

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred and Sixth

Legislature

OF THE

STATE OF MAINE

1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Thursday, April 12, 1973

Senate called to order by the President.

Prayer by Father Jules Guy of Augusta.

Reading of the Journal of yesterday.

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

Bill, "An Act Relating to Definition of Cigarettes under Cigarette Tax Law." (S. P. 567) (L. D. 1698)

In the Senate April 9, 1973, the Majority report Read and Accepted and the Bill, in New Draft, Passed to be Engrossed.

Comes from the House, Bill and accompanying papers, Indefinitely Postponed, in non-concurrence.

On motion by Mr. Wyman of Washington, the Senate voted to insist.

Non-concurrent Matter

Bill, "An Act Providing for the Maine Property Insurance Cancellation Control Act." (S. P. 231) (L. D. 666)

In the Senate April 3, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (S-50).

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A", House Amendment "A" (H-169) and House Amendment "B" (H-197), in non-concurrence.

On motion by Mr. Cox of Penobscot, the Senate voted to Recede and Concur.

Joint Order

Out of Order and Under Suspension of the Rules:

On motion by Mr. Berry of Cumberland,

ORDERED, the House concurring, that when the Senate and House adjourn they adjourn to Tuesday, April 17, at 10 o'clock in the morning. (S. P. 582)

Which was Read and Passed.

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

Joint Orders

WHEREAS, among the sons of this State are found individuals

with marked personal characteristics who have become eminent and successful in the various callings of life; and

WHEREAS, Dr. Lore Alfred Rogers, scientist, inventor, author and distinguished resident of Patten, Maine, is so recognized; and

WHEREAS, Dr. Rogers served as chief of the United States Department of Agriculture Dairy Products Laboratory for 36 years and holds, among other honorary degrees, the highest honors in American Dairy Science; and

WHEREAS, it was Dr. Rogers almost 72 years ago who discovered methods for improving and keeping butter which has since revolutionized the dairy industry; and

WHEREAS, he is a graduate and oldest living alumnus of the University of Maine, class of 1896, and last surviving member of its first football team; and

WHEREAS, at 98 years of age he is actively engaged in developing and building a lumbermen's museum on the outskirts of Patten Village, Route 159, his lifelong interest; and

WHEREAS, despite retirement, this renowned bacteriologist and his associates are bringing the spectator of lumbering within the knowledge and enjoyment of countless visitors; now, therefore, be it

ORDERED, the Senate concurring, that the Members of the Senate and House of Representatives of the 106th Legislature of the great and sovereign State of Maine, take this opportunity to recognize and express their appreciation for the many worthy accomplishments of this native son, which have contributed so much to the betterment of his fellowman; and be it further ORDERED, that a suitable copy of this Order be immediately forwarded to Dr. Rogers in token of the sentiments expressed herein. (H. P. 1429)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

ORDERED, the Senate concurring, that the Joint Standing Committee on County Government re-

port out a bill which would require the respective counties of the State to file with the Legislature the proposed budgetary expenditures of all federal revenue sharing funds. (H. P. 1428)

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.

Committee Reports

House

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act Relating to Lands on Indian Township, Washington County Acquired by the State." (H. P. 205) (L. D. 278)

Bill, "An Act Relating to Actions for Money Due Indian Tribes and for Injuries Done to Tribal Lands." (H. P. 211) (L. D. 284)

Resolve, Designating Lewiston-Auburn Bridge as "Leslie E. Jacobs Bridge." (H. P. 583) (L. D. 773)

Resolve, Appropriating Funds for Construction of Early Childhood Facility for the Passamaquoddy Tribe at Pleasant Point. (H. P. 615) (L. D. 813)

Bill, "An Act Relating to Place of Business of Real Estate Brokers and Salesmen." (H. P. 763) (L. D. 996)

Change of Reference

The Committee on Business Legislation on Bill, "An Act Relating to the Certification and Regulation of Geologists." (H. P. 608) (L. D. 805)

Reported that the same be referred to the Committee on State Government.

Comes from the House, the report Read and Accepted and the Bill referred to the Committee on State Government.

Which report was Read and Accepted and the Bill referred to the Committee on State Government, in concurrence.

Ought to Pass

The Committee on State Government on Bill, "An Act Relating to the University of Maine Treasurer's Report." (H. P. 910) (L. D. 1198)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-210).

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

Ought to Pass — As Amended

The Committee on Legal Affairs on Bill, "An Act to Amend the Act Creating the Eastport Public Landing Authority." (H. P. 421) (L. D. 570)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-190).

