

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth  
Legislature*

OF THE

STATE OF MAINE

Volume II

April 23, 1973 to June 5, 1973

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**SENATE**

Tuesday, May 15, 1973

Senate called to order by the President.

Prayer by the Honorable Bennett D. Katz of Augusta.

Reading of the Journal of yesterday.

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

Bill "An Act Relating to Appeals from Decisions of the Public Utilities Commission." (S. P. 498) (L. D. 1585)

In the Senate May 10, 1973, the Majority Ought Not to Pass report Read and Accepted.

Comes from the House, the Bill Passed to be Engrossed, in non-concurrence.

On motion by Mrs. Cummings of Penobscot, the Senate voted to Adhere.

**Non-concurrent Matter**

Joint Order (S. P. 606) Relative to Committee on Appropriations and Financial Affairs to make continuing review and evaluation of State Budget.

In the Senate May 9, 1973, Read and Passed.

Comes from the House, Read and Passed as Amended by House Amendment "A" (H-372), in non-concurrence.

On motion by Mr. Brennan of Cumberland, tabled and Tomorrow Assigned, pending Consideration.

**House Paper**

The Resolve today received from the House requiring Reference to Committee was acted upon in concurrence.

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

**Joint Order**

WHEREAS, "Everything in nature tells a different story to all eyes that see and to all ears that hear;" and

WHEREAS, Mrs. Marilyn J. Dwelley has seen, heard and recorded the story of "Spring Wildflowers of New England" for such enlightenment; and

WHEREAS, Mrs. Dwelley has for many years touched the lives of

elementary children in the communities of China and Vassalboro; and

WHEREAS, her colorful and knowledgeable book on wildflowers which is dedicated to her students is a rich contribution to her community and State; now, therefore, be it

ORDERED, the Senate concurring, that We, the Members of the Senate and House of Representatives of the 106th Legislature of the State of Maine, take this opportunity and pause from our duties to recognize and honor this outstanding teacher and author whose recent book, "Spring Wildflowers of New England," has made a timely and valuable contribution to the lives, education and enjoyment of the people of the State of Maine; and be it further

ORDERED, that a suitable copy of this Order be presented to Mrs. Dwelley with our special thanks for her contribution. (H. P. 1508)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**Communications****STATE OF MAINE**

House of Representatives

Augusta, Maine 04330

May 14, 1973

Hon. Harry N. Starbranch

Secretary of the Senate

106th Legislature

Dear Mr. Secretary:

On May 7 the House voted to Adhere to its action on the following matter:

Bill "An Act Relating to Use of Studded Tires on Motor Vehicles" (Emergency) (S. P. 79) (L. D. 196)

Respectfully,

Signed:

E. LOUISE LINCOLN

Clerk

House of Representatives

Which was Read and Ordered Placed on File.

**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 to Change Name of Bureau of Labor and Industry to the Bureau of Labor." (H. P. 1002) (L. D. 1327)

Bill, "An Act Exempting Sales to Saco Community Center from the Sales Tax." (H. P. 1161) (L. D. 1498)

Bill, "An Act Relating to Motor Vehicle Excise Tax." (H. P. 1264) (L. D. 1636)

#### Leave to Withdraw

The Committee on State Government on Bill, "An Act to Change the Administrative Hearing Commission to an Administrative Court." (H. P. 1249) (L. D. 1626)

Reported that the same be granted Leave to Withdraw.

The Committee on Legal Affairs on Resolve, to Reimburse Myron Dickinson of Skowhegan for Well Damage by Highway Maintenance. (H. P. 1348) (L. D. 1781)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

#### Ought to Pass

The Committee on Marine Resources on Bill, "An Act Relating to Defining Residence Requirements to Procure a Lobster Fishing License." (H. P. 709) (L. D. 914)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

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

#### Ought to Pass — As Amended

The Committee on Public Lands on Bill, "An Act to Authorize the Creation of the Maine Inland Fisheries and Game Acquisition Fund and the Issuance of Not Exceeding \$2,000,000 for the Financing Thereof." (H. P. 288) (L. D. 362)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-364).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which was Read.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: I simply point out to your attention that the wildlife habitat acquisition bond issue proposed by the good Senator from Cumberland, Senator Brennan, was amended by the Committee on Public Lands to \$4,000,000, and remains in other respects essentially the same as it was when it was introduced.

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

Thereupon, the 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.

The Committee on Taxation on Bill, "An Act Relating to Willful Killing or Injury to Certain Animals." (H. P. 1461) (L. D. 1886)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-369).

The Committee on Legal Affairs on Bill, "An Act Amending the Bay Point Village Corporation." (H. P. 743) (L. D. 956)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-366).

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

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

The Committee on Election Laws on Bill, "An Act Relating to Politi-

cal Campaign Reports and Finances." (H. P. 1066) (L. D. 1391)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-356).

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-376).

Which report was Read.

On motion by Mr. Shute of Franklin, tabled and Tomorrow Assigned, pending Acceptance of the Committee Report.

#### **Ought to Pass in New Draft**

The Committee on Legal Affairs on Bill, "An Act Relating to Ownership of any Property Formerly Held by the State Colleges." (H. P. 909) (L. D. 1197)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Relating to Ownership of Any Real Property Formerly Held by the State Colleges." (H. P. 1499) (L. D. 1926)

Comes from the House, the Bill in New Draft Passed to be Engrossed.

Which report was Read.

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

Mr. KATZ: Mr. President, apparently this bill sets up a procedure for the disposition of lands of former state colleges. Might I ask, through the Chair, of any member of the Committee what the specific problem was that brought this bill before our 106th Legislature?

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

The Chair recognizes the Senator from Kennebec, Senator Joly.

Mr. JOLY: Mr. President and Members of the Senate: This applies to some small odd pieces of land here and there on campuses that are no longer needed. I think one example was up at the University of Maine where there was a small parcel that was no longer used, and it wasn't adjacent to the college.

Originally the bill was much more broad than it is, and we feel that the new draft took care of any objections. The new draft says that proceeds from sales shall revert to the general fund, and also says that they are subject to the approval of the Governor and Council.

We don't expect that we are going to sell any campuses from under the students, but it is merely to get rid of a few small parcels here and there that are no longer needed.

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

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

#### **Divided Report**

The Majority of the Committee on Judiciary on Bill, "An Act to Provide for Use of the Courts by Poor Persons." (H. P. 771) (L. D. 1005)

Reported that the same Ought to Pass.

Signed:

Senators:

TANOUS of Penobscot

SPEERS of Kennebec

BRENNAN of Cumberland

Representatives:

WHITE of Guilford

PERKINS

of South Portland

DUNLEAVY

of Presque Isle

KILROY of Portland

WHEELER of Portland

McKERNAN of Bangor

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

Signed:

Representatives:

BAKER of Orrington

CARRIER of Westbrook

GAUTHIER of Sanford

HENLEY of Norway

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

Which reports were Read and the Majority Ought to Pass Report of the Committee Accepted in concurrence.

Thereupon, the Bill was Read Once and Tomorrow Assigned for Second Reading.

### Divided Report

The Majority of the Committee on Agriculture on Bill, "An Act Relating to Animals Imported into the State of Maine for Resale." (H. P. 968) (L. D. 1275)

Reported that the same Ought Not to Pass.

