

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Sixth

Legislature

OF THE

STATE OF MAINE

1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Wednesday, March 28, 1973

Senate called to order by the President.

Prayer by the Rev. Bruce Meyer of Augusta.

Reading of the Journal of yesterday.

Committee of Conference

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Relating to Due Date for Payment of Inheritance Taxes" (H. P. 1144) (L. D. 1337), the President appointed the following Conferees on the part of the Senate:

Senators:

ROBERTS of York
WYMAN of Washington
CLIFFORD
of Androscoggin

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

Bill, "An Act Providing for Non-smoking Areas in State Buildings." (S. P. 482) (L. D. 1549)

In the Senate March 22, 1973, referred to the Committee on Judiciary.

Comes from the House, referred to the Committee on Legal Affairs, in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act to Eliminate the Advisory Committee on Public Broadcasting." (S. P. 200) (L. D. 545)

In the Senate March 21, 1973, the Minority Ought to Pass in New Draft report Read and Accepted, and the Bill, in New Draft, (S. P. 467) (L. D. 1426), Passed to be Engrossed.

Comes from the House, the Majority Ought to Pass report Read and Accepted, and the Bill Passed to be Engrossed, in non-concurrence.

Thereupon, on motion by Mrs. Cummings of Penobscot, the Senate voted to Insist.

Non-concurrent Matter

Bill, "An Act Reimbursing Teachers for Professional Credits." (H. P. 838) (L. D. 1112)

In the House March 20, 1973, the Minority Ought Not to Pass report Read and Accepted.

In the Senate March 21, 1973, the Majority Ought to Pass as Amended report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (S-107), 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.

The President appointed on the part of the Senate the following Conferees:

Senators:

KATZ of Kennebec
OLFENE of Androscoggin
MINKOWSKY
of Androscoggin

Joint Resolution

State of Maine

In the Year of Our Lord One Thousand Nine Hundred and Seventy-Three

Joint Resolution to the Honorable Margaret Chase Smith for Distinguished Service to the State of Maine

WHEREAS, the State of Maine was faithfully served in Washington by Margaret Chase Smith of Skowhegan for thirty-three years in the United States House of Representatives and in the United States Senate; and

WHEREAS, Senator Smith is the only woman to serve in both houses of Congress, the only woman to be elected to four full Senate terms, and the first woman to have her name placed in nomination for President at a national convention of a major political party; and

WHEREAS, Margaret Chase Smith has worked tirelessly to serve her fellow citizens in this State and has faithfully devoted herself to the representation of her constituents and her nation by careful deliberation, by her record attendance, and by the sponsorship and support of wise legislation; and

WHEREAS, she rose to leadership positions on the Senate Aeronautical and Space Sciences, Appropriations, and Armed Services Committees and as chairman

of the Republican Senators' Conference; and

WHEREAS, Senator Smith has brought credit to herself and honor to her State through her Declaration of Conscience speeches in 1950 and 1970 and by her independent and forthright stands on the issues of the day; and

WHEREAS, this daughter of Maine has won the respect of the people and the leaders of the nation and of the world and has won a special measure of devotion in the hearts of the citizens of her native State; now, therefore, be it

RESOLVED: That in order to express its pride and appreciation, the 106th Legislature of the State of Maine extends to Margaret Chase Smith congratulations on her unparalleled record of service and best wishes for the future; and be it further

RESOLVED: That a copy of this Resolution, properly attested, be sent by the Secretary of State to Margaret Chase Smith in Washington, D.C. (H. P. 1286)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

Joint Order

WHEREAS, the Members of 106 Maine Legislatures have conscientiously and faithfully discharged the public trust; and

WHEREAS, the laws of Maine are but silent monuments of the characters and abilities of those notable figures who formed and enacted them; and

WHEREAS, it is only fitting that those who have so shaped the course of the future be suitably honored in the setting of their past accomplishments; now, therefore, be it

ORDERED, the Senate concurring, that Wednesday, April 25, 1973, be set apart and designated as "Welcome Back Day" at the Legislature and that a special legislative committee composed of all the ladies of the Legislature be hereby authorized and instructed to further such plans and arrangements suitable for a homecoming; and be it further

ORDERED, that all former presiding officers of the House and Senate and all former officers of the House and Senate are hereby extended a cordial invitation to be guests of the 106th Legislature in session on that date; and be it further

ORDERED, that each individual member of the 106th Legislature be charged with the duty of urging all colleagues of former Legislatures within their districts to make every effort to return on "Welcome Back Day" and share the friendship and pleasant memories of our great heritage. (H. P. 1189)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

House Papers

Bills today received from the House requiring Reference to Committees were acted upon in concurrence.

Senate Papers Judiciary

Mr. Katz of Kennebec presented Bill, "An Act Relating to Sudden Infant Death." (S. P. 514)

Which was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

State Government

Mr. Katz of Kennebec presented Bill, "An Act Establishing an Office of Early Childhood Development in Maine." (S. P. 515)

Which was referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Joint Order

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

WHEREAS, Miss Marilyn Lash, daughter of Mr. and Mrs. Robert Lash of Friendship, is attending the Maine Legislature today; and

WHEREAS, the attractive and talented Miss Lash proudly holds the coveted Miss Maine crown for the year 1972; and

WHEREAS, she graduated from Medomak Valley High School in 1971 and presently is a sophomore

at the University of Maine, PG; and

WHEREAS, the Legislature is proud of her special charm and appreciates the honor and recognition she has brought to the State; now, therefore, be it

ORDERED, the Senate concurring, that the House of Representatives and Senate of the One Hundred and Sixth Legislature of the State of Maine join to commend Miss Marilyn Lash for her many activities as Miss Maine and as an ambassador of good will for the State and trust she will always carry with her the very warmest admiration and best wishes of the Legislature; and be it further

ORDERED, that a suitable copy of this Order be prepared and presented to Miss Lash in honor of this occasion. (H. P. 1307)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

The PRESIDENT: The Chair would like to ask the Sergeant-at-Arms to escort Miss Lash to the rostrum for either a song or a few words, whichever she prefers.

Thereupon, the Sergeant-at-Arms escorted Miss Lash to the rostrum where she addressed the Senate as follows:

MISS LASH: Thank you all. You know, when Representative Hoffses called me the other night he told me to be sure I was here a half hour early so that I could find a parking space. Well, when I drove in this morning with my mother, and we looked around, the only place open was for paraplegic visitors. I decided it was time to go out and buy a wheelchair.

But I am very happy to be here this morning. It is indeed a great honor for me. I only have one year to represent our state, whereas you have several, and my year has been tremendous. I can say with all sincerity that this is one of the greatest honors that I have had in this past year and in my lifetime.

I would like to tell you a few experiences I have had as Miss Maine. To begin with, Miss Maine, to hold the title, has quite a few stipulations. The first thing I was told when I was crowned was "No

more dungarees." Now, coming from a little town like Friendship, and being the hick that I am, that wiped out my entire wardrobe. But on Friendship Sloop Days, when I was asked if I could sail on the Dirigo, no less, as part of the crew, I decided it was time I wore my dungarees; that it was time to stop with the foolishness because I wanted to be comfortable, and I certainly wasn't going to wear an evening gown as a crew member onboard a Friendship sloop. So I got into my dungarees, got on board, and happened to be down on my hands and knees untying some stays when this little Coast Guard boat pulls up alongside. All I heard was "Marilyn", and I looked up and there were twenty cameras in my face, all taking pictures, and here I was in my dungarees. Guess where it showed up — in the Portland Press Herald. Well, thank goodness, they didn't frown too much upon it. I don't think they could have expected much else.

