

Thereupon, the Bill was Tomorrow Assigned for Second Reading.

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On motion by Mr. Hoffses of Knox, Adjourned until 9:30 o'clock tomorrow morning.