Signed:

Senators:

PEABODY of Aroostook  
HICHENS of York  
CYR of Aroostook

Representatives:

PRATT of Parsonsfield  
HUNTER of Benton  
ALBERT of Limestone  
ROLLINS of Dixfield  
MORIN of Fort Kent

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under New Title: "An Act Relating to Animals to be Sold in Pet Shops in the State of Maine" (H. P. 1498) (L. D. 1925)

Signed:

Representatives:

EVANS of Freedom  
MAHANY of Easton  
BERRY of Buxton  
COONEY of Sabattus

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

Which reports were Read.

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

Mr. RICHARDSON: Mr. President, I would inquire of a Senate member of the Committee on Agriculture as to the objections to L. D. 1925, which was apparently adopted in the other body.

The PRESIDENT: The Senator from Cumberland, Senator Richardson, asks a question through the Chair which any member of the Committee may answer if he desires.

The Chair recognizes the Senator from Aroostook, Senator Peabody.

Mr. PEABODY: Mr. President, I don't know if I can give an explanation on this or not. It seems as though that animals coming into the state have to be quarantined for a 10-day period, and that was to take care of any infectious disease that might occur during that time. I hope that answers your question. It is a rather vague answer, but maybe Senator Cyr would have a better explanation than I would on it.

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

Mr. CYR: Mr. President and Members of the Senate: Actually what it does is quarantine any animals that come into these pet shops for 10 days to determine whether or not they are healthy and have had their shots prior to that time.

The main reason why I voted Ought Not to Pass was because of the cost. This would necessitate all of these pet shops having all of these animals in individual separate cages where they have to have separate records on each and every one of them and to keep that for 10 days. Let's say that they get 10 small dogs today, and get another 10 dogs tomorrow; that means that they have to have 20 cages to keep them in. And according to the Department of Agriculture, the Veterinary Department, this was not necessary because most of these pet shops know whether these animals are healthy when they do come in. That is the reason I voted Ought Not to Pass on this.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Majority Ought Not to Pass Report of the Committee in non-concurrence?

Thereupon, 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 Agriculture on Bill, "An Act Authorizing the Commissioner of Agriculture to Investigate Certain Farming Practices." (H. P. 1207) (L. D. 1559)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1497) (L. D. 1924)

Signed:

Senator:

PEABODY of Aroostook  
Representatives:

MAHANY of Easton  
HUNTER of Benton  
ALBERT of Limestone  
COONEY of Sabattus  
BERRY of Buxton  
EVANS of Freedom

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

Signed:

Senators:

HICHENS of York  
CYR of Aroostook

Representatives:

ROLLINS of Dixfield  
MORIN of Fort Kent  
PRATT of Parsonsfield

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

Which reports were Read.

On motion by Mr. Anderson of Hancock, tabled and Tomorrow Assigned, pending Acceptance of Either Report.

### Divided Report

The Majority of the Committee on Legal Affairs on Bill, "An Act Revising the Law Relating to Rules and Regulations of the Board of Chiropractic Examination and Registration." (H. P. 468) (L. D. 616)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Clarify Certain Ambiguities in the Chiropractic Licensing Law and to Revise Certain Provisions Relating to the Board of Chiropractic Examination and Registration" (H. P. 1490) (L. D. 1918)

Signed:

Senators:

ALDRICH of Oxford  
ROBERTS of York

Representatives:

CONNOLLY of Portland  
CAREY of Waterville  
EMERY of Rockland

FECTEAU of Biddeford  
SHUTE

of Stockton Springs

FAUCHER of Solon

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

Signed:

Senator:

JOLY of Kennebec

Representatives:

BRAWN of Oakland  
SHAW of Chelsea  
COTE of Lewiston  
DUDLEY of Enfield

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

Which reports were Read.

Mr. Roberts of York then moved that the Senate Accept the Majority Ought to Pass in New Draft Report of the Committee.

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

Mr. SHUTE: Mr. President, I would oppose that motion and ask for a division.

The PRESIDENT: A division has been requested. As many Senators as are in favor of the motion of the Senator from York, Senator Roberts, will please rise and remain standing until counted.

The Chair recognizes the Senator from Franklin, Senator Shute.

Mr. Shute of Franklin then requested a roll call.

The PRESIDENT: A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously less than one-fifth having arisen, a roll call is not ordered. As many Senators as are in favor of accepting the Majority Ought to Pass in New Draft Report of the Committee will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 18 Senators having voted in the affirmative,

and 10 Senators having voted in the negative, the Majority Ought to Pass in New Draft Report of the Committee was Accepted in non-concurrence, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

#### Senate

##### Ought to Pass in New Draft

Mr. Cox for the Committee on Business Legislation on Bill, "An Act to Repeal the Maine Fair Trade Act." (S. P. 87) (L. D. 233)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Amend the Maine Fair Trade Act." (S. P. 621) (L. D. 1935)

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

#### Divided Report

The Majority of the Committee on Health and Institutional Services on Bill, "An Act Relating to the Advertising of Drug Prices." (S. P. 506) (L. D. 1590)

Reported that the same Ought Not to Pass.

Signed:

Senators:

HICHENS of York  
GREELEY of Waldo  
MINKOWSKY

of Androscoggin

Representatives:

LEWIS of Bristol  
McCORMICK of Union  
MORIN

of Old Orchard Beach

SOULAS of Bangor  
SANTORO of Portland  
BERRY of Madison  
DYAR of Strong

The Minority of the Same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-123).

Signed:

Representatives:

LaPOINTE of Portland  
WHITZELL of Gardiner  
GOODWIN

of South Berwick

Which reports were Read.

Mr. Brennan of Cumberland then moved that the Senate Accept the

Minority Ought to Pass a s Amended Report of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. BRENNAN: Mr. President and Members of the Senate: In Maine it is currently illegal to advertise drug prices and at least until recently it was illegal to use the word "discount" in pharmacy advertising. These prohibitions are not to be found in statute, but are found in regulations pursuant to the authority of the Pharmacy Board.

According to the Department of Justice, in 1967 only 28 states prohibited advertising of retail drug prices. However, in 1969 Florida invalidated by court decision its prohibition on ads. Pennsylvania has recently done the same. Massachusetts, Oregon and Wisconsin have passed statutes invalidating these restrictive laws. New York recently has had legislation introduced which is being pushed, I believe, by Governor Rockefeller.

Now, some of the reasons why I think the Maine Law should be changed so that we can advertise drug prices:

First, I think we all know that drugs are expensive. They are a necessity, and they have a captive market. In most cases, persons who have drug prescriptions must get them filled to safeguard their health, thus, there is no product competition. Without advertising, there is little price competition.

Drug prices are particularly important in a state like Maine which has the sixth largest percentage of elderly in the nation, and the elderly are heavy consumers of prescription drugs.

Advertising is essential to competition — and I shouldn't talk about that in this Senate because so many of the people here are businessmen — but, hopefully, competition leads to business efficiency, innovation and lower prices. The reason I say I shouldn't talk about it is because most of you know a great deal more about business and competition than I do.

Lower prices mean real dollar savings to Maine people, especially to the elderly. Lower prices also mean more people can afford to



get their prescriptions filled. While pharmacists say they may offer discounts or free drugs to those unable to pay, that cannot account for those who hide their poverty and go without other necessities to buy drugs or who are deterred from ever going to the pharmacy in the first place.