Another time I had a tremendous time was at Windjammer Days in Boothbay Harbor. Now, I was invited to climb the mainmast of the Victory Chimes. When I got up there, which was quite a ways up, I looked down and my chaperone was just standing there with her eyes covered; she wouldn't look. I am a "cluck" and she knew it. If you need proof of that, I can tell you a story about something that happened to me in Atlantic City when I was there.

It was during the evening gown competition, my first night of competition, and I was coming off the runway when I got mixed up as to which way I was supposed to go off the stage. Now, mind you, this is the world's largest stage, and out of fifty girls Miss Maine goofed. She went the wrong way all the way across the world's largest stage. She went off to the right instead of to the left. Here I am in front of the judges, Miss Eileen Farrell, famous opera singer; Vivienne Della Chiesa; Mary Healy; Peter Lynde Hayes; Art Flemming from Jeopardy, and a few more, and I felt so silly, but that is the type of cluck that I am. You can understand the con-

cern of my chaperone when I was up there on the Victory Chimes on the mast. But I lived through it and I am here today.

Soon I hope to be on a trip to Hawaii, through the Miss Maine Pageant and through a travel agency in Portland; they are trying to arrange it for me. I hope to be able to go and, if I do go, I assure you I will try to represent the State of Maine in the best way that I can.

Once again, I thank you all for having me here today. It is indeed a great honor for me, especially coming from the small town that I am from. Thanks.

Thereupon, the Sergeant-at-Arms escorted Miss Lash from the rostrum to the rear of the Chamber amid the applause of the Senate, the members rising.

Committee Reports House

Leave to Withdraw, Covered by Other Legislation

The Committee on Fisheries and Wildlife on Bill, "An Act Repealing the Bounty on Bobcats." (H. P. 697) (L. D. 903)

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

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence.

Ought to Pass

The Committee on Legal Affairs on Bill, "An Act Converting Great Pond Plantation into the Town of Great Pond." (H. P. 266) (L. D. 373)

Reported that the same Ought to Pass.

The Committee on Judiciary on Bill, "An Act Relating to Delivery of Suspensions under the Motor Vehicle Laws." (H. P. 314) (L. D. 432)

Reported that the same Ought to Pass.

The Committee on Judiciary on Bill, "An Act Relating to Requirement for Filing Proof under Financial Responsibility Law." (H. P. 326) (L. D. 444)

Reported that the same Ought to Pass.

The Committee on Judiciary on Bill, "An Act to Permit Commissioner of Sea and Shore Fisheries to Suspend Licenses for Violations of Private and Special Laws and Assault on Coastal Wardens." (H. P. 504) (L. D. 670)

Reported that the same Ought to Pass.

The Committee on Legal Affairs on Resolve, in Favor of Down East Community Hospital of Machias. (H. P. 530) (L. D. 712)

Reported that the same Ought to Pass.

The Committee on Transportation on Bill, "An Act Relating to Expenditures of the Town Road Improvement Fund." (H. P. 685) (L. D. 892)

Reported that the same Ought to Pass.

The Committee on State Government on Bill, "An Act to Transfer the Maine Historic Preservation Commission to the Department of Educational and Cultural Services." (H. P. 772) (L. D. 1006)

Reported that the same Ought to Pass.

The Committee on Agriculture on Bill, "An Act Relating to Management and Maintenance of State of Maine Building at Eastern States Exposition." (H. P. 780) (L. D. 1012)

Reported that the same Ought to Pass.

(On motion by Mr. Cyr of Aroostook, tabled and Tomorrow Assigned, pending Acceptance of the Committee Report.)

The Committee on Fisheries and Wildlife on Bill, "An Act Reestablishing a Base Period for All Fishing Regulations." (H. P. 791) (L. D. 1027)

Reported that the same Ought to Pass.

The Committee on Agriculture on Bill, "An Act Revising the Laws Relating to the Board of Pesticides Control." (H. P. 958) (L. D. 1268)

Reported that the same Ought to Pass.

The Committee on Legal Affairs on Resolve, Authorizing School Construction in City of Eastport. (H. P. 1089) (L. D. 1282)

Reported that the same Ought to Pass.

The Committee on Appropriations and Financial Affairs on Bill, "An Act Amending the Law Relating to the Provision of Housing and Meals to State Employees." (H. P. 1021) (L. D. 1344)

Reported that the same Ought to Pass.

Come from the House, the Bills and Resolves Passed to be Engrossed.

Which reports were Read and, except for the tabled matter, Accepted in concurrence, the Bills and Resolves Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on State Government on Resolve, to Authorize Granting an Easement on State Land to Auburn Sewerage District. (H. P. 768) (L. D. 1002)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-129).

The Committee on Judiciary on Bill, "An Act Providing for Inclusion of Odometer Reading on Certificate of Registration of Motor Vehicles Returned Upon Transfer of Ownership." (H. P. 897) (L. D. 1184)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-131).

Come from the House, the Bill and Resolve Passed to be Engrossed as Amended by Committee Amendments "A".

Which reports were Read and Accepted in concurrence and the Bill and Resolve Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bill and Resolve, as Amended, Tomorrow Assigned for Second Reading.

The Committee on Human Resources on Bill, "An Act to Establish within the Department of Indian Affairs a Bureau of Indian Police." (H. P. 377) (L. D. 506)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-65).

Comes from the House, the Bill Recommended to the Committee on Human Resources.

Which report was Read and Accepted in non-concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in non-concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Fisheries and Wildlife on Bill, "An Act Defining the Boundaries of Richmond's Island Sanctuary." (H. P. 117) (L. D. 173)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1263) (L. D. 1568)

Comes from the House, 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.

Divided Report

The Majority of the Committee on Judiciary on Bill, "An Act to Permit Furloughs to Inmates or Prisoners from County Jails." (H. P. 562) (L. D. 741)

Reported that the same Ought to Pass.

Signed:

Senators:

TANOUS of Penobscot

SPEERS of Kennebec

BRENNAN of Cumberland

Representatives:

WHITE of Guilford

KILROY of Portland

HENLEY of Norway

BAKER of Orrington

PERKINS

of South Portland

McKERNAN of Bangor

DUNLEAVY

of Presque Isle

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

Signed:

Representatives:

GAUTHIER of Sanford

CARRIER of Westbrook

Comes from the House, the Majority report Read and Accepted and the Bill and accompanying papers Indefinitely Postponed.

Which reports were Read.

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

Mr. HICHENS: Mr. President and Members of the Senate: L. D. 741 is another step toward breaking down the entire penal system in our state, and is of extreme concern to those people who feel that those who break the laws must be punished as a deterrent for future crime.

For the record, one who has committed a crime is considered a criminal, regardless of the length of sentence or whether confined in the county jail or State's Prison. I firmly believe that every effort should be made for the rehabilitation of prisoners, but I also believe that punishment as a deterrent should be put first.

As we look at L. D. 741, we see that the regulation on the first page states that the sheriff is authorized to establish regulations. This may be great, but I believe that you are giving extreme power to individuals who should not act as judge or whose positions are not that important.

The reasons for furlough are: to return home to visit a dying relative or to attend a funeral. I cannot disagree with that.

Secondly, a prisoner is to be granted furlough to look for employment so he will have a job ready when released. Therefore, he is being subsidized by the state to compete for job employment with the average citizen who has not broken the law and is paying his own way on his own time seeking a job.