The Committee on Legal Affairs on Resolve, Authorizing the Forest Commissioner to Convey the State's Interest in Lot in Codyville, Washington County, to Clarify Title. (H. P. 988) (L. D. 1308)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-191).

The Committee on Education on Bill, "An Act Providing for Marine Resource Education by Department of Sea and Shore Fisheries." (H. P. 1127) (L. D. 1462)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-193).

The Committee on Education on Bill, "An Act to Establish a Cooperative Education Support Program." (H. P. 1101) (L. D. 1437)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-192).

The Committee on Legal Affairs on Bill, "An Act Relating to Powers of Ogunquit Village Corporation." (H. P. 438) (L. D. 587)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-187).

The Committee on Appropriations and Financial Affairs on Bill, "An Act to Increase the Salary of Court Reporters." (H. P. 328) (L. D. 446)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-189).

The Committee on Fisheries and Wildlife on Bill, "An Act Prohibiting Hunting, Trapping and Fishing on Indian Lands by Non-Indians." (H. P. 351) (L. D. 466)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-186).

The Committee on Legal Affairs on Bill, "An Act Prohibiting Bringing Animals Into Food Stores." (H. P. 986) (L. D. 1306)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-188).

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

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

Ought to Pass in New Draft

The Committee on Appropriations and Financial Affairs on Bill, "An Act Providing Funds for a Study of Bicycle Traffic." (H. P. 969) (L. D. 1276)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1425) (L. D. 1763)

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 Education on Bill, "An Act Relating to Conveyance of Secondary Pupils." (H. P. 633) (L. D. 847)

Reported that the same Ought to Pass.

Signed:

Senator:

KATZ of Kennebec

Representatives:

LYNCH

of Livermore Falls

LaCHARITE of Brunswick

LeBLANC of Van Buren

MURRAY of Bangor

LAWRY of Fairfield

FERRIS of Waterville

GAHAGAN of Caribou

TYNDALE

of Kennebunkport

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

Signed:

Senators:

OLFENE of Androscoggin

MINKOWSKY

of Androscoggin

Representatives:

BITHER of Houlton

LEWIS of Auburn

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

Which reports were Read.

On motion by Mr. Olfene of Androscoggin, tabled and Tomorrow Assigned, pending Acceptance of Either Report.

Divided Report

The Majority of the Committee on County Government on Resolve, for Laying of the County Taxes for the Years Nineteen Hundred and Seventy-three and Nineteen Hundred and Seventy-four. (H. P. 1419) (L. D. 1733)

Reported that the same Ought to Pass.

Signed:

Senators:

ROBERTS of York

PEABODY of Aroostook

CLIFFORD

of Androscoggin

Representatives:

CHURCHILL of Orland

FARRINGTON of China

SHELTRA of Biddeford

TANGUAY of Lewiston

DAM of Skowhegan

DYAR of Strong

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

Signed:

Representatives:

McMAHON of Kennebunk
PONTBRIAND of Auburn
WHITZELL of Gardiner

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

Which reports were Read.

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

Mr. HICHENS: Mr. President and Members of the Senate: Although I am not going to make any motion on this L. D., I would like to go on record as being inalterably opposed to the amount apportioned to the County of York.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Majority Ought to Pass Report of the Committee in concurrence?

The Majority Ought to Pass Report was Accepted in concurrence and the Bill Read Once. Under suspension of the rules, the Bill was then given its Second Reading and Passed to be Engrossed.

Thereupon, under further suspension of the rules, sent forthwith to the Engrossing Department.

Divided Report

The Majority of the Committee on Agriculture on, Bill, "An Act Authorizing Games of Chance at Agricultural Fairs." (H. P. 714) (L. D. 920)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-195).

Signed:

Senators:

PEABODY of Aroostook
CYR of Aroostook

Representatives:

PRATT of Parsonsfield
HUNTER of Benton
ALBERT of Limestone
BERRY of Buxton
MAHANY of Easton
EVANS of Freedom
COONEY of Sabattus
MORIN of Portland

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

Signed:

Senator:

HICHENS of York

Representative:

ROLLINS of Dixfield

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which reports were Read.

Mr. Hichens of York then moved that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

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

Mr. PEABODY: Mr. President and Members of the Senate: My reason for going along with this Ought to Pass Report is that they have had these games of chance for a long time at these agricultural fairs, and I wanted to see them made legal so that if they do break this law they will be punished. I hope that the members of this Senate do not go along with Senator Hichens.

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

Mr. HICHENS: Mr. President and Members of the Senate: I rise reluctantly to oppose my good friend from Aroostook, Senator Peabody. Having to room next to him at the Senator Motel and accept some of his vengeance once in a while when we do disagree, I will have to take that chance in opposition on L. D. 920.