Now, advertising to encourage price competition has been recommended by the Antitrust Division of the United States Department of Justice as an anti-monopoly measure. It said, "We submit that sound economic and social policy dictate that any restrictions which have the effect of raising drug costs should be kept to the minimum required by considerations of public safety."

The United States Department of Health, Education and Welfare has likewise recommended price advertising be legalized. It said, "There is an obvious need for patients to be able to determine readily the prices charged by the various pharmacies in their community. This appears to be particularly important in the case of long-term maintenance drugs.

...If the patient is to maintain the right to select a pharmacy, he also has a right to know the prices it charges and to compare these with other pharmacies."

In summary, about half the states have prohibitory restrictions on advertising. Such a prohibition effectively destroys price competition. Price competition would result in dollar savings for the elderly and the ill. Sensibly regulated advertising does no harm to the public health and safety.

As I pointed out, most of the states are permitting it now, and some have permitted it by virtue of court decision.

This in no way is intended as any attack on the integrity of the pharmacists. I think they do a very fine job in this state and, as I told my very good friend, Dave Kennedy, I would sponsor this measure for one reason, and one reason only: to try to reduce drug prices in this state. That is the sole purpose of it.

This is a little different than another measure that is around

this legislature in one respect. The regulations would be made by the Department of Health and Welfare. I think it might be difficult for the Board of Pharmacy to regulate their own, at least in my judgment. It also calls for the posting of prices, something that is being done in Massachusetts. So it is my judgment, if we are interested in consumer measures here — and I am not so sure we are terribly interested in those sometimes — that if we support this that we may do something about reducing drug prices in this state. So, again, I would urge you to accept the Minority Ought to Pass Report, and ask for a roll call.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I am sorry that Senator Hichens is not here this morning as I think he wanted to have some input on this particular piece of legislation. But I would oppose the acceptance of the Minority Report and I would concur in the roll call.

I would like to read a letter into the record from a member of the Executive Board of the Maine Pharmaceutical Association as to his feelings about this bill and the companion bill.

"1. The purpose of the bill is to save the consumer money by allowing pharmacists to advertise prescription prices. This would make it easier for the consumer to shop for the best possible price.

"A. The average net profit for a pharmacy is 5 percent.

"B. The average prescription price is \$4.21. Because of price increase it may be as high as \$4.60.

"C. All things being equal, if the pharmacist gives away his net profit the average savings to the consumer is 23 cents.

"I am sure that you are aware of the various prices charged by the manufacturer. A drug goes from the manufacturer to the wholesaler, to the retailer, and finally to the consumer. At each step of the way the indicated business must make a reasonable profit in order to stay in business.

"Our biggest concern is the various health and drug problems that such a bill can initiate:

"1. Pharmacies have family drug profiles. For example, any medication Mr. Jones buys at Pharmacy A goes on a card. If Mr. Jones has several prescriptions, some of which he should not be taking, the pharmacist is made aware of this and he can so inform Mr. Jones and/or his physician. This in itself can save lives.

"2. In case of emergency, most of the time a physician can call one pharmacy and get a list of all the medication Mr. Jones is taking.

"3. Drug abusers and drug addicts can usually be detected by a profile system."

An additional comment: "If this bill is passed, what would happen would be this:

"A. Some physicians might be tempted to write for advertised drug specials rather than the drug that would be more effective.

"B. Consumers may have prescriptions filled in ten different pharmacies depending on what drug was on special at the time.

"For the consumer's own protection, a prescription cannot be sold like any other commodity. It has to be prescribed by a physician and dispensed by a pharmacist.

"5 percent profit is not excessive. It actually represents a reasonable return on the investment.

"The only way the consumer can benefit from this bill is if he is willing to give up the fringe benefits such as the profile system," which all pharmacies have, "delivery service, emergency calls, etc.

"What about the various programs such as Medicaid demanding that they be charged the same price as the consumer on the street. Could the pharmacist afford to carry such a program with all the paper work involved? Respectfully, Alcide Nadeau", of the American Society of Consultant Pharmacists, and who is also on the Maine Pharmacy Board.

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

Mr. BRENNAN: Mr. President and Members of the Senate: First, in reference to the remarks of my good friend and distinguished Senator from Androscoggin, Senator Minkowsky, in regard to the family profile, if we have drug advertising, they would not be prohibited from keeping the family profile. They would not be prohibited from monitoring the family, in that sense. In fact, that same argument was made before the court, I believe, in Pennsylvania or Kentucky, and they disregarded it as not being a justified reason to continue to prohibit drug advertising.

But what I would like to hear from in this Senate — there are many Senators here who are also businessmen, whom I have a great deal of respect for, and I think a lot of them are very successful and I admire them for that — I would like to hear their views on advertising, as to whether or not they think advertising might bring drug prices down.

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

Mr. MINKOWSKY: Mr. President, I can't possibly answer the question projected by Senator Brennan from Cumberland because I am not in the same field as other businessmen in the Senate are at the present time.

But I think the most important thing that was brought out at the committee hearing was the simple fact that we are acting against the wrong segment insofar as drug prices. We should be looking toward the manufacturer, not toward the retailer or the pharmacist in the State of Maine, because this really is discriminating against the pharmacists in the State of Maine in this particular respect.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Cumberland, Senator Brennan, that the Senate accept the Minority Ought to Pass as Amended Report of the Committee on Bill, "An Act Relating to the Advertising of Drug Prices." 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 Cumberland, Senator Brennan, that the Senate accept the Minority Ought to Pass as Amended report of the Committee on Bill, "An Act Relating to the Advertising of Drug Prices. A 'Yes' vote will be in favor of accepting the Minority Ought to Pass as Amended Report of the Committee; a 'No' vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Aldrich, Anderson, Brennan, Clifford, Conley, Cummings, Danton, Katz, Kelley, Marcotte, Morrell, Roberts, Schulten, Sewall, Speers.

NAYS: Senators Berry, Cianchette, Cox, Cyr, Fortier, Graffam, Greeley, Huber, Joly, Minkowsky, Olfene, Peabody, Richardson, Shute, Tanous, Wyman, MacLeod.

ABSENT: Senator Hichens.

A roll call was had.

Mr. Anderson of Hancock was granted leave to change his vote from "Yea" to "Nay".

14 Senators having voted in the affirmative and 18 Senators having voted in the negative, with one Senator being absent, the motion did not prevail.

Thereupon, the Majority Ought Not to Pass Report of the Committee was Accepted.

Sent down for concurrence.

#### Second Readers

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

##### House

Bill, "An Act Authorizing Beano or Bingo on Sunday at Agricultural Fair Associations." (H. P. 1213) (L. D. 1564)

Bill, "An Act to Expand Human Resources by Rehabilitating Recipients of State Aid." (H. P. 1363) (L. D. 1819)

Bill, "An Act Exempting New Machinery and Equipment used for Manufacturing and Research from Sales and Use Tax and Increasing the Corporate Income Tax Rate." (H. P. 1492) (L. D. 1920)

Bill, "An Act Relating to Expenses for Examination of Insurer." (H. P. 1494) (L. D. 1922)

Bill, "An Act Exempting Motor Vehicles Purchased by Non-residents from Sales Tax." (H. P. 1493) (L. D. 1921)

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

#### House - As Amended

Bill, "An Act Relating to State Police Retirement System." (H. P. 48) (L. D. 65)

Bill, "An Act to Repeal the Seasonality Provisions of the Employment Security Law." (H. P. 519) (L. D. 684)

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

Bill, "An Act to Establish a Water Quality Related Great Ponds Program in the Department of Environmental Protection." (H. P. 730) (L. D. 936)

Bill, "An Act Relating to Licenses to Carry Weapons." (H. P. 936) (L. D. 1235)

Resolve, Providing a Minimum Service Retirement Allowance under the State Retirement Law for Barbara Goodwin." (H. P. 1225) (L. D. 1600)

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

Bill, "An Act Establishing the Lewiston-Auburn Airport Authority." (H. P. 473) (L. D. 620)

Which was Read a Second Time.