Thirdly, we read, "Can be granted furloughs for any reason tending toward the rehabilitation of such inmate." This is the stickler. At the hearing I asked Miss Murphy of the Mental Health and Corrections Department what this meant. She answered, "Well, this means that they can spend the weekends with their families." Isn't this just grand? I asked her where punishment was involved, and she answered "The punishment is having to go back to jail Monday morning."

These prisoners, many of them, are on work release programs.

That means that they are furnished meals at state expense, have lodging, even though it may be behind bars, with television, games, reading materials, heat, bath, and so forth. They are paid for the work they do, are granted furloughs to seek employment and spend weekends with their families, many of whom are collecting welfare payments, and all because they committed a crime against society and were sentenced to a year, five years, and so forth for that crime. Sad to say, some of these prisoners never had it so good.

On the back page of L. D. 741 it states, "Any person over the age of 17 who willfully obstructs, intimidates or otherwise abets any inmate or prisoner participating in a program, or on furlough, under this section, and thereby contributes or causes said inmate or prisoner to violate the terms and conditions of his program participation, or furlough, after having been warned by the head of the institution to cease and desist in said relationship or association with the inmate or prisoner, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both." Here we have a person given opportunity to aid or abet an inmate once before being penalized for assisting him in violating his furlough rights. As much damage can be done on the first occasion as might be done on the second or third time.

Again, we have the argument that if the state prisoners are allowed furloughs then why not jail inmates. You have only to read today's papers to see how that is working out.

The Bureau of Mental Health and Corrections is trying to get the sentencing of criminals away from the courts and under their jurisdiction. Maybe they will, but I certainly hope not. Meanwhile, they encourage you to disregard present court authority in granting all these liberties to men and women who have been sentenced to jail or prison terms to pay the penalty for the crime committed.

I don't think that the people of the State of Maine deserve having sentenced persons around in their communities competing for their job opportunities and spending time in the community until they have served their sentence. I now move for indefinite postponement of this bill and all accompanying papers, and I request a roll call.

The PRESIDENT: The Senator from York, Senator Hichens, moves that Bill, "An Act to Permit Furloughs to Inmates or Prisoners from County Jails", be indefinitely postponed. A roll call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: I think a lot of people feel that we are, at least to some degree, reaching an age of enlightenment in dealing with our prisoners. Now, furloughs and work release programs are recognized probably as some of the most effective tools in rehabilitation. What this bill would do is give the same situation to the county jails that the State Prison presently enjoys.

Presently work release programs and furloughs are allowable to somebody who has been convicted of the crime of robbery, breaking and entering, assault, or serious felonies. What this bill does is say that you could also do that for misdemeanors such as drunken driving, petty larceny, or something of that nature.

Also we have a situation now where there are people that are transferred from the State Prison to the county jails on work release programs, and this would give the county jails a chance to effectively deal with them.

The purposes are spelled out pretty well in the bill: a furlough to go and visit a dying relative, to talk with a prospective employer, or something that is consistent with rehabilitation.

I think we have got to be realistic. Nearly everyone in our prisons today is going to get out someday, and I think we have got to take sort of a modern view of how can we best help them to adjust to society. I think a bill of this nature

is a giant step in that direction. And personally, it is rather incongruous that you can have a work release program and a furlough for robbery, arson, or very serious felonies, but you can't have them for a most minor felony. So what this bill is doing is making our law somewhat consistent, and I would strongly urge that you oppose the motion of the good Senator from York, Senator Hichens, to accept the Minority Report.

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

Mr. TANOUS: Mr. President and Members of the Senate: Just to perhaps inform you as to the public hearing on this bill, I guess all the law enforcement agencies that were present at the public hearing supported the concept of L. D. 741 for the many reasons that Senator Brennan of Cumberland has mentioned.

If we already permit furloughs to visit sick relatives, to attend a funeral, or to try to find employment, if we already permit this for the State Prison inmates who are in State's Prison for very, very serious crimes, then to deny this particular privilege to an individual in a county jail would be somewhat incongruous to your punishment that you have discussed, Senator Hichens. So I would feel, in all justice, that we ought to extend this privilege to the county jails for the same reasons that Senator Brennan has mentioned. It certainly can serve a good purpose and I see no harm resulting from such enactment of this particular bill, so I would urge you to vote against Senator Hichens's motion. Let's endorse the concept of L. D. 741 and send it along for enactment. Thank you.

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

Mr. HICHENS: Mr. President and Members of the Senate: In answer to the two speeches which have already been made against my motion, as I mentioned in my talk, I have nothing whatsoever against a furlough for a funeral or on-a-deathbed sickness, and

maybe we can have an amendment for that. But just because we have made a great mistake in allowing State Prison inmates to have these furloughs, and we have seen the violation of it, as I said, in today's paper, this is no reason to go further along with that mistake and grant the same to our local jails.

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

Mr. TANOUS: Mr. President, am I to understand from Senator Hichens's remarks that he now withdraws his motion for indefinite postponement and wishes to permit the Majority Report to be accepted and perhaps file an amendment?

The PRESIDENT: The Senator from Penobscot, Senator Tanous, has posed a question through the Chair which the Senator from York, Senator Hichens, may answer if he desires.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I believe that the Senator can draw his own conclusions.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from York, Senator Hichens, that Bill, "An Act to Permit Furloughs to Inmates or Prisoners from County Jails", be indefinitely postponed. 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 motion before the body is the motion of the Senator from York, Senator Hichens, that Bill, "An Act to Permit Furloughs to Inmates or Prisoners from County Jails", be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Fortier, Graffam, Greeley, Hichens, Huber, Joly, Minkowsky, Olfene, Peabody, Roberts, Shute, and Wyman.

NAYS: Senators Aldrich, Berry, Brennan, Clanchette, Clifford, Conley, Cox, Cummings, Cyr, Danton, Katz, Kelley, Marcotte, Morrell, Richardson, Schulten, Sewall, Tanous, and President MacLeod.

ABSENT: Senator Speers.

A roll call was had. 13 Senators having voted in the affirmative, and 19 Senators having voted in the negative, with one Senator absent, the motion did not prevail.

Thereupon, the Majority Ought to Pass Report of the Committee was Accepted in non-concurrence, the Bill Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Health and Institutional Services on Bill, "An Act to Establish Information and Referral Service in the Department of Health and Welfare." (H. P. 642) (L. D. 858)

Reported that the same Ought Not to Pass.

Signed:

Senators:

HICHENS of York
GREELEY of Waldo
MINKOWSKY
of Androscoggin

Representatives:

LEWIS of Bristol
BERRY of Madison
McCORMICK of Union
GOODWIN
of South Berwick
DYAR of Strong
MORIN
of Old Orchard Beach
SANTORO of Portland

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

Signed:

Representatives:

LaPOINTE of Portland
SOULAS of Bangor
WHITZELL of Gardiner

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

Which reports were Read and the Majority Ought Not to Pass Report

of the Committee Accepted in concurrence.

Divided Report

The Majority of the Committee on Legal Affairs on Resolve, to Reimburse Audrey G. Pray of Hersey for Loss of Poultry by Foxes. (H. P. 554) (L. D. 734)

Reported that the same Ought Not to Pass.