L. D. 920 is the result of action taken in the past few years to force county attorneys in Maine to enforce the laws concerning gambling at county fairs throughout the state. Professional gamblers have been gradually flouting the laws to a greater extent every year, and finally when action was taken by the county attorneys prohibiting these practices, they have now had a bill introduced to make their practices legal.

The statement of fact on L. D. 920 states, "It has been traditional since ancient days to permit games of chance of limited amounts at fairs." I would comment that it has also been traditional since before games of chance began that

prostitution and intoxication also have been permitted to certain extents, and even this year the laws regarding intoxication are proposed to be repealed. Prostitution is probably the next practice to be put up to be legalized.

The statement of fact also states that a strict application of present laws, no matter how small the amount wagered, prohibits any such games. In L. D. 920 we are exempting the amount gambled at 25 cents or under. There is no limitation on how many games can be engaged in at this amount. Minors attending fairs with limited amounts of cash for entertainment and refreshment can quickly be fleeced of their funds by these clever operators. Games where a prize is guaranteed are somewhat different. In games where money is set down on a number, and the wheel is spun or a mouse runs in a hole, simply takes the youngsters' funds in short order.

You all know as well as I do that if this amendment to the present law is passed that the gambling crowd will be back next session to increase the amounts to be allowed.

Also we have attached to this bill an amendment to let all non-profit organizations be included. Thus, we will allow open gambling at church, scout, school and other functions. I feel that we should put a halt to further liberalization of our gambling laws instead of encouraging our young people to believe that if they keep breaking laws "Don't worry; we will make everything legal for you anyway."

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

On motion by Mr. Cianchette of Somerset, a division was had. Nine Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion did not prevail.

Thereupon, the Majority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on Bill, "An Act Relating to Release and Discharge of Persons Acquitted by Reason of Mental Disease or Mental Defect." (H. P. 336) (L. D. 454)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-166).

Signed:

Senators:

TANOUS of Penobscot
SPEERS of Kennebec
BRENNAN of Cumberland

Representatives:

WHITE of Guilford
WHEELER of Portland
HENLEY of Norway
GAUTHIER of Sanford
BAKER of Orrington
PERKINS

of South Portland
McKERNAN of Bangor
KILROY of Portland
DUNLEAVY

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

Signed:

Representative:

CARRIER of Westbrook

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A"

Which reports were Read, the Majority Ought to Pass Report of Committee Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on Bill, "An Act Relating to Penalty for Recklessly Causing Death by Operation of a Motor Vehicle." (H. P. 202) (L. D. 275)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot
SPEERS of Kennebec
BRENNAN of Cumberland

Representatives:

WHEELER of Portland
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 to Pass as Amended by Committee Amendment A" (H-167).

Signed:

Representatives:

GAUTHIER of Sanford
BAKER of Orrington
CARRIER of Westbrook
WHITE of Guilford
KILROY of Portland
HENLEY of Norway

Comes from the House, the Minority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment A".

Which reports were Read.

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

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

Mr. HICHENS: Mr. President, I oppose that motion and request a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: Having discussed this bill with the distinguished Chairman of the Judiciary Committee and with the distinguished Minority Floor Leader, I approach this subject with some fear and trepidation.

As you can see by the Committee Report, all of the members of the Senate are of the opinion that we should not have mandatory jail sentences, and quite a few members of the other body seem to have hardened down and taken, I would suggest, a somewhat narrow view, I guess.

Now, I don't see anything wrong with increasing the penalty, and it is my understanding that the bill in its original form would

simply increase the penalty for recklessly causing death by operation of a motor vehicle. Now, it may be a pointless waste of time because we are in the same thing we were in yesterday, with a difference of opinion between the two branches.

The bill in its original form, as I understand it — and I would like to be corrected if I am wrong — is not a mandatory sentencing bill at all; it simply increases the penalty. It is Committee Amendment A" that turns it into a mandatory situation. And I would plead with my distinguished friends on the Judiciary Committee to substitute the bill for the report in order that we can at least salvage something in this arena of discord and disagreement. Thank you.

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

Mr. BRENNAN: Mr. President and Members of the Senate: If you substitute the bill for the report, you are really not doing anything great. Under the present law someone could be sentenced to up to five years for reckless homicide. If anything is going to act as a deterrent, that should. Now, if you substitute the bill for the report, in effect, what you do is make it possible for the judge to fine him \$2,000 instead of \$1,000.