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

Mr. MINKOWSKY: Mr. President, in reference to this matter there is an amendment being prepared by Mr. Slosberg which has not been received as yet, and I was wondering if somebody might table this for one legislative day.

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

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

Bill, "An Act to Annex Town of Brunswick to Sagadahoc County." (H. P. 1326) (L. D. 1738)

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

Sent down for concurrence.

### Senate

Bill, "An Act Relating to Confering Degrees by Portland School of Art" (S. P. 189) (L. D. 496)

Bill, "An Act Relating to Petition for Articles on Municipal Ballots and Warrants." (S. P. 616) (L. D. 1929)

Bill, "An Act to Encourage Investment of Revenue Sharing Funds in Local Interest Bearing Accounts." (S. P. 619) (L. D. 1930)

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

Sent down for concurrence.

### Senate - As Amended

Bill, "An Act to Allow the State of Maine to Make Secured Deposits in Interest Bearing Accounts." (S. P. 534) (L. D. 1687)

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 Relating to Name of Maine Citizens Concerned for Life. (S. P. 521) (L. D. 1652)

An Act to Amend the Uniform Limited Partnership Act. (S. P. 607) (L. D. 1905)

An Act Relating to Application of Releases from Injured Persons Confined to Hospitals to Workmen's Compensation. (S. P. 608) (L. D. 1906)

An Act to Clarify the Permanent School Fund. (H. P. 258) (L. D. 338)

An Act Relating to Nature of Foreclosure of Tax Lien Mortgages. (H. P. 540) (L. D. 722)

(On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Enactment.)

An Act Revising the Laws Relating to Electricians. (H. P. 651) (L. D. 878)

An Act Relating to Premises of Liquor Licenses to Proximity to Post-Secondary Schools. (H. P. 760) (L. D. 993)

An Act Relating to the State Police Retirement System. (H. P. 832) (L. D. 1091)

(On motion by Mr. Katz of Kennebec, tabled and Tomorrow Assigned, pending Enactment.)

An Act Requiring that the National School Lunch Program be Implemented in All Public Schools. (H. P. 1067) (L. D. 1392)

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

An Act Permitting Local Option Questions on Liquor to be Voted at any State-wide Election. (H. P. 1319) (L. D. 1715)

An Act to Require Fees for Motor Vehicle Inspection Mechanic's Examination. (H. P. 1324) (L. D. 1750)

An Act Transferring Laws Relating to Education of War Orphans and Widows to Bureau of Veterans' Affairs. (H. P. 1353) (L. D. 1785)

An Act Relating to Provisional Motor Vehicle Licenses. (H. P. 1410) (L. D. 1850)

An Act Relating to Lead Poisoning Control. (H. P. 1446) (L. D. 1866)

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.

An Act Creating a County Civil Service Commission for Investigator Deputy Sheriffs. (S. P. 439) (L. D. 1341)

Comes from the House, Indefinitely Postponed.

A viva voce vote being in doubt, the Chair ordered a division on Enactment. 15 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the Bill Failed of Enactment in concurrence.

Resolve, Authorizing Attorney General to Convey Interest of the State in Frogg Island in Little Sebago Lake to Ruel E. Taylor, Jr. (H. P. 1244) (L. D. 1615)

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

Mr. RICHARDSON: Mr. President, I would inquire of any member of the Senate as to how much land is involved in the authorized conveyance.

The PRESIDENT: The Senator from Cumberland, Senator Richardson, has posed a question through the Chair to any Senator concerning Item 8-16, Legislative Document 1615.

The Chair recognizes the Senator from Kennebec, Senator Joly.

Mr. JOLY: Mr. President and Members of the Senate: This is a small piece of land that rose out of the lake when the water was lowered because, I believe, of drinking water purposes in the city that uses the water from this lake. A man has two small cottages on it, but I can't for the life of me remember how big the island is. I asked the question, I remember, at the hearing, but I can't remember now. Maybe another member of the Committee may be able to help. But it is a very small piece and it has been used for a long time by these same people.

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

Mr. ROBERTS: Mr. President, maybe I can answer the Senator's question. This is an island immediately off the shore of Little Sebago Lake and the entire island is less than an acre. There is one building, but I don't believe there is a camp on it. The gentleman who wishes to get the deed of it purchased it and paid for it some 20 years ago. He assumed that he owned it and paid taxes on it, and then he had a title search done recently and found that because it was surrounded by water it originally at one time belonged to the State of Maine because it was part of a great pond. As a result, he is seeking to get his title proved. He owns a couple of small cottages

on the mainland right opposite this, and it is only a matter of 50 or 75 feet from the rest of his land on the mainland.

The PRESIDENT: Is the Senate ready for the question?

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

Resolve, to Reimburse Higgins Classical Institute for Costs of Certain Students. (H. P. 1439) (L. D. 1865)

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

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

Bill, "An Act Relating to Temporary Restraining Order and Cost of Litigation by the Attorney General under Unfair Trade Practices Act." (H. P. 770) (L. D. 1004)

Tabled — May 11, 1973 by Senator Clifford of Androscoggin.

Pending — Passage to be Engrossed.

Mr. Clifford of Androscoggin then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-125, was Read.

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

Mr. RICHARDSON: Mr. President, I would like to have an explanation offered as to the present status of this bill and the reason for the amendment before we vote on it.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: L. D. 1004 is "An Act Relating to Temporary Restraining Order under the Unfair Trade Practices Act", and the bill has two sections to it.

First of all, it strikes the provision that the Attorney General has to in all cases give notice before any kind of a restraining order or injunction is procured at the courts. Apparently what has been happening is that many times the

statutes required that notice be given, and as soon as notice was given the fly-by-night concern against which the action was directed has fled the state. This part has not changed the bill; this part the amendment does not affect.

The second part of the bill provided that when a permanent injunction was issued that the court could assess the person against whom the injunction was issued for costs, for attorney's fees, and for fees of investigation. I felt that the assessment of cost was proper. I did not feel that the assessment of attorney's fees in the Attorney General's Office was proper. I did not feel that assessing the cost of investigation was proper because, in my opinion, if you applied that kind of reasoning to the criminal law I think it would be offensive to most people. It was offensive to me. I think it is something that the Attorney General's Office could use as a club against small businesses. I just felt that it was unfair, and I thought that the amendment was proper to amend that section out of the bill.

I don't feel it is fair in a quasi-criminal or a criminal proceeding to assess costs of investigation and attorney's fees against the person against whom the action is being taken because I feel it can be used as a club. If you have an investigatory team of the Attorney General's Office, and they spend several months, I think the costs which the court could assess would be tremendous. I think that would be the kind of club which I think would force a business to agree to something which they didn't feel was right.