Signed:

Senators:

JOLY of Kennebec
ROBERTS of York
ALDRICH of Oxford

Representatives:

DUDLEY of Enfield
SHUTE
of Stockton Springs
CAREY of Waterville
COTE of Lewiston
FECTEAU of Biddeford
EMERY of Rockland
FAUCHER of Solon
BRAWN of Oakland

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

Signed:

Representatives:

SHAW of Chelsea
CONNOLLY of Portland

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

Which reports were Read and the Majority Ought Not to Pass Report of the Committee Accepted in non-concurrence.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Taxation on Bill, "An Act to Provide Sales Tax Credit on Replacement of Lost or Destroyed Motor Vehicles." (H. P. 564) (L. D. 743)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington
COX of Penobscot
FORTIER of Oxford

Representatives:

DOW of West Gardiner
COTTRELL of Portland
SUSI of Pittsfield

IMMONEN of West Paris
MERRILL of Bowdoinham
DAM of Skowhegan
MAXWELL of Jay

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

Signed:

Representatives:

DRIGOTAS of Auburn
FINEMORE

of Bridgewater
MORTON of Farmington

Comes from the House, the Minority report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-134).

Which reports were Read and the Majority Ought Not to Pass Report of the Committee Accepted in non-concurrence.

Sent down for concurrence.

Senate

Leave to Withdraw

Mr. Cianchette for the Committee on Election Laws on Bill, "An Act Relating to Voting Checklists." (S. P. 211) (L. D. 555)

Reported that the same be granted Leave to Withdraw.

Which report was Read and Accepted.

Sent down for concurrence.

Ought to Pass

Mr. Greeley for the Committee on Health and Institutional Services on Bill, "An Act Relating to Federally Funded Food Programs." (S. P. 349) (L. D. 1016)

Reported that the same Ought to Pass.

Mr. Hichens for the Committee on Health and Institutional Services on Bill, "An Act Clarifying Sprinkler System Requirements in Boarding Homes." (S. P. 283) (L. D. 830)

Reported that the same Ought to Pass.

Which reports were Read and Accepted, the Bills Read Once and Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act Creating Aroostook County Commissioner Districts." (H. P. 55) (L. D. 65)

(On motion by Mr. Cyr of Aroostook, tabled and specially Assigned for April 2, 1973, pending Passage to be Engrossed.)

Bill, "An Act Specifying a Time Limit for Return of Marriage Certificates." (H. P. 809) (L. D. 1055)

Bill, "An Act Relating to Use and Possession of Spray Paint Cans in State Controlled Areas." (H. P. 1218) (L. D. 1536)

(On motion by Mr. Schulten of Sagadahoc temporarily set aside.)

Bill, "An Act Repealing the Law Making Relatives Responsible for Persons Receiving Hospital Care." (H. P. 318) (L. D. 436)

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

The President laid before the Senate the matter temporarily set aside by Mr. Schulten of Sagadahoc:

Bill, "An Act Relating to Use and Possession of Spray Paint Cans in State Controlled Areas" (H. P. 1218) (L. D. 1536)

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

Mr. SCHULTEN: Mr. President and Members of the Senate: On L. D. 1536, An Act Relating to Use and Possession of Spray Paint Cans in State Controlled Areas, I rise to support the bill, naturally, since it was heard before our committee. I do feel though, since there has been some publicity about this, and also some questions raised as to why a bill that had a title "Spray Paint Cans" now has a new draft that eliminates completely the title of the bill and nowhere mentions spray paint cans, I should explain why this came about.

As we "wrestled" with the problem in committee we found that by using the words "spray paint cans" we were getting into areas that would really not cover the problem of vandalism either with paint in the state parks,

where this problem originated, nor in public buildings. We do feel that there is a very definite problem of vandalism in public buildings also, as well as in state parks, and we felt that the bill would be stronger and do more of a job in protecting state property by the elimination of the mere title of spray paint cans. For that reason, this is why the redraft did not contain any mention of spray paint cans.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be passed to be Engrossed?

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

House — As Amended

Bill, "An Act Amending the Uniform Flag Law." (H. P. 500) (L. D. 653)

Which was Read a Second Time.

On motion by Mr. Tanous of Penobscot, tabled and Specially Assigned for April 2, 1973, pending Passage to be Engrossed.

Senate — As Amended

Bill, "An Act to Exempt Methods of Payment for Laboratory Services Provided to Persons Outside of the State." (S. P. 242) (L. D. 693)

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

Sent down for concurrence.

Enactors

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

An Act Authorizing All Counties to Collect and Dispose of Solid Waste on a Regional Basis. (S. P. 270) (L. D. 795)

(On motion by Mr. Cyr of Aroostook, tabled and Tomorrow Assigned pending Enactment.)

An Act to Extend Law Relating to Construction and Effect of Repealing Acts to Include Municipal Ordinances. (S. P. 286) (L. D. 833)

An Act Relating to Time Period for Use of Marriage Certificate. (S. P. 315) (L. D. 981)

An Act Extending the Appeal Period under Employment Security Law. (S. P. 227) (L. D. 662)

An Act Relating to the Rendering of Treatment and Services to Minors for Drug Abuse without Parental Consent. (H. P. 163) (L. D. 205)

An Act Relating to Age for Operation of Vehicles on Special Registration Permits. (H. P. 263) (L. D. 370)

An Act Relating to Credit for Confinement within County Jail Prior to Sentencing. (H. P. 433) (L. D. 582)

An Act Creating the Monson Utilities District. (H. P. 479) (L. D. 630)

An Act to Increase Payments to Forestry Department for Forest Fire Protection in Indian Township. (H. P. 569) (L. D. 748)

An Act Relating to Use of Vending Machines on Sundays. (H. P. 693) (L. D. 900)

An Act Relating to Definition of Retail Sale under Sales and Use Tax Law. (H. P. 802) (L. D. 1061)

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

An Act Relating to Removal of Dilapidated Wharves or Piers. (H. P. 1190) (L. D. 1456)

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.

Resolve, to Reimburse William Fitzgerald of Madison for Well Damage by Highway Maintenance. (H. P. 254) (L. D. 368)

Resolve, to Reimburse Blain Crabtree of Cherryfield for Property Damage by Highway Construction. (H. P. 262) (L. D. 369)

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

Resolve, Proposing Study of Feasibility of Establishing State Park Facilities within Penobscot County. (H. P. 316) (L. D. 434)

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

Resolve, to Reimburse Otis Smith of Kittery for Motor Vehicle Damage Due to Highway Maintenance. (H. P. 398) (L. D. 527)

Resolve, to Reimburse Woodrow Bakeman of Castine for Property Damage by Highway Construction. (H. P. 532) (L. D. 714)

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

Resolve, in Favor of South Berwick Emergency Ambulance and Rescue, Inc. (H. P. 548) (L. D. 729)

Resolve, to Reimburse Alden V. Cole of LaGrange for Loss of Beehives by Bear. (H. P. 719) (L. D. 925)

Resolve, to Reimburse David Ervin of Corinna for Property Damages Caused by State Ward. (H. P. 728) (L. D. 934)

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

Resolve, to Reimburse Mrs. Hilma Webster of Vinalhaven for Damage to Property by Highway Construction. (H. P. 247) (L. D. 367)

Resolve, to Reimburse Mount Hope Cemetery Corporation of Bangor for Property Damage by Highway Maintenance. (H. P. 226) (L. D. 366)

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

Emergency

An Act Clarifying the Tuition Equalization Fund for Maine Students Entering Maine Private Colleges. (H. P. 696) (L. D. 902)

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

Mr. RICHARDSON: Mr. President, if I might, I would like to direct an inquiry to any member of the Committee on Education concerning the purpose of this legislation, and I would like to have it explained before I vote on it for final enactment.

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 Enactment.

Emergency

An Act Appropriating Funds to Department of the Attorney General to Print Reports of Two Attorneys General. (S. P. 335) (L. D. 1034)

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

Constitutional Amendment

Resolution, Proposing an Amendment to the Constitution Pledging Credit of the State for Revenue Bonds to be Issued by the Maine School Building Authority for Public and Private Institutions of Higher Education and for Public Post-Secondary Business, Trade, Vocational and Technical Schools. (H. P. 391) (L. D. 520)

Comes from the House, Indefinitely Postponed.