In my experience, I have very rarely seen a fine over \$500. I personally don't subscribe to the concept of fines anyway. I think fines inherently are inequitable. To a fellow making \$25,000 a year, a \$500 fine is a slap on the wrist. To a lot of our Maine citizens making \$80 a week \$500 is a substantial burden to their families. I think if you are going to talk about penalty that the penalty should be jail, and I believe in that, with discretion. So if you substitute the bill for the report, all you are really doing is upping the fine. Again, I don't think we are going to gain one thing, so I would support the motion of the Senator from Penobscot, Senator Tanous, to accept the Ought Not to Pass Report.

Again, the whole thing breaks down to your philosophy. If you

support mandatory sentencing, vote against the good Senator from Penobscot. If you are for mandatory sentencing, vote with the good Senator from York, Senator Hichens.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: I simply refuse to accept that simplistic argument by the distinguished Senator from Cumberland, Senator Brennan. I believe that mandatory sentencing is appropriate in some certain classes of offense. I do not believe mandatory sentencing is appropriate with respect to the subject matter of L. D. 275, but I do support increasing the penalty, and I don't think that it is much ado about nothing.

With all deference to the distinguished members of the Judiciary Committee, I would urge them to put aside this disagreement with the other members of the Committee and at least increase the fines in these cases.

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

Mr. TANOUS: Mr. President and Members of the Senate: You don't know how difficult it is to attempt to come out — I am sure you try this in your own committees — but we do try to come out with a bill that is palatable to everybody, but in this area it was just impossible.

When I was talking with my friend, Senator Richardson from Cumberland, in the back of the room a moment ago, I had not had the opportunity to look at this bill, but if his feelings were to be carried out on this particular bill, I fear that we would be reducing a violation; we would be making a misdemeanor out of what is presently a felony. Now, reckless homicide is presently a felony punishable by not more than five years, and this amendment would reduce it to less than six months. My understanding is that any penalty which carries under a year is a misdemeanor so we, in fact, would be reducing the crime from

a felony to a misdemeanor. So it certainly isn't acceptable to me in this form, and I would repeat my motion that we accept the Majority Ought Not to Pass Report of the Committee.

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

Mr. BERRY: Mr. President and Members of the Senate: I am a little bit inclined to follow the suggestion of the Senator from Cumberland, Senator Richardson, that if we do pass the bill it can be changed. And I agree with my good friend, Senator Brennan from Cumberland, that there is a mandatory provision in the bill, and I personally am opposed to the mandatory feature. But if there is a sincere feeling that we should increase the penalty for reckless death by driving, then the bill should be kept alive and amended, and the House Amendment is not what should be done.

It seems to me what we should do is accept the bill, then pass it along and put a proper amendment on it to increase the penalty, if that is what we are after, and to exclude a mandatory sentence.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Majority Ought Not to Pass Report of the Committee in non-concurrence. 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 Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Majority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Penalty for Recklessly Causing Death by Operation of a Motor Vehicle." 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 Aldrich, Anderson, Brennan, Cianchette, Clifford, Conley, Cox, Cummings, Cyr, Danton, Kelley, Minkowsky, Olfene, Peabody, Roberts, Sewall, Tanous.

NAYS: Senators Berry, Fortier, Graffam, Greeley, Hichens, Huber, Joly, Katz, Marcotte, Richardson, Schulten, Shute, Wyman, MacLeod.

ABSENT: Senators Morrell, Speers.

A roll call was had. 17 Senators having voted in the affirmative, and 14 Senators having voted in the negative, with two Senators being absent, the Majority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Legal Affairs on Bill, "An Act Relating to Fire Protection Requirements in Construction of Certain Buildings." (H. P. 493) (L. D. 647)

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

Signed:

Senators:

JOLY of Kennebec
ROBERTS of York
ALDRICH of Oxford

Representatives:

FECTEAU of Biddeford
EMERY of Rockland
SHUTE

of Stockton Springs

SHAW of Chelsea
COTE of Lewiston
CAREY of Waterville
CONNOLLY of Portland

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

Signed:

Representatives:

FAUCHER of Solon
DUDLEY of Enfield
BRAWN of Oakland

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

Engrossed as Amended by House Amendment "A" (H-208), and Committee Amendment "A" (H-194).

Which reports were Read, the Majority Ought to Pass as Amended Report of the Committee Accepted in concurrence and the Bill Read Once. House Amendment "A" was Read and Adopted in concurrence. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Legal Affairs on Bill, "An Act Limiting Sunday Harness Racing." (H. P. 900) (L. D. 1183)

Reported that the same Ought to Pass.