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

Mr. TANOUS: Mr. President and Members of the Senate: I oppose the motion of my good friend, Senator Clifford from Androscoggin, for placing this amendment on the bill. The bill itself, if you will check it, doesn't mandate the court will order the payment; it says he may order the individual to pay the costs. It doesn't say that he shall.

I have great confidence in the courts in using their discretion when a violation is so flagrant on the part of an individual that probably he should be assessed the cost of the attorney's fees that the Attorney General's Office may incur, or any other costs they may incur in the investigation in a matter of this nature. I just feel it isn't compulsory on the part of the individual to pay this; it is up to the judge to make the determination. I am willing to permit the judge to make this decision himself, and when the situation calls, that he feels that the individual ought to have to pay these costs, then he should, and that the costs should not be carried by all of the taxpayers of the State of Maine. The individuals involved should be able to carry the burden of costs if they are responsible for wrongdoing. I would ask for a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Cumberland Senator Richardson.

Mr. RICHARDSON: Mr. President, may I inquire as to whether or not there are any other amendments on this bill at this time?

The PRESIDENT: There are no other amendments on the bill.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: Certainly costs can be assessed, and this amendment does not affect that, but I don't know of any other area in the law, certainly not in the criminal law — and I think that these proceedings although they are civil they are quasi-criminal — I don't know of any other area where the court can assess attorney's fees and costs of investigations.

I have great faith in the present Attorney General and his staff, but I feel that this is something which is subject to great abuse in the future, of holding a club over the small businessman's head in an action under the Unfair Trade Practices Act to force that small businessman to agree to something which he really doesn't feel is proper. This is the kind of thing

I feel is wrong and I don't think that kind of broad discretion should be left in anyone's hands. We pay the Attorney General's Office out of the general fund, and I think that is where it should stay.

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

Mr. BERRY: Mr. President and Members of the Senate: I, too, would oppose the amendment. I think that the purpose and thrust of the bill is an extremely timely one. We are dealing with non-criminal action here, and if the good Senator from Androscoggin, Senator Clifford, has misgivings about this being the restraining influence on small businessmen, perhaps if history shows that something is needed we could put in some sort of a dollar limit below which the state would bear the cost.

A very parallel example of the problem is right with us, and that is the cost of the Department of Environmental Protection in evaluating the oil refinery at Eastport. Here is a study and a case which may cost the State of Maine a minimum of \$75,000, which will not be paid by the applicant. Now, if we are talking of a refinery and a proposal as multi-million dollars, it seems to me that the people of the State of Maine should bear no expense involved in an evaluation of a proposal such as this nature. I think there is a reasonable parallel here to the issue. If we are faced with a big significant milestone law suit, perhaps the people of the State of Maine should not be expected to stand the expense.

If the small businessman is going to be restrained from legal action, why then perhaps, as I say, two years from now, if this is the case, then we can come in and rectify the situation by putting on a ceiling. I think this is very good legislation for the small businessman, so I hope we could not pass the amendment and pass the bill.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I disagree with the Senator from

Cumberland, Senator Berry, that this is more like an Environmental Protection situation. I think it is more like a criminal situation, and I just wonder how many Senators would feel that it would be right if the Attorney General could in a criminal case, or if a county attorney could in a criminal case, request the court that the court assess the defendant for attorney's fees and the costs of investigation, and the kind of club that this could hold over a defendant. I just don't think it is the proper kind of thing to go into the law.

With people involved in these things, there are rights involved, the rights of individuals, the rights of corporations here, and I just don't feel that the Attorney General should have that kind of club to hold over these people to get them to comply with something which they don't feel is proper, and which there may be disagreement about. I think it is more like the criminal situation, and it just offends me if the Attorney General had this kind of power in a criminal case, because these cases, although they are civil in nature, are very similar to a criminal case. I would hope that you would vote in favor of the amendment.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: The Senator from Androscoggin, Senator Clifford, has referred to the rights of the small businessman and corporations. I think there are also some rights involved here of Maine consumers, who are entitled to be free from deceptive practices, unfair trade practices.

I concur completely with the analysis of the Senator from Penobscot, Senator Tanous, that this is left with the court, and under an aggravated circumstance in case of repeated violations of fair trade practice legislation, the court would have the authority to say, "All right, this is it, you have gone too far", and would have the discretion to apply this as a penalty.

I think we should indefinitely postpone this amendment and, if

that motion is in order, Mr. President, I would move that this amendment be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Richardson, now moves that Senate Amendment "A" to L. D. 1004 be indefinitely postponed.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President, I would ask for a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: Before we vote on this, maybe I ought to explain to you the procedure utilized by the Attorney General's Office in matters of this nature.

As a rule when they have a complaint in the Consumer Fraud Department, most of the time a phone call to the individual will straighten out the problem. In certain instances an individual perhaps feels repugnant to the idea that he is involved in areas of unfair practices, realizing of course it is fully a civil procedure, he probably will inform the Attorney General's Office where they can get off. Subsequent to this, the Attorney General's Office must then proceed to obtain an injunction against this firm, and this is the area where there are gross violations of this act. In my opinion, the courts would then have the leverage to assess costs against an individual who so grossly violated the provisions of our laws and impose upon that individual the cost of litigation.

He is given every opportunity to come into the Attorney General's Office. They make themselves available to the individual. They will go to the individual, if they have to, to try to straighten out these problems that they have, and in 99 percent of the cases they do straighten them out. Most of the time, according to the Attorney General's Office, they phone the individual and the matter is resolved. But in these rare instances where you have one individual that wishes to carry the

thing right to its extent realizing that it is going to cost the state a lot of money and time, I feel with this provision in there, at least, if an individual is flagrant in his attitude, that maybe we can recover some of the costs of issuing an order against him. I would ask you to support Senator Richardson's motion to indefinitely postpone this amendment.

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

Mr. JOLY: Mr. President and Members of the Senate: I rise to concur with the remarks made by the good Senator from Androscoggin, Senator Clifford.

As the good Senator from Penobscot, Senator Tanous, just stated, 99 percent of the people who are complained about take care of things right away, which leaves only one percent. I just fear that this bill is going to establish a precedent that we might be sorry for in the future. If we have such a small group that we are worried about, I just don't see the need of not passing the amendment. I think the amendment will make the bill a good bill.

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

Mr. SPEERS: Mr. President and Members of the Senate: I too would rise in support of the good Senator from Androscoggin, Senator Clifford. I certainly hope and I don't believe that the Senator from Penobscot, Senator Tanous, would mean to imply that anyone who carried his constitutional right to a hearing in the courts was being particularly obstructive or stubborn in his relationship with the Attorney General's Office. Certainly most people, if there are problems involved, and they are contacted by the Attorney General's Office, then these problems can be worked out. But what about the fellow who doesn't feel that it is a problem? That is what the courts are for, to determine whether or not there are problems.

We don't have a system in this state or in this country where the Attorney General decides that



there are problems and that, therefore, an individual has to comply with what the Attorney General feels are problems. If the individual who is under investigation actually feels that he is right and that the Attorney General is wrong, then he has a constitutional right to have a hearing before the courts, and it is the courts that determine the law.

I think the good Senator from Androscoggin, Senator Clifford, was very clear in his remarks that in no other situation where there are certain criminal matters, where the state is charged with the responsibility of investigating actions on the part of individuals and bringing proceedings to enforce the laws, are the individuals who are charged with violating those laws also charged with the costs of investigating his actions. I feel that the amendment is a fair amendment.