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

Mr. OLFENE: Mr. President and Members of the Senate: This bill is nothing more, as I see it, than guaranteeing private schools monies for capital expenditures up to a total amount of \$25 million. I believe very sincerely that we have had enough repercussions from spending taxpayers' money guaranteeing private business, and this falls, in my opinion, in the same category. Therefore, Mr. President and Members of the Senate, I hope you will concur with the House and indefinitely postpone this bill, and I will ask for a division.

The PRESIDENT: The Senator from Androscoggin, Senator Olfene, now moves that Legislative document 520 be indefinitely postponed in concurrence.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Thereupon, on motion by Mr. Brennan of Cumberland, tabled and Tomorrow Assigned, pending the motion by Mr. Olfene of Androscoggin that the Resolution be Indefinitely Postponed.

Orders of the Day

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

Bill, "An Act to Revise the Election Laws." (S. P. 493) (L. D. 1535)

Tabled — March 26, 1973 by Senator Shute of Franklin.

Pending — Passage to be Engrossed.

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

Senate Amendment "A", Filing No. S-47, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. SHUTE: Mr. President and Members of the Senate: This is rather a lengthy document, L. D. 1535, which Senator Cianchette reported out of committee as a new draft of L. D. 556. L. D. 556, entered earlier in the session, is a result of a study made by an ad hoc committee comprising legislators, town clerks, city clerks, boards of registration, people from all walks of life in the state who are interested in election laws, and bringing them up to date in the light of changes brought on by congressional edict or by the Supreme Court. L. D. 1535, is a result of further study by the Election Laws Committee. And for a full explanation, I might say, of each of the provisions in L. D. 1535, I refer you to a statement of fact on L. D. 556, which covers most of these areas.

Now, the amendment that I offer today is to reduce the residency requirement from the current three months to 45 days. Now, you will note the statement of fact on the amendment which I have offered to you is a little bit misleading. The purpose of this amendment is to increase the number of days of residency required in order to vote in any election to 45 and to clarify the keeping of the list of absentee ballots furnished by the clerk. Actually the law now reads three months, as you are well aware. The original bill, 556, of course, called for a 30 days residency requirement.

Now, in a recent Supreme Court decision concerning residency laws in the State of Virginia, the

Supreme Court declared that 50 days was not an outside limit for residency to be established in order to qualify one to vote. So we have offered 45 days as a medium, which is a reduction of about 45 days from our current law. As you know, there is another bill, a Constitutional Amendment, L. D. 9, which languished in the other body for a number of weeks, and now has been referred to the Maine Supreme Court for their judgment.

What we would like to do is move 1535 along with a 45-day provision and see what the Maine Supreme Court does with this, but 1535 is a log jam for our Election Laws Committee because so many of the other bills we are holding in Committee — and I have a whole book full here — depend on the outcome of 1535 and the change of the election laws. We feel that this should move along.

The other amendment that I offer is merely a change to accommodate one of the bills that was offered earlier by Representative Hancock from Casco. This was also on your calendar earlier today in another item on Page 7 related to L. D. 1135, and the Committee revised this law. The amendment would change the new draft back to the present law. Two words are stricken out at the end of the bill, "by precinct", because this again relates to some changes that the Committee feels are necessary in Title 21 on the matter of absentee ballots and the bringing of all absentee ballots in election precincts, where there is more than one precinct, back to the town hall or city hall where all absentee ballots would be counted. So we eliminated the two words "by precinct" there. If that isn't a full explanation of that, I would attempt to clarify it with any further question.

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

The motion prevailed.

Thereupon, the Bill, as Amended, was Passed to be Engrossed.

Sent down for concurrence.

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

Bill, "An Act Relating to Risk Sharing Plans in the Field of Property Insurance." (H. P. 189) (L. D. 229).

Tabled — March 27, 1973 by Senator Berry of Cumberland.

Pending—Consideration.

(In the House, Passed to be Engrossed.)

(In the Senate, Indefinitely Postponed.)

(House Insisted.)

Mr. Cox of Penobscot then moved that the Senate Adhere.

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

Mr. BRENNAN: Mr. President, I would now move that we recede and concur, and would speak briefly to it.

The PRESIDENT: The Senator from Cumberland, Senator Brennan, now moves that the Senate recede and concur.

The Senator has the floor.

Mr. BRENNAN: Mr. President and Members of the Senate: This bill has been debated at some length previously, but I would just like to make a few remarks.

Realistically, insurance today is a necessity on real estate, and I think the necessity is greater the lower one's net worth is. I would ask if there is anybody in this hall here who doesn't have insurance on his own home? I believe if you accept that proposition that insurance on your own home is a necessity today, if you accept that, then I think the state has a proper function to see that that insurance is available where private enterprise has failed.

We have gotten something that was distributed a couple of weeks ago here from insurance people that indicates that private enterprise has failed. And if you accept this as a necessity, I would say it is a proper function of the state. So I would submit that in the Portland area and other areas of this state that need has been demonstrated.

Now, all this bill would do is set up a vehicle to provide insurance for those people who have their life's savings in their

homes. I would like to read just the first paragraph of the bill to show how moderate the bill is. It says "If the Insurance Commissioner finds after a hearing that, in any part of this State, property insurance is not readily available in the voluntary market and that public interest requires such availability, he may, by regulation, either promulgate plans to provide such insurance coverage for any risks in this State which are equitably entitled to but otherwise unable to obtain such coverage or he may call upon industry to prepare plans for his approval."

Now, I say that this is a very moderate piece of legislation, it is designed to meet a need that has been demonstrated in this state, and it is a perfectly proper function of government where private enterprise has failed to meet that need. So I would urge you to recede and concur, and when the vote is taken I would ask for a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: I notice that the House has insisted, and the motion in front of us now is that the Senate recede and concur. I think that perhaps a proper motion might be that the Senate insist and request a committee of conference.

At the hearing there was no proof, no proof whatsoever, to lead me to believe that there is a need within the state, that there are abuses within the state, or that there is property within the state that is not being presently covered. Since the public hearing I have been hearing a substantial amount of static within this room and out in the corridors that there are areas of the state where these needs exist, and perhaps if these needs and these abuses can be documented we might have some kind of change of mind, but at the moment the evidence is overwhelmingly against the bill. So I might suggest to the Senator from Cumberland that if he wishes to discuss this a little further perhaps the proper motion might

be that we insist and request a committee of conference.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I would have to stick to my guns. I am afraid that this would not fare very well in a committee of conference and that it would meet its death knell there. So I would again strongly urge the Senate to recede and concur and attempt to provide insurance for those who can't get it.

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

Mr. SPEERS: Mr. President, a parliamentary inquiry: If the Senate voted to recede and concur, would they be voting to insist on their former action or would they be voting to recede and concur with the prior House action of passage to be engrossed?

The PRESIDENT: The Chair's interpretation would be that if the Senate voted to recede and concur we would then be in concurrence with the House and would insist on their former action, which was to pass the bill to be engrossed.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: I voted in favor of this legislation last time and intend to do so again. I think if there is some quarrel about the need for this legislation it is by the suggestion of the Senator from Kennebec, Senator Katz, that is going to lead us into a question of determining whether or not a need exists. All this bill does is provide standby authority to the Commissioner to review by public hearing to determine whether or not there is a need in this area.