Signed:

Senators:

JOLY of Kennebec
ROBERTS of York
ALDRICH of Oxford

Representatives:

COTE of Lewiston
CAREY of Waterville
FAUCHER of Solon
CONNOLLY of Portland
FECTEAU of Biddeford

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

Signed:

Representatives:

EMERY of Rockland
BRAWN of Oakland
SHUTE

of Stockton Springs
DUDLEY of Enfield

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

Which reports were Read.

On motion by Mr. Hichens of York, tabled and Specially Assigned for April 17, 1973, pending Acceptance of Either Report.

Senate

Ought to Pass

Mr. Wyman for the Committee on State Government on Bill, "An Act Relating to Membership in Maine Law Enforcement Planning and Assistance Agency." (S. P. 325) (L. D. 1029)

Reported that the same Ought to Pass.

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

Ought to Pass — As Amended

Mr. Aldrich for the Committee on Legal Affairs on Bill, "An Act Relating to Management of Endowment Funds of Educational, Religious and Charitable Organizations." (S. P. 285) (L. D. 832)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-75).

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.

Ought to Pass in New Draft

Mr. Joly for the Committee on Legal Affairs on Bill, "An Act Requiring the Ramping of Curbs at Crosswalks for Physically Handicapped and Elderly Persons." (S. P. 188) (L. D. 495)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 585) (L. D. 1797)

Mrs. Cummings for the Committee on Natural Resources on Bill, "An Act Relating to a State Trails System." (S. P. 78) (L. D. 195)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 581) (L. D. 1788)

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

Divided Report

Eight members of the Committee on Judiciary on Bill, "An Act Creating the Free Flow of Information Act." (S. P. 43) (L. D. 99)

Reported in Report "A" that the same Ought to Pass in New Draft under Same Title (S. P. 583) (L. D. 1795)

Signed:

Senators:

TANOUS of Penobscot

SPEERS of Kennebec

Representatives:

WHEELER of Portland

BAKER of Orrington

WHITE of Guilford
KILROY of Portland
HENLEY of Norway
PERKINS

of South Portland

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

Signed:

Representatives:

CARRIER of Westbrook
DUNLEAVY

of Presque Isle

One member of the same Committee on the same subject matter reported in Report "C" that the same Ought to Pass.

Signed:

Representative:

McKERNAN of Bangor

One member of the same Committee on the same subject matter reported in Report "D" that the same Ought to Pass in New Draft under New Title: "An Act Relating to Testimony before Grand Jury by News Media" (S. P. 584) (L. D. 1796)

Signed:

Senator:

BRENNAN of Cumberland

One member of the same Committee on the same subject matter reported in Report "E" that the same Ought to Pass as Amended by Committee Amendment "A" (S-74).

Signed:

Representative:

GAUTHIER of Sanford

Which reports were Read.

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

Mr. SHUTE: Mr. President and Members of the Senate: In the interest of time, I would like to make some brief comments on L. D. 99, Item 6-28. The five separate reports on this single bill may exceed any previous record established in the legislature. I have talked with some old-timers around the hall and no one can recall any previous number greater than five in any event.

I think that the different L.D.'s now before you require some additional study. I know they do on my part but, in addition to the original L. D. 99, we now have L. D. 1795, L. D. 1796, Senate

Amendment S-74. In addition to these items which I recommend for your perusal over the long week-end, I do suggest that you review the First Amendment to the United States Constitution, Article I, Section 4, of the Maine Constitution, and I also commend to your reading a copy of an editorial which I placed on your desk, and I am not in any way trying to lobby you, but I do recommend to your reading the Tuesday, April 10 editorial of the Portland Press Herald, a copy of which is on your desk, and then we can come back on Tuesday or Wednesday and debate all of these issues as they relate to the free flow of information.

I would now, Mr. President, move the acceptance of Report "C" and request one of my colleagues table it until Wednesday, pending acceptance of that motion.

The PRESIDENT: The Senator from Franklin, Senator Shute, now moves that the Senate accept the Ought to Pass Report "C" of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Thereupon, on motion by Mr. Tanous of Penobscot, Tabled and Specially Assigned for April 18, 1973, pending the motion by Mr. Shute of Franklin to Accept the Ought to Pass Report "C" of the Committee.

Divided Report

The Majority of the Committee on State Government on Resolution Proposing an Amendment to the Constitution Changing the Tenure of Office of Sheriff to Four-year Term. (S. P. 294) (L. D. 841)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-73).

Signed:

Sensors:

SPEERS of Kennebec
WYMAN of Washington
CLIFFORD

of Androscoggin

Representatives:

CURTIS of Orono
STILLINGS of Berwick
GOODWIN of Bath
FARNHAM of Hampden
BUSTIN of Augusta

NAJARIAN of Portland

COONEY of Sabattus

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

Signed:

Representatives:

CROMMETT

of Millinocket

SILVERMAN of Calais

Which reports were Read.