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

Mr. BERRY: Mr. President and Members of the Senate: In answer to Senator Speers from Kennebec, I would just point out that the legislation says that the court may order. And I think, if we have confidence in our courts, that passage of this legislation is indicated without the amendment. I think this is the key to the whole thing. Let the courts have the discretion, as Senator Tanous has indicated.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Richardson, that Senate Amendment "A" to Bill, "An Act Relating to Temporary Restraining Order and Cost of Litigation by the Attorney General under Unfair Trade Practices Act", 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 Senate is the motion of the Senator from Cumberland, Senator Richardson, that Senate Amendment "A" be indefinitely postponed to Legislative Document 1004. 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, Berry, Brennan, Cox, Cummings, Greeley, Huber, Olfene, Richardson, Roberts, Sewall, Shute, Tanous, Wyman.

NAYS: Senators, Aldrich, Cianchette, Clifford, Conley, Cyr, Danton, Fortier, Graffam, Joly, Kelley, Marcotte, Minkowsky, Morrell, Peabody, Schulten, Speers, MacLeod.

ABSENT: Senators, Hichens, Katz.

A roll call was had. 14 Senators having voted in the affirmative, and 17 Senators having voted in the negative, with two Senators being absent, the motion did not prevail.

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 second tabled and specially assigned matter:

Bill, "An Act to Place Jurisdiction of Annulment and Divorce Actions in the District Courts." (H. P. 1240) (L. D. 1611)

Tabled — May 11, 1973 by Senator Clifford of Androscoggin.

Pending — Passage to be Engrossed.

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

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

SENATE REPORTS — From the Committee on State Government — Bill, "An Act Providing Funds for Director of Volunteer Services in the Division of Probation and Parole." (S. P. 429) (L. D. 1299) Majority Report — Ought to Pass;

Minority Report — Ought Not to Pass.

Tabled — May 14, 1973 by Senator Berry of Cumberland.

Pending — Acceptance of Either Report.

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

Mr. SPEERS: Mr. President and Members of the Senate: First of all, I would like to thank the good Senator from Cumberland, Senator Berry, for his courtesy in tabling this matter for one legislative day, and would move the acceptance of the Majority Report.

The PRESIDENT: The Senator from Kennebec, Senator Speers, moves that the Senate accept the Majority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I was one of the signers of the Minority Ought Not to Pass Report. What this job does is create a new position for somebody in state government to go out and hunt volunteers to help in probation and parole. The job is presently filled and being funded by federal funds currently under the Emergency Employment Act.

I don't think this is one of the more important bills before us but I just felt, as a Minority signer, I felt I should indicate my reasons, and my reasons were that I just feel the overwhelming majority of citizens, at least the ones whom I represent, are against increases and new positions unless they are justified by unusual circumstances, and I didn't feel that this one was.

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

Mr. OLFENE: Mr. President, may we have a reading of the committee report?

The PRESIDENT: The Secretary will give the report of the committee.

The SECRETARY: The Ought to Pass Report was signed by Senators Wyman and Speers; Representatives Cooney, Curtis, Gahagan, Goodwin, Najarian and Bustin. The Ought Not to Pass

Report was signed by Senator Clifford and Representatives Crommett, Farnham, Silverman and Stillings.

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

Mr. SPEERS: Mr. President and Members of the Senate: This bill arose out of a concern for the system of probation and parole in the State of Maine. A number of states have a program which they designate more or less "big brother" type of program, whereby the individual who, when he is out on parole, is assigned to a responsible member of the community as well as his parole officers.

Now a parole officer in many instances is an individual who does not have the amount of time that is necessary to devote to each and every individual single case which he has under his jurisdiction. So when he goes to a person who is on parole, it is usually a situation where he is unable to spend very much time with that individual. He just checks up on him and sees what he has been doing to see that he has not been violating any of the provisions of his parole. But he really has not the time and, furthermore, he is more or less of an authority figure to the individual on parole, to befriend this individual and actually sit down and talk with him about problems that he is facing and trying to help him out in the particular community in which the parolee resides.

The idea of a "big brother" program which has been working in other states, is that a responsible member of the community is requested to be responsible, or at least be an individual to whom the parolee can come if he has problems, if he wants to sit down and talk over problems that are bothering him, to try and keep him on the right track, and try and give him advice as to what he should do if he is faced with a particularly difficult situation.

This particular position in the Division of Probation and Parole would be for an individual to

attempt to locate and list such other individuals in the various communities to act as volunteers to provide this kind of contact with a responsible community member to parolees from our state institutions.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I would like to pose a question through the Chair, if I may. In effect, as I understand it, this directorship has already been created and been funded under the federal program. I would like to know how successful that director has been in getting these volunteers to do this. I personally feel that it is a step in the right direction, because the Probation Department is woefully understaffed to do the job that they are charged with. But I would be curious to know how successful they have been to date.

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

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I regret that I am unable to cite an actual number of individuals that the department has been able to enlist as volunteers under this program to date, but I do know that there are volunteers that have been enlisted as a result of this. I am simply unable to give the exact number.

I would like to oppose the comment by the good Senator from Androscoggin, Senator Clifford, when he mentioned that perhaps this is not one of the more important bills that has come before this legislature. It certainly is not one of the more controversial, and I would hope that none of us would ever have any reason for using its provisions, except perhaps to become a volunteer, but I would like to simply say that this matter could be of extreme importance to the individual parolees, when they come out of the state prison and are faced with

returning to their communities, and wondering just what they are going to be faced with, to know that they have at least one individual in that community to whom they can go and discuss their problems.

The individual who has been holding this position related to the to the committee a situation where a man from Bangor is making a weekly trip down to Thomaston simply to get to know the individual who he expects will be released on parole in the near future who will be going back to Bangor. This is the type of relationship that can be established, and I feel should be established to cut down on the amount of recidivism that is one of the major problems in the crime rate today.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I would also like to pose a question through the Chair to the good Senator from Kennebec, Senator Speers, maybe in three parts: First, how much is the appropriation from the Maine Law Enforcement Assistance Agency? Second, is this similar to Project Exit which we now have in the State of Maine? Finally, did the Department of Mental Health and Corrections speak as proponents to this particular measure before the State Government Committee?

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, has posed several questions through the Chair which any member of the committee may answer if he desires.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: In fairness, I believe the department did endorse the bill. I feel it is not similar to Exit because the position here is for a person to go out and solicit individuals to help the person on probation or parole on an individual basis, whereas I think Exit is an organization that

is organized in an attempt to get them jobs, etc.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Kennebec, Senator Speers, that the Senate accept the Majority Ought to Pass Report of the Committee on Bill, "An Act Providing Funds for Director of Volunteer Services in the Division of Probation and Parole." The Chair will order a division. As many Senators as are in favor of accepting the Majority Ought to Pass Report of the Committee will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 17 Senators having voted in the affirmative, and 12 Senators having voted in the negative, the Majority Ought to Pass Report of the Committee was Accepted, the Bill Read Once and Tomorrow Assigned for Second Reading.

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

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

Tabled — May 14, 1973 by Senator Richardson of Cumberland.

Pending — Enactment.

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

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

Bill, "An Act Relating to the Erection of a Sign on Maine Turnpike for the Evergreen Valley Recreational Area." (H. P. 1077) (L. D. 1400)

Tabled — May 14, 1973 by Senator Richardson of Cumberland.