I honestly don't understand the very vigorous opposition to this legislation. I listened attentively during last week's debate to the excellent presentation by the Senator from Penobscot, Senator Cox, but I must in all candor tell you that this bill does nothing more than provide a vehicle by which the Commissioner can take action

in the event that objective, impartial and public inquiry indicates the need for action. I think the reaction against this bill has been alarmingly spirited, and I just don't see the problem. Perhaps if we can be enlightened again I will get it the second time around, but I certainly didn't the first time.

I hope that you will vote to recede and concur with the House which, as I understand it, will put us in the position of adopting this legislation.

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

Mr. CONLEY: Mr. President and Members of the Senate: I was a little disturbed to hear the good Senator from Penobscot, Senator Cox, make a motion to adhere on this piece of legislation. It is true, as was expressed by Senator Katz, that at the public hearing there was no evidence presented to the committee that this type of legislation is necessary.

Just recently it was brought to my attention that in the Portland area, since this bill was last debated, a lady with a family who lives near a recently developed housing project received from one of our national insurance companies cancellation of her insurance. What the letter read was that a survey was made within the area, and due to the fact that there were some sort of dilapidated structures around her that her policy was cancelled and she no longer had insurance.

Now, I just wonder about people who have owned their homes for 30 or 40 years, or 25 years, whatever the case may be, and have been struggling through their lives to sort of maintain their domicile and keep their family together — and as we know, it is very difficult today; one family may be able to enjoy the luxury of keeping their home up to standards, and on the other hand homes around them may be falling apart and slowly coming to their demise — but what about the person who has put their life's savings into their home and, because of the structures around them, all of a sudden find that they no longer have insurance on

their home? And I wonder also about the person who may possibly have purchased a home and be into debt up to their ears, only to find that the insurance company again rescinds coverage. What happens then as far as the banks are concerned and the mortgage that is on that home?

The Insurance Commissioner himself is on record as favoring this bill before us, and if there is — there hasn't been yet — a consumers' bill put in this legislature, I think this is one. I think it is good protection for those people who are being flouted by insurance companies.

I disagree strongly with Senator Katz as to the need. He is basing it on the public hearing, I am sure, but I know that in the Portland area, particularly where you have a community that is undergoing physical change, that insurance companies move as fast as night and they don't wait a moment to take action that just automatically kills any blanket of insurance, and I think there is a need for it.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Anderson.

Mr. ANDERSON: Mr. President and Members of the Senate: I am just a layman in this business of insurance but I have several agencies in Ellsworth, my home town, and they have all urged me to oppose this bill, saying that there is absolutely no necessity for it. So I shall stick to my original motion and try to kill the bill. Thank you.

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

Mr. MORRELL: Mr. President and Members of the Senate: I normally agree with the eloquent logic of my associate from Cumberland, Senator Richardson. It seems to me our responsibility here is to review the problems that face the state and pass legislation to take care of it. I think if we are to have an added responsibility to try and anticipate what might be a problem, without adequate documentation, that we could be passing about twice as many laws as we have already.

Now, I think that if documentation is presented and this is an acute problem around the state, then I think we ought to deal with it by appropriate legislation. But I am not in favor of trying to imagine a problem and then setting up standby legislation which may or may not be needed. Consequently, I hope that we will not reverse our stand on this issue.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Where people are talking about documentation, I would be very pleased to try to get some documentation, if someone would be kind enough to table this for a couple of days.

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

Thereupon, on motion by Mr. Morrell of Cumberland, tabled and Specially Assigned for April 2, 1973, pending the motion by Mr. Brennan of Cumberland to Recede and Concur.

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

Bill, "An Act Increasing Compensation of Full-time Deputy Sheriffs in all Counties." (H. P. 415) (L. D. 564)

Tabled — March 27, 1973 by Senator Berry of Cumberland.

Pending — Consideration.

(In the House — Recommended to the Committee on County Government.)

(In the Senate — Leave to Withdraw, Covered by Other Legislation. Report Accepted.)

(House Insisted and Asked for a Committee of Conference.)

On motion by Mr. Berry of Cumberland, the Senate voted to Recede from its former action whereby the Leave to Withdraw Report of the Committee was Accepted.

Thereupon, on further motion by the same Senator, the Bill was Recommended to the Committee on County Government in concurrence.

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

Bill, "An Act Relating to Recording Municipal Ordinances Relating to Land Control." (H. P. 858) (L. D. 1001).

Tabled — March 27, 1973 by Senator Berry of Cumberland.

Pending — Consideration.

(In Senate — Passed to be Engrossed as Amended by Senate Amendment "C" (S-36)

(In the House — Passed to be Engrossed as Amended by Senate Amendment "C" as Amended by House Amendment "A" thereto (H-125).

On motion by Mr. Berry of Cumberland, retabled and Tomorrow Assigned, pending Consideration.

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

Resolve, Relating to Immediate Payment of Boarding Home Funds. (S. P. 339) (L. D. 1038)

Tabled — March 27, 1973 by Senator Greeley of Waldo.

Pending — Passage to be Engrossed.

(Committee Amendment "A" (S-44).

On motion by Mr. Berry of Cumberland, retabled and Specially Assigned for April 4, 1973, pending Passage to be Engrossed.

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

Bill, "An Act Relating to Content of Ballots." (H. P. 442) (L. D. 591).

Tabled — March 27, 1973 by Senator Shute of Franklin.

Pending — Enactment.

On motion by Mr. Shute of Franklin, retabled and Specially Assigned for April 4, 1973, pending Enactment.

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

Resolution, Proposing an Amendment to the Constitution to Permit Appointment of Judges of Probate. (S. P. 292) (L. D. 839).

Tabled — March 27, 1973 by Senator Berry of Cumberland.

Pending — Motion of Senator Tanous of Penobscot to Recede and Concur.

(In Senate Passed to be Engrossed as Amended by Committee Amendment "A" (S-34).)

(In the House Indefinitely Postponed.)

Mr. Tanous of Penobscot was granted Leave to Withdraw his motion to Recede and Concur.

Thereupon, on motion by the same Senator, the Senate voted to Insist.

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

Bill, "An Act Relating to the Design of Buildings Constructed by the State or Political Subdivisions." (H. P. 494) (L. D. 648)

Tabled — March 27, 1973 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

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

Senate Amendment "A", Filing No. S-46, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. BERRY: Mr. President and Members of the Senate: The purpose of the amendment is just as simple as it sounds. The bill as presented now without the amendment indicates that the state, county and local governments will have to employ an architect or engineer for the purpose of designing any building. This will be obviously unjust if we are talking about a little small garage, or something, that a small town could construct with its own people. Accordingly Mr. President, I move adoption of this amendment.

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

Thereupon, Senate Amendment "A" was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the matter tabled earlier

in today's session by Mr. Berry of Cumberland:

An Act Clarifying the Tuition Equalization Fund for Maine Students Entering Maine Private Colleges. (H. P. 696) (L. D. 902)

Pending — Enactment.

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

Mr. KATZ: Mr. President and Members of the Senate: The last session of the Legislature passed a bill, which I think I voted against, which sought to give some financial help to private post-secondary institutions in the state to aiding students from low income families attending those institutions. In the process of implementing the legislation, an Attorney General's ruling disqualified students from two specific institutions from participating. As I understand the motivation of this bill, it is to re-establish what was in my mind the legislative intent, to allow the students to benefit from the funds that have already been appropriated.

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

Mr. RICHARDSON: Mr. President, a question, if I may, to the good Senator from Kennebec, Senator Katz: The legislation which we are amending by this act is, as I understand it, to expire at some specific point in time so that it will be up to us, if we wish to continue this program, to specifically raise this issue again for the coming biennium? If that question isn't clear it is because I am not clear on what this bill does.

