

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

Wednesday, May 16, 1973

Senate called to order by the President.

Prayer by the Rev. Howard Hough of Portland.

Reading of the Journal of yesterday.

The PRESIDENT: The Chair would inform the Senate that House Paper 519, Legislative Document 684, "An Act to Repeal the Seasonality Provisions of the Employment Security Law," has been held and that, from now on, on the advance journal and calendar there will be printed those bills which are being held.

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

Bill, "An Act Extending the Period of Entitlement to Compensation for Partial Incapacity under the Workmen's Compensation Law in Certain Areas." (H. P. 616) (L. D. 814)

In the House May 9, 1973, Passed to be Engrossed.

In the Senate May 11, 1973, the Majority Ought Not to Pass report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted.

On motion by Mr. Tanous of Penobscot, the Senate voted to Adhere.

**Committee Reports
House**

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

Bill, "An Act Relating to Vacation Leave for State Employees." (H. P. 283) (L. D. 355)

Bill, "An Act Relating to Eligibility Conditions for Benefits under Employment Security Law." (H. P. 807) (L. D. 1054)

Bill, "An Act Establishing the Maine Land Sales Full Disclosure Act." (H. P. 1205) (L. D. 1573)

Bill, "An Act Implementing the Reorganization of the Department of Mental Health and Corrections and the Department of Public Safety." (H. P. 1383) (L. D. 1871)

Leave to Withdraw

The Committee on Labor on Bill, "An Act to Regulate Industrial Homework." (H. P. 1379) (L. D. 1835)

Reported that the same be granted Leave to Withdraw.

The Committee on Labor on Bill, "An Act Relating to Mediation Procedure for Disputes in the Public Sector." (H. P. 717) (L. D. 923)

Reported that the same be granted Leave to Withdraw.

The Committee on Labor on Bill, "An Act to Improve the Occupational Safety and Health Act of the State in Accordance with Federal Standards." (H. P. 1402) (L. D. 1868)

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 — As Amended

The Committee on Education on Bill, "An Act Relating to Exceptional Children." (H. P. 751) (L. D. 965)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-374).

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

Which report was Read.

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

Mr. KATZ: Mr. President, I just want to call the Senate's attention to this bill. I am sure that you have had substantial local interest. It is the bill that some people have called the "Bill of Rights for the Handicapped Child", and I commend it to your attention.

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, T o m o r r o w
Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Taxation on Bill, "An Act Repealing the Distribution of the Bank Stock Tax." (H. P. 551) (L. D. 732)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Repealing the Bank Stock Tax" (H. P. 1491) (L. D. 1919).

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "B" (H-380).

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

Mr. Wyman of Washington then moved that House Amendment "B" be Indefinitely Postponed.

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

Mr. KATZ: Mr. President, I wonder if the Chairman of the Taxation Committee might explain to us the implications of the indefinite postponement of this amendment to our various communities?

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

Mr. WYMAN: Mr. President and Members of the Senate: The bill, as it was written, would repeal the bank stock tax and allow the towns and municipalities to tax banks where they are. The amendment would continue the bank stock tax, throw the income or the funds received into the general revenue sharing and spread it among the towns over the state.

Now, most of the larger places do have banks or branch banks, and the very small places, as a rule, don't, and the amount of revenue sharing they would get would be quite negligible, so it seemed to the Committee better to let the bill go and remove the tax on the stock completely, and then allow Augusta, P o r t l a n d, Bangor, or maybe Farmington, wherever the small branch banks are, let the assessors in those municipalities tax the banks.

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

Mr. FORTIER: Mr. President and Members of the Senate: I would like to emphasize the fact that under the present bank stock tax, if we take an item like computers, for example, the computer is taxable if it belongs to the bank. If it is leased, it is not taxable. There is no question that the repeal of the bank stock tax, which would automatically permit the municipalities to tax the personal property, would broaden by a great deal our tax base.

The distribution, of course, is very difficult, and the only thing that the amendment would affect is the distribution. But the tax itself, even the distribution is not on any sound basis. For example, we have an individual in Rumford who owns a considerable amount of bank stock, and the tax on his stock is not refunded to the Town of Rumford, but is sent to the City of Portland only for the reason that he has a broker with an address in Portland who has power of attorney on his stock so, consequently, the tax is being refunded to Portland instead of Rumford. Such inequities exist all through the state by the very fact that personal property there, contrary to every other industry, to every other line of business, is being taxed.

In this particular case it is exempt, and we feel very sure that the income to our municipalities would be considerably more than the overall loss of the bank stock tax, although that may not be so in some particular small towns. For example, in the Town of Rumford, I understand we would lose probably \$9,000 of bank stock tax, but the Town of Mexico would gain considerably by it because they happen to have a branch bank. So I hope that you will vote for the indefinite postponement of the amendment.

The PRESIDENT: Is it now the pleasure of the Senate that House Amendment "B" be indefinitely postponed?

Thereupon, House Amendment "B" was Indefinitely Postponed in non-concurrence and the Bill in New Draft Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on Bill, "An Act Creating a Special Human Services' Commission." (H. P. 572) (L. D. 751)

Reported that the same Ought Not to Pass.

Signed:

Senators:

SPEERS of Kennebec

WYMAN of Washington

CLIFFORD

of Androscoggin

Representatives:

FARNHAM of Hampden

COONEY of Sabattus

CROMMETT

of Millinocket

STILLINGS of Berwick

CURTIS of Orono

SILVERMAN of Calais

GAHAGAN of Caribou

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

Signed:

Representatives:

GOODWIN of Bath

BUSTIN of Augusta

NAJARIAN of Portland

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

Which reports were Read.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would like to give a brief explanation of this particular bill and the reason for the Majority Report on this bill.

There was considerable testimony before the Committee on State Government on the need for someone to look into the problems of social services in the State of Maine, particularly the increased responsibility that is being placed upon the state and upon municipalities by the rearrangement of such responsibility on the part of the federal government.

There was a particular comment that was quite apropos, I think, in that the individuals from rural areas of the state time and again made the point that dollars spent for social services are going to the more populated urban areas of the state and that these dollars are not going to the rural areas in any way, shape or form, and certainly not on a per capita basis.

This particular bill, however, would set up a commission whose duties would be, among others, to conduct hearings on the financial status of human service programs within the state, to determine the role of the state in assisting human service programs and, further, to introduce legislation if such were deemed necessary.

Now, it was the feeling on the part of the majority of this committee that this precise type of role is what we are talking about when we talk about continued legislative committees and legislative committees that continue beyond the adjournment of the legislature. And it would certainly be the purview and the responsibility, I would think, of probably a number of joint standing committees, should they continue beyond the adjournment of the legislature — I can think immediately of Health and Institutional Services and Appropriations — to do precisely what this commission would be set up by this legislation to do, and that would be, of course, to investigate and continually review the status of social service programs in the State of Maine.

Therefore, Mr. President, I move the acceptance of the Majority Ought