Pending — Enactment.

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

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

SENATE REPORTS — from the Committee on Judiciary — Bill, "An Act Relating to Qualifications for Jury Service of 18-year-old Voters." (S. P. 496) (L. D. 1583) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass as amended by Committee Amendment "A" (S-104)

Tabled—May 14, 1973 by Senator Tanous of Penobscot.

Pending — Acceptance of Either Report.

On motion by Mr. Berry of Cumberland, re tabled and tomorrow Assigned, pending Acceptance of Either Report.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Olfene of Androscoggin:

Bill, "An Act to Repeal the Seasonality Provisions of the Employment Security Law". (H. P. 519) (L. D. 684)

Mr. Olfene of Androscoggin then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-123, was Read.

The PRESIDENT: The Senator has the floor.

Mr. OLFENE: Mr. President and Members of the Senate: This bill as it was originally presented would be, in my opinion, and I am sure in the opinion of many of you people, liberalizing the eligibility for collection of unemployment benefits.

Now, the way the bill was written, it said in essence, I believe, that it required two quarters in which you had to have employment under this so-called defined seasonality provisions. This bill, we have found through an investigation, could cost from a minimum of \$27,000 a year to some estimates as high as a half-million dollars a year.

Now, we all recognize that unemployment and unemployment benefits are a must, but also we must recognize what a tremendous drain and strain that has been placed in recent years on the fund to support unemployment benefits.

Now, if this were left without this amendment, conceivably a person could work to qualify in two-quarters. They could work from, say, the fifteenth of April to the fifteenth of September, making a contribution into the fund of \$42, then claim their unemployment benefits and remove from the fund \$700.

All this amendment does is say that in order to qualify you are now going from two quarters to three quarters. And probably expecting some opposition from some member of the committee, as this was signed Ought to Pass, I might make note to you and to the committee that this amendment was discussed and approved by the labor leader who represents labor here in Augusta. Therefore, Mr. President and Members of the Senate, I move the adoption of this amendment.

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

Mr. TANOUS: Mr. President and Members of the Senate: It is not my pleasure at least that this amendment be adopted, and I rise to oppose it.

First of all, I would like to explain to you the provision of seasonality in the State of Maine. Presently the seasonality provision of our law under Title 26, Section 1251, is very confusing to all. Both the Industry and Manpower Division feel that the present law is so ambiguous and difficult to apply that everyone is convinced that this section should be repealed. Section II of the bill does, in fact, repeal 1251. This is the present test of seasonality. It is applied either by statute or at the discretion of the Commissioner of Manpower Affairs. So I think everybody is agreed that this should be done away with.

Once you have done away with 1251, then you have to have some test, some manner, in which to make people eligible for unemployment in the seasonality field. The bill in its original form, in repealing 1251, then went to 1192, sub-paragraph 5 of Title 26, and amends the section of the law dealing with all people drawing unemployment or how they would

qualify to draw unemployment. Under the present law, anyone that earns more than 600 during the base period, which is a year, would be eligible. What we are doing is changing the test of eligibility, and in so doing, the bill, as it was presented to the Labor Committee, called for an individual earning \$200 in two different quarters. And this was objected to by many people. Now, we compromised this in committee already by raising that amount to \$300 in two different quarters, and this came out of the Labor Committee unanimous.

We do have some material from all over the country, as well as the Manpower Commission in Washington, dealing with seasonality, and everybody is agreed that these statutes dealing with seasonal employment are almost unenforceable or difficult to apply. According to the statistics which I obtained from the Department of Manpower Affairs, in the first quarter we have, seasonal workers earn an average of \$266.-66; that is during January, February and March. The second quarter they earn \$244.59 as an average. In the third quarter, which is the summer months, they earn \$520.80. In the fourth quarter they earn \$266.78 as an average.

Now, presently under the bill, as it has come out of the committee, with \$300 for the two quarters, this is going to be virtually impossible for a seasonal employee to be eligible for unemployment benefits in the way the bill has come out of committee, because you have got only one quarter, which is the third quarter, during the summer months, that an individual as an average exceeds the figure of \$300. In the other three quarters they are well under the \$300 figure. So the bill has come out of committee in its present form, it will make it difficult enough for anyone to draw unemployment, and by doing what Senator Olfene seeks to do, my feeling is that you are going to just about wipe out this entire spectrum of unemployment benefits. And don't forget, if you do, you are going to have them on the local relief roll or state welfare of some form or another.

The cost to the fund, projected again by the Manpower Affairs for one year, is \$140,000, and really when you are talking a \$16 million fund this is a negligible amount in this area. This will certainly not endanger the fund. We have other bills that will and you will hear for some of those later. But I would oppose Senator Olfene's amendment as really trying to kill the bill. That is what it is going to do. Frankly, I feel if the amendment is placed on that probably the bill will be valueless, and we should remain with the present law which nobody likes.

In all sincerity, I hope you will vote to defeat this amendment. It certainly isn't serving any purpose for anyone. Thank you.

**THE PRESIDENT:** The pending motion before the Senate is the adoption of Senate Amendment "A". As many Senators as are in favor of the adoption of Senate Amendment "A" will please say "Yes"; those opposed "No". The Chair is in doubt and will order a division.

The Chair recognizes the Senator from Androscoggin, Senator Olfene.

**MR. OLFENE:** Mr. President, I would request a roll call.

**THE PRESIDENT:** A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the adoption of Senate Amendment "A" to Bill, "An Act to Repeal the Seasonality Provisions of the Employment Security Law." A "Yes" vote will be in favor of the adoption of Senate Amendment "A"; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

**YEAS:** Senators, Anderson, Berry, Clifford, Danton, Fortier, Graffam, Greeley, Joly, Minkowsky, Morrell, Olfene, Roberts, Schulten, Shute, MacLeod.

**NAYS:** Senators, Aldrich, Brennan, Cianchette, Conley, Cox, Cummings, Cyr, Huber, Kelley, Marcotte, Peabody, Richardson, Sewall, Speers, Tanous, Wyman.

**ABSENT** — Senators, Hichens, Katz.

A roll call was had. 15 Senators having voted in the affirmative, and 16 Senators having voted in the negative, with two Senators being absent, Senate Amendment "A" was not adopted.

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

The President laid before the Senate the matter tabled earlier in today's session by Mr. Morrell of Cumberland:

Bill, "An Act Establishing the Lewiston-Auburn Airport Authority." (H. P. 473) (L. D. 620)

Pending — Passage to be Engrossed.

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

#### Reconsidered Matter

On motion by Mr. Tanous of Penobscot, the Senate voted to reconsider its action of yesterday whereby on Bill, "An Act Relating to Interest on Awards in Workmen's Compensation Cases" (H. P. 1150) (L. D. 1481), the Majority Ought Not to Pass Report of the Committee was Accepted.

The same Senator then moved that the Senate accept the Minority Ought to Pass Report of the Committee.

**THE PRESIDENT:** The Senator has the floor.

**MR. TANOUS:** Mr. President and Members of the Senate: Originally on this bill, when it came out of the Labor Committee, the Majority Report was Ought Not to Pass and I was a signer of that report, but the bill was amended in the other body. Originally I was opposed to the bill because I didn't think it was equitable in form, but the amendment in the other body has made it similar to the interest awards that are awarded in judgments in courts. Apparently this was a compromise worked out by the opponents to that particular

bill, and I now find that it is acceptable to me, so I move that we accept the Minority Ought to Pass Report of the Committee.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: I would regret very much if this Senate would reverse itself and now adopt the Ought to Pass Report.