The PRESIDENT: The Senator from Cumberland, Senator Richardson, has asked an unclear question through the Chair which the Senator from Kennebec, Senator Katz, may answer if he desires.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: I think there are three bills before this session of the legislature covering the same subject. One of them would reinstitute the law in question on a continuing basis. That I suspect has already been

heard by the Committee on Appropriations. But as I recall the bill sponsored by the Representative from Orono, Mr. Curtis, it pertains to the bill that was passed by the last legislature, which appropriated funds for this school year only, and to expire during the immediately current school year. It is a clarification of that law only, and it has nothing to do with the continuing basis.

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

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Enactment.

Reconsidered Matter

On motion by Mr. Richardson of Cumberland, the Senate voted to reconsider its action of yesterday whereby An Act Establishing Daylight Saving Time for All Year, (H. P. 542) (L. D. 724) was Passed to be Enacted.

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

Mr. RICHARDSON: The pending motion now, Mr. President, is passage to be enacted?

The PRESIDENT: The Senator is correct.

Mr. RICHARDSON: Mr. President and Members of the Senate: In the rush of business yesterday, and I am sure that I am unique in this aspect of my position here. I sat here and watched this bill become law and didn't say anything about it. I am not trying to bore you with my rhetoric during this session, but I have grave reservations about this legislation which would establish daylight saving time for all year conditioned upon our sister states here in New England taking the same steps.

I wish that the sponsor or a spokesman for the committee would correct me if I am wrong, but if you do this, it seems to me that during the winter months when we have young children standing along the edges of Maine highways waiting for school busses, and they are going to be doing that in the dark. I think there is something to be said for not having

that event occur. This is the traditional argument that has been made against this legislation — there have been others I am sure — and I would like simply to have reassurance from whoever is competent to discuss it that this is not the situation, and that we are not going to have a situation here where during the winter months we are going to have school busses going around in the dark picking up children who are standing along the edges of Maine highways waiting to catch a bus. Unless my reservations about that are at least in part answered, Mr. President, I would like to have an opportunity to vote against this legislation, and when the question is put I would request a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Joly.

Mr. JOLY: Mr. President and Members of the Senate: This particular question that the good Senator from Cumberland, Senator Richardson, brought up was not brought up at the hearing on this bill. I might just point out that if it is a little dark in the morning it probably would be a little lighter at night when they are waiting for the busses to go home, in December I know that this would be a fact. I do recall there was some talk about this might be a saving of electricity in the morning hours, and the fact that it is tied up with the other states means that we wouldn't be out of keeping with the rest of the states; it would not be enacted in Maine unless the other states went on the same basis.

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

Mr. MORRELL: Mr. President and Members of the Senate: Just to reassure Senator Richardson, I was in grammar school, I think, during the 2nd World War, and we had year-round daylight saving time, I think, during that period. I seriously can't recall that there was any problem of the nature that he perhaps has some qualms about.

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

Mr. CONLEY: Mr. President and Members of the Senate: I sort of share the thoughts of my seatmate, the good Senator from Cumberland, Senator Richardson. I just don't like the way the question is being put to the Senate at this time, and I move the indefinite postponement of this bill.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that Bill, "An Act Establishing Daylight Saving Time for All Year", be indefinitely postponed.

The Chair will order a division. As many Senators as are in favor of the motion of the Senator from Cumberland, Senator Conley, that this bill be indefinitely postponed will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Nine Senators having voted in the affirmative, and twenty-three Senators having voted in the negative, the motion to Indefinitely Postpone did not prevail.

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

Sent down for concurrence.

Reconsidered Matter

On motion by Mr. Danton of York, the Senate voted to reconsider its action of yesterday whereby on Bill, "An Act Relating to Taxation of Farmland", the Majority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

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

Mr. HICHENS: Mr. President and Members of the Senate: I would like to present some additions to my statements of yesterday in supporting the motion for reconsideration, and also to change that motion now to Accept the Ought to Pass Report of the Committee.

The purpose of this law is expressed in the statutes as follows: "It is declared that it is in the public interest to encourage

the preservation of farmland and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the State, to conserve the State's natural resources and to provide for the welfare and happiness of the inhabitants of the State, that it is in the public interest to prevent the forced conversion of farmland and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farmland and open space land, and that the necessity in the public interest of the enactment of this subchapter is a matter of legislative determination."

It is my contention that the ten-year roll back or recapture penalty is so severe that it prevents participation by the farmer and thereby defeats the purpose of this program as expressed in the statute. I will present several examples to show that the ten-year roll back period involves a penalty equivalent to about half the sales value of the land when it is moved for a value higher than its value for farm use. The examples also show that as the value per acre increases the penalty becomes more severe.

It should be understood that the demand for property at the prices illustrated is limited, but I have used these examples to illustrate the possible impact of the ten-year roll back period as compared to the five-year period proposed in L. D. 1007. The average situation will be less dramatic.

It is also true that each year the assessor is required to place two values on the land entered in this program: namely, the value for farm use and for the presumed sales value. Under some circumstances a sale might be necessary at less than the assessed value thus making the roll back penalty more severe.

Now to explain my examples in hopes of proving my point, and for the second time this week I will apologize. I put these papers on

your desk today without my signature. I did not realize that I was breaking a rule of the Senate, and henceforth papers distributed will have my signature on them.

Looking at this sheet which you all have on your desk, we have examples for comparisons of five-year or ten-year tax roll backs on a hundred acre farm at its different potential values. For example, farm use at \$200 per acre, at a value of \$20,000, at a tax of 40 mills would be \$800. Example one, the potential use of this 100 acre farm, 80 acres of farmland, and a value of \$16,000, taxed at \$640, and 20 house lots at a value of \$20,000, taxed at 40 mills for \$800, or a total of \$1440 tax. The extra tax is \$640 per year, and a ten-year pay back tax would be \$6,400, interest at eight percent \$2,816, a total of \$9,216, or a penalty of 46 percent of the value applying to that acreage in house lots.

On a five-year pay back tax, \$3,200, and the interest penalty of \$768, the penalty would be 19.8 percent of value, or less than half.

Example two, a 50-acre farm development at \$10,000 value, and a development area of \$50,000, you have a total tax at 40 mills of \$2,400. The extra tax would be \$1,600 a year, and a ten-year payback with the interest \$23,040, or a penalty of 46 percent of the value; a five-year roll back penalty of 19.8.

Example three, 50 acres of farmland and the rest an industrial park, we have \$10,000 for the 50 acres of farmland, and \$100,000 for the industrial park, a total tax at 40 mills of \$4,400. The extra tax of \$3,600 per year on a ten-year pay back tax, with the interest and penalty rate at eight percent, would be \$51,840, or a penalty of 51.8 percent of value. And a five-year pay back tax at \$18,000, and interest at \$4,320, a total of \$22,320, the penalty would be 22.3 percent of value. With these figures in mind, Lady and Gentlemen of the Senate, I would now ask you to accept the Ought to Pass Report, and I would request a roll call.

The PRESIDENT: A roll call has been requested. The Senator from York, Senator Hichens, now moves

that the Senate accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Oxford, Senator Fortier.

Mr. FORTIER Mr. President and Members of the Senate: I am awfully glad to see that apparently we are all in accord on the purpose of this law. The statute as it now reads would preserve as much of our Maine farmland as possible as farmland, and to discourage the speculator under whatever name he may be operating.

I am very glad to see that the proponents of this bill have done their homework. We always appreciate light being shown upon our work here and any help that can be given us we appreciate.