Mr. Clifford of Androscoggin then moved that the Senate Accept the Majority Ought to Pass as Amended Report of the Committee.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I might ask through the Chair to anyone on the State Government Committee if they might give us a brief explanation as to the reason to extend this to four years versus the present two-year terms for sheriffs.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, has posed an inquiry through the Chair which any Senator may answer if he desires.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: The office of sheriff is one of the few left which is a two-year term. This proposal would make it a four-year term, and the amendment would make that first election for a four-year term in 1976. So the election would be held in the off year in the Governor's race and in the same year as the Presidential race.

We are attempting to increase the efficiency and knowledge of the office of sheriff. As law enforcement becomes more complex, I think the qualifications for the office necessarily will have to be made more stringent. There is another bill pending which will require that the sheriffs be certified, so that there is an overall attempt to up-grade the office of sheriff.

I think you will find if you look over the state that most sheriffs under the two-year term situation,

which we have now, are continually re-elected and most of them serve for many years before they retire, and very few are defeated at the polls. So it is felt that this is a more realistic approach to the problem and, in fact, probably would encourage better people to attempt to defeat an incumbent in office, since if it does require a great deal of time, effort and money to run for the office of sheriff, at least there would be the knowledge that a four-year term would be a result of a successful campaign.

The last thing, Mr. President, of course, this is a Constitutional Amendment, and passage by this body would merely mean that the people would be able to decide the ultimate question. All the other offices except the office of County Attorney, and there is a great deal of effort to change that, are four-year terms. This is the only two-year term, and is probably the most important office in the area of county government. The Committee felt that this would be the more realistic and equitable approach to the office of sheriff, to make it a four-year term.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Majority Ought to Pass as Amended Report of the Committee?

Thereupon, the Majority Ought to Pass as Amended Report of the Committee was Accepted and the Resolution 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 Natural Resources on Bill, "An Act Providing for Legislative Purpose and Intent in Regulating Wetlands." (S. P. 324) (L. D. 1028)

Reported that the same Ought Not to Pass.

Signed:

Senators:

SCHULTEN of Sagadahoc
CUMMINGS of Penobscot
MARCOTTE of York

Representatives:

CURRAN of Bangor

ROLDE of York
MacLEOD of Bar Harbor
HUBER of Falmouth
PALMER of Nobleboro
BERUBE of Lewiston
HERRICK of Harmony
PETERSON of Windham

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

Signed:

Representatives:

SMITH of Exeter
BRIGGS of Caribou

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

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

Mr. KATZ: Mr. President, a question: did I beat the gavel that time?

The PRESIDENT: The Chair would answer in the negative.

Mr. KATZ: Mr. President, I move that the Senate reconsider its action.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate reconsider its action whereby it accepted the Majority Ought Not to Pass Report of the Committee. Is this the pleasure of the Senate?

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, might I ask through the Chair — I read the bill over it sounds like a mild bill that probably expresses what we all feel — might I have some response from the committee at this overwhelming Ought Not to Pass Report?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed an inquiry through the Chair which any member of the committee may answer if he desires.

The Chair recognizes the Senator from Sagadahoc, Senator Schulten.

Mr. SCHULTEN: Mr. President and Members of the Senate: I had intended to stand up and for the purpose of clarification on this bill, but I just wasn't quick enough.

The committee heard this bill and, as you see, pretty thoroughly discouraged the passage. The rea-

son we did this was not that we disagreed with the intent, but in checking on the present laws that we have on the books the intent, we felt, was very clear and that there was absolutely really no reason to clutter up our statutes with more intent, particularly so when it might possibly be of assistance to one department but really not affect or be very helpful to anyone else in the state. So, we felt the present statutes were more than sufficient to cover this item and the majority of the committee so voted.

The **PRESIDENT**: As many Senators as are in favor of the motion of the Senator from Kennebec, Senator Katz, that the Senate reconsider its action whereby it accepted the Majority Ought Not to Pass Report of the Committee will please say "Yes"; those opposed "No".

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

Sent down for concurrence.