Very briefly, my objection to this legislation is for precisely the reasons that the Senator from Penobscot, Senator Tanous, suggested we ought to adopt it. Interest on awards in civil cases are granted routinely under our law because the person has been found to be at fault. The defendant has been tried before a fact-finder and is found to have been at fault, to have done something wrong. The entire fabric of our workmen's compensation law is designed to compensate injured employees, to make those who are injured the responsibility of all of us who demand an industrial society.

Maine has one of the most liberal, most progressive workmen's compensation laws in the country. Repeatedly sessions of this legislature, particularly during the past eight years, have constantly liberalized our Workmen's Compensation Act. I am in favor of that liberalization. However, you are now engrafting onto the Workmen's Compensation Law, which holds the employer liable without reference to fault, you are now engrafting on that system an import from the fault system of justice, and I think it is wrong. The reason I think it is wrong I have tried to indicate to you, but most importantly of all, if we continue to liberalize the Workmen's Compensation Law in areas which bear no relationship whatever to the basic fabric of the law, we are going to destroy it. We are going to destroy the well-founded reliance that Maine working people can place on our law to get speedy and immediate compensation for injuries caused by their work or that they sustained during the course of their employment. I am opposed to this.

I really think that we are making a very serious mistake, and I would request a division on the Senator's motion.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: I am a little confused with the remarks of the good Senator from Cumberland, Senator Richardson. I believe he stated that interest is awarded on judgments based on fault in the civil area when they go to trial, but it is my understanding that interest is also awarded, and maybe I am wrong, on breaches of contract in which fault is not involved, so I don't think his analogy really holds. I would support the motion of the good Senator from Penobscot, Senator Tanous.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: The good Senator from Cumberland, Senator Brennan, who is an attorney, knows a lot better than that. A breach of a contract is a violation of a legal duty to perform a contract, assuming that the contract itself was legal, and the punishment for doing so is either liquidated damages or unliquidated damages, plus interest from the day of the commencement of the action.

Now, the Workmen's Compensation Law has absolutely nothing to do with fault; the employer is absolutely liable without reference to whether he was exercising care or not. His care is absolutely irrelevant. And I really think you are engrafting on the Workmen's Compensation Law something that doesn't belong there.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I am sorry, I must say again to the very distinguished attorney and distinguished Senator from Cumberland, Senator Richardson, his analogy does not hold. Interest is still granted, as I understand it,

on contractual situations. Contract is not based on fault. The good Senator is aware of the history of the law in the sense of the big distinction between contract and tort; tort generally being predicated on fault and negligence. Contract is not. So again, I say his analogy does not hold, and I would urge the Senate to support the good Senator from Penobscot, Senator Tanous.

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

Mr. BERRY: Mr. President and Members of the Senate: After this very intelligent debate, would the Chair please state the question?

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Minority Ought to Pass Report of the Committee on Bill, "An Act Relating to Interest on Awards in Workmen's Compensation Cases."

Mr. BERRY: Mr. President and Members of the Senate: I would speak against the motion of Senator Tanous to accept the Ought to Pass Report. I am completely lost, of course, by the disagreement between two legal luminaries such as we have been listening to here.

I along, I am sure, with you have been occasionally the recipient of messages from my constituents, and it is something that perhaps once and a while we should stop and pay attention to. Senator Richardson briefly alluded to these, and that is an apparently unceasing increase in cost of doing business in the State of Maine. He put it in one vein when he said we have over the past eight years developed probably the most bountiful workmen's compensation system in the country. We have been in the forefront in other labor items such as minimum wages, and the state can look very proudly to these accomplishments.

But I would invite your attention today to the cost of doing business in the State of Maine. And this is stated another way from the way Senator Richardson said it: we have developed the most expensive program in the country. Labor has not suffered, and they

will not suffer if this bill does not pass. But we are developing in the state an extremely costly method of doing business. And to those of you who are businessmen in this body, you know just exactly what I am talking about, and your constituents know what we are talking about.

It seems to me here is one place that there isn't a question of is it right or wrong. Our operations in the state are not going to be competitive if we continue to load upon business, which is to everybody's benefit that it prosper, labor and industry alike, it is not going to prosper if we are going to continue to load it with burdens such as these. I hope you would vote against the motion of Senator Tanous.

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

Mr. TANOUS: Mr. President and Members of the Senate: I wonder if we could have the filing number of the House Amendment. I think that the House Amendment would really, hopefully, clarify some of the objections that we have on this bill.

The PRESIDENT: The House Amendment is 350.

Mr. TANOUS: Mr. President and Members of the Senate: In reading the amendment, you will agree that there are certain restrictions on payment of interest. It would only be if the insurance company would ask for a continuance for a greater period than 30 days, and if the injured employee requested a continuance, he would not be eligible to draw the interest on it.

Frankly, as I say, the original bill I can't buy, but with the amendment, Filing 350, I certainly can buy this as being an equitable amendment to provide interest in most cases where you have lengthy, lengthy decisions which you are waiting for.

I am sure that Senator Richardson of Cumberland would agree with me that oftentimes some of these cases are taken to the Law Court, and it is two or three years before you get a decision. All during this time, and assuming



that the injured employee recovers ultimately, he is being denied the use of that money, and I can't see why he should be made to lose as a result of an insurance company wanting to appeal the case and hold this up for two or three years. I think it is only fair that he should get interest on his money in this manner as provided in the amendment, and only in the manner as provided in the amendment. Thank you.

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

Mr. MORRELL: Mr. President and Members of the Senate: I am very much in favor of a fair, liberal, and perhaps from time to time to increase the liberality of our Workmen's Compensation Laws, but I am absolutely opposed to nit-picking and adding these little things which, in effect, I think, I agree with those who said we can kill a good thing. I would hope that we would stick to our previous action and not reconsider and go all through this again.

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

Mr. CONLEY: Mr. President, I request a roll call.

The PRESIDENT: A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Minority Ought to Pass Report of the Committee on Bill, "An Act Relating to Interest on Awards in Workmen's Compensation Cases". A "Yes" vote will be

in favor of accepting the Minority Report; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Brennan, Cianchette, Clifford, Conley, Cyr, Danton, Fortier, Kelley, Marcotte, Minkowsky, Speers, Tanous, Wyman.

NAYS: Senators Aldrich, Anderson, Berry, Cox, Cummings, Graffam, Greeley, Huber, Joly, Katz, Morrell, Olfene, Peabody, Richardson, Roberts, Schulten, Sewall, Shute, MacLeod.

ABSENT: Senators Hichens.

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

Thereupon, the Majority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

The PRESIDENT: The Chair would like to announce to the Senate that starting immediately at the beginning of each legislative day the Chair will announce any papers that have been held by any Senator. The Chair feels that it is unfair, in this case, for example, we are at the close of business and the Senator from Cumberland, Senator Richardson, might have left the chamber, who is obviously opposed to accepting the Majority Ought Not to Pass Report of the Committee. So from now on, any papers that are held will be announced to the body in the morning so that all Senators will know, and if they have opposite viewpoints to make sure that they stick around until the end of the session.

On motion by Mr. Sewall of Penobscot,

Adjourned until 9:30 tomorrow morning.