Now, these figures that my good friend, Senator Hichens, has just given you, I hope you appreciate how much work he must have put into this, and I accept every word he said because I have gone over the computations and I believe that he is correct. But there is one thing which apparently he forgot, and that is to process these figures just slightly beyond what he has done. In these computations I assume that the 50 percent valuation generally used by the state would be a fair one to apply to this. As far as his valuations on improved property, I am not going to question it; I will accept his figures.

On example one, for example, on a ten-year roll back he has told you that there would be a penalty to the farmer of \$9,216, and on a five-year roll back there would be \$3,968, but according to his own computation here, one thing that he didn't tell you would be that that farmer would be making an extra profit of \$32,000 on the ten-year roll back. That is still over 300 percent profit, and an assured profit because the penalty would be computed only after the computation of the profit. On the five-year roll back that would be slightly over 800 percent.

On the second example which he brings out the profits would be \$80,000. Again on a ten year roll back the profit would be slightly over 300 percent; on the five year roll back over 800 percent.

On the third example the profit would be \$180,000, with again the ratio slightly higher. I presume that if this is the case, I don't believe that we have to cry too much over the situation of our poor farmer who will only make 800 percent profit on a sure bet. No gamble, because the penalty is invoked only after the sale. So, I do hope you will vote against this, and the only thing I can tell you is that if this is so then I think most of us are in the wrong business.

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

Mr. KATZ: Mr. President and Members of the Senate: The Senator from Oxford, Senator Fortier, speaks so clearly and so succinctly that I am embarrassed to say there is one point I didn't follow, and I would like to ask through the Chair if the Senator would explain specifically in example number one his arrival of the figure of a \$32,000 profit.

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair which the Senator from Oxford, Senator Fortier, may answer if he desires.

The Chair recognizes the Senator from Oxford, Senator Fortier.

Mr. FORTIER: Mr. President and Members of the Senate: I have assumed that the \$20,000 valuation originally stated in the form given us was based on 50 percent valuation, so this would make the probable sales value as farmland at \$40,000. Now, if we are going to apply the 50 percent valuation there, it seems to me only fair to carry it forward to the new assessment because here in this statement they are talking about tax assessment. So that if you use a \$16,000 assessment or \$32,000 market value on the 80 acres of land, you come up with \$32,000 for the part that is maintained as farmland. The 20 house lots with an assessed value of \$20,000 would then acquire a market value of \$40,000, or a total market value of \$72,000 minus the \$40,000, which was a fair market value under the assessment of \$20,000, leaves you a profit of \$32,000 or 300 percent

or 800 percent, whichever one you want to use.

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

Mr. HICHENS: Mr. President and Members of the Senate: I neglected to mention that this was based on a 100 percent valuation; not 50 percent.

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

Mr. Marcotte of York then moved that the Bill be tabled and Specially Assigned for April 2, 1973, pending the motion by Mr. Hichens of York to accept the Minority Ought to Pass Report of the Committee.

On motion by Mr. Berry of Cumberland, a division was had. Six Senators having voted in the affirmative, and twenty-two Senators having voted in the negative, the motion did not prevail.

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

Mr. BERRY: Mr. President and Members of the Senate: I would like to just very briefly speak to the bill itself. I am supporting Senator Marcotte and Senator Hichens. I think there is a broad principle involved here. It was a little bit dismayed at the figures yesterday; there is practically no participation in this program. But I think this is a major way of cutting down on the fast development of the state in the area of repeated sales, which is going on quite unnoticed because there is no physical development on the land involved.

I am sure you all realize that there is a tremendous volume of sales going on on land in the State of Maine. A great deal of it involves out-of-state people. If this bill can go through, and it can contribute in any way to slowing down this disappearance of these open spaces we see, I think it is worth consideration. I know many of you are hunters in this group, and as you go out year after year to the same habitat you see a very, very steady deterioration of our open land. I am sure there is

Senator Shute, and I could name many of the people around here, Senator Greeley, who come from areas where they see this taking place. This doesn't attract much attention, but it is happening. But what is happening that you don't notice too is that this land is constantly changing hands and going up in price.

I see that this would end up, in addition to developing a large group of out-of-state landowners, and the retirement of a lot of open land and farmland, I see here an increase in the valuation of Maine landowners, because we are certainly headed for the day when we are going to have 100 percent valuation on all of our property in our state. If you are going to see these transactions take place that we are considering today at greatly inflated values, it sure as shooting is going to mean that sooner or later the Maine landowner is going to see his own land go up in value too. So, I think there is a worthy motive or a worthy objective here. I hope we can consider it in this light, and I think that we would be making measured progress.

I would like to debate the justification of even a five-year roll back, frankly. Personally, I don't think we need any roll back. The fellow who sells his land at a higher figure is going to pay a capital gains tax. The municipalities have been giving little or nothing for the tax involved. It seems to me this is only fair, but we are not discussing that today. We are just discussing going from a ten-year roll back to a five-year roll back, which I think is a rather small step forward.

THE PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from York, Senator Hichens, that the Senate accept the Minority Ought to Pass Report on Bill, "An Act Relating to Taxation of Farmland," L. D. 1007.

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 Hichens, that the Senate accept the Minority Ought to Pass Report of the Committee on Bill, "An Act Relating to Taxation of Farmland" 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 Berry, Cyr, Danton, Graffam, Greeley, Hichens, Marcotte, Minkowsky, Morrell, Olfene, Peabody, Roberts, Schulten, Sewall, Shute, and Wyman.

NAYS: Senators Aldrich, Anderson, Brennan, Cianchette, Clifford, Conley, Cox, Cummings, Fortier, Huber, Joly, Katz, Richardson, Speers, Tanous, and President MacLeod.

ABSENT: Senator Kelley.

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

THE PRESIDENT: Is it now the pleasure of the Senate to accept the Majority Ought Not to Pass Report of the Committee?

The Chair recognizes the Senator from Cumberland, Senator Berry.

On motion by Mr. Berry of Cumberland, a division was had. Fifteen Senators having voted in the affirmative, and sixteen Senators having voted in the negative, the Majority Ought Not to Pass Report of the Committee was not Accepted.

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

MR. BERRY: Mr. President, I now move that the Senate accept the Minority Ought to Pass Report.

THE PRESIDENT: The Senator from Cumberland, Senator Berry, now moves that the Senate accept the Minority Ought to Pass Report.

of the Committee. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, S e n a t o r Richardson.

Mr. RICHARDSON: Mr. President, I would direct a parliamentary inquiry to the Chair, and that is: the Senate having failed to adopt the Majority Ought Not to Pass Report, and it having failed to accept the Minority Ought to Pass Report, and the Senate having failed to accept the Ought Not to Pass Report, does not the initial action of the Senate with respect to the Ought to Pass Report prevail, and should this matter not now be returned to the House?

The PRESIDENT: The Chair would answer the parliamentary inquiry from the Senator from Cumberland, Senator Richardson, that the bill is still before the body for consideration, and the motion

of the Senator from Cumberland, Senator Berry, is in order.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I wonder if this is not analogous to a situation which we were faced with earlier in this session whereby the Senate failed to accept either report, and therefore the matter itself, the bill itself, is now before the Senate?

The PRESIDENT: The Senator is correct.

The Chair recognizes the Senator from Cumberland, S e n a t o r Brennan.

Thereupon, on motion by Mr. Brennan of Cumberland, tabled and Tomorrow Assigned, pending First Reading.

On motion by Mr. Sewall of Penobscot,

Adjourned until 1:30 o'clock tomorrow afternoon