Second Readers

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

House

Resolve, Providing Retirement Benefits Under the State Retirement Law for Earl A. Haines of Brunswick. (H. P. 57) (L. D. 67)

Bill, An Act Exempting Beehives from the Personal Property Tax." (H. P. 541) (L. D. 723)

Bill, An Act Relating to Use of Unofficial Certificates of Motor Vehicle Inspection." (H. P. 547) (L. D. 728)

Bill, "An Act Relating to Adoption of Persons into the Penobscot Tribe of Indians." (H. P. 614) (L. D. 812)

Bill, "An Act to Authorize Portland Renewal Authority to Provide Relocation Assistance to Other Governmental Agencies." (H. P. 777) (L. D. 1009)

Bill, "An Act Reducing Tax on Pari-Mutuel Pools." (H. P. 898) (L. D. 1186)

Bill, "An Act Relating to Wage Data for Preference to Maine Workmen and Contractors." (H. P. 991) (L. D. 1200)

Bill, "An Act Changing Name of Maine Association of Real Estate

Boards." (H. P. 987) (L. D. 1307)

Resolve, Providing Funds for Saco Valley Association for Retarded Children. (H. P. 1094) (L. D. 1431)

Resolve, in Favor of George W. Mitchell of Peter Dana Township, for Personal Injuries. (H. P. 1015) (L. D. 1334)

Bill, "An Act Validating a Community School District Consisting of the Towns of Crystal, Dyer Brook, Island Falls, Merrill, Oakfield and Smyrna." (H. P. 1175) (L. D. 1512)

Bill, "An Act Relating to Bids and Contracts in School Administrative Districts." (H. P. 1176) (L. D. 1513)

Bill, "An Act to Raise the Classification of Certain Surface Waters in the Town of Scarborough." (H. P. 1432) (L. D. 1747)

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

Which were Read a Second Time and, except for the matter set aside, Passed to be Engrossed in concurrence.

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

Bill, "An Act to Raise the Classification of Certain Surface Waters in the Town of Scarborough". (H. P. 1432) (L. D. 1747)

The **PRESIDENT**: The Chair recognizes the same Senator.

Mr. **SCHULTEN**: Mr. President and Members of the Senate: For purposes of amendment, I would ask that this bill be tabled until the next legislative day.

The **PRESIDENT**: The Chair would inform the Senator that he is out of order; he is debating a tabling motion.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

Bill, "An Act Relating to Possession of Deer Lawfully Killed." (H. P. 128) (L. D. 152)

On motion by Mr. Berry of Cumberland, Indefinitely Postponed in concurrence.

House — As Amended

Bill, "An Act to Clarify the Maine Litter Control Act." (H. P. 144) (L. D. 177)

Bill, "An Act Relating to Penalty for Reckless Driving." (H. P. 195) (L. D. 268)

Bill, "An Act to Require Safety Glazing in Hazardous Locations." (H. P. 465) (L. D. 613)

Bill, "An Act Establishing a State Tuition Equalization Fund for Maine Students Attending Maine Private Institutions of Higher Education." (H. P. 927) (L. D. 1225)

Bill, "An Act Providing Funds for Psychiatric Aids at Pineland Hospital and Training Center." (H. P. 956) (L. D. 1266)

Bill, "An Act Increasing Inheritance Exemption for a Surviving Spouse and Children." (H. P. 1062) (L. D. 1386)

Bill, "An Act Regulating Airmobiles." (H. P. 1168) (L. D. 1503)

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

Senate

Bill, "An Act Relating to Dealers in Used Personal Property." (S. P. 578) (L. D. 1769)

Bill, "An Act Relating to Investment of Trust Assets." (S. P. 576) (L. D. 1767)

Bill, "An Act to Prohibit Interlocking Directorates in Banking Institutions." (S. P. 575) (L. D. 1766)

(On motion by Mr. Katz of Kennebec, Tabled and Tomorrow Assigned, pending Passage to be Engrossed.)

Bill, "An Act Establishing a County Records Board." (S. P. 569) (L. D. 1709)

(On motion by Mr. Roberts of York, tabled and Specially Assigned for April 18, 1973, pending Passage to be Engrossed.)

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Relating to License Fees and Penalties for Non-resident in the Private Detective Business." (S. P. 320) (L. D. 987)

Bill, "An Act Relating to Membership on the Advisory Board of the Department of Commerce and Industry." (S. P. 389) (L. D. 1135)

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

Sent down for concurrence.

Orders of the Day

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

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

Tabled — April 5, 1973 by Senator Cyr of Aroostook.

Pending — Passage to be Engrossed.

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

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

Bill, "An Act to Provide Maine Students with Benefits of Environmental Education." (S. P. 400) (L. D. 1205).

Tabled — April 10, 1973 by Senator Katz of Kennebec.

Pending — Assignment for Second Reading.

Thereupon, the Bill was Tomorrow Assigned for Second Reading.

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

Bill, "An Act Relating to Stop-sale Orders under Maine Economic Poisons Law." (H. P. 668) (L. D. 873).

Tabled — April 10, 1973 by Senator Sewall of Penobscot.

Pending — Enactment.

On motion by Mr. Peabody of Aroostook, and under suspension of the rules, the Senate voted to reconsider its action whereby this Bill was Passed to be Engrossed.

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

Senate Amendment "A," Filing No. S-76, was Read and Adopted and the Bill, as Amended, Passed

to be Engrossed in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act Relating to Size of Voting Places." (H. P. 895) (L. D. 1182).

Tabled — April 10, 1973 by Senator Berry of Cumberland.

Pending — Enactment.

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

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

House Reports — from the Committee on Judiciary — Bill, "An Act Relating to Penalty for Burglary." (H. P. 206) (L. D. 279) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-170); Minority Report — Ought to Pass as Amended by Committee Amendment "B" (H-171).

Tabled — April 11, 1973 by Senator Tanous of Penobscot.

Pending — Acceptance of Either Report.

Mr. Tanous of Penobscot then moved that the Senate Accept the Majority Ought to Pass as Amended Report of the Committee.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. TANOUS: Mr. President and Members of the Senate. This particular bill is another bill relating to the penalty for burglary, and it carries a mandatory provision for jail sentence. The committee again was divided on this particular bill and, as you have noticed before you, we have Report "A" and Report "B", both of them Ought to Pass.

Report "A", if my memory serves me correctly, states that an individual who is awaiting trial on a violation for burglary and commits a second offense, if he is convicted on both offenses, the sentences shall not be served concurrently. They shall be successive sentences.

Report "B" says that if the individual is placed on probation

and is ordered to make restitution for any damages caused, and should he fail to make the restitution, he would then have to go to jail. This, in essence, is what the second amendment does.

Of course, we had our law clerk in Judiciary do a little research on the second amendment, and it was his feeling there is a question of the constitutionality of the second amendment on this particular bill, as to whether you can impose a jail sentence in lieu of payment of a fine. A recent U.S. Supreme Court decision rules that you can't jail someone if they do not have the ability to pay a fine or a bill. So, I move again that we accept the Majority Ought to Pass Report of the Committee, which is Report "A".

The PRESIDENT: Is it now the pleasure of the Senate to accept the Majority Ought to Pass as Amended Report of the Committee?

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

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

Senate Report — from the Committee on State Government — Bill, "An Act Relating to Competitive Bids and Fair Minimum Wages for Construction of Public Improvements." (S. P. 388) (L. D. 1134). Ought to Pass as Amended by Committee Amendment "A" (S-69).

Tabled — April 11, 1973 by Senator Wyman of Washington.

Pending — Acceptance of Report.

Thereupon, the Ought to Pass as Amended Report of the Committee was Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

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

Bill, "An Act Relating to Use of Studded Tires on Motor Vehicles."

Tabled — April 11, 1973 by Senator Morrell of Cumberland.

Pending — Adoption of Senate Amendment "B" (S-71).

On motion by Mr. Berry of Cumberland, retabled and Tomorrow Assigned, pending Adoption of Senate Amendment "B".

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

Bill, "An Act Broadening the Sales and Use Tax Exemption on Water and Air Pollution Control Facilities." (H. P. 60) (L. D. 72).

Tabled — April 11, 1973 by Senator Wyman of Washington.

Pending — Enactment.

On motion by Mr. Wyman of Washington, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

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

Bill, "An Act to Include Operators of Industrial Wastewater Treatment Plants in the Operator Certification Program." (S. P. 478) (L. D. 1534).

Tabled — April 11, 1973 by Senator Berry of Cumberland.

Pending — Enactment.

On motion by Mr. Wyman of Washington, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

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

Joint Order Relative to Environmental Protection Control Erosion. (H. P. 1294).

Tabled — April 11, 1973 by Senator Berry of Cumberland.

Pending — Motion of Senator Cyr of Aroostook to Indefinitely Postpone Joint Order and Accompanying Paper.

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

Mr. BERRY: Mr. President and Members of the Senate: It was my purpose yesterday in going through the several motions to end up putting this item on the Special Legislative Research Table. However, some of the points that Senator Cyr from Aroostook brought out, I think, were quite germane. I am quite agreeable to anything that should be done, and I understand now Senator Cyr has some thoughts and probably might want to table this for one day.

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

Thereupon, on motion by Mr. Cyr of Aroostook, retabled and Tomorrow Assigned, pending the motion of that Senator to Indefinitely Postpone.

The Adjournment Order having been returned from the House, Read and Passed in concurrence, on motion by Mr. Sewall of Penobscot, adjourned until Tuesday, April 17, 1973, at ten o'clock in the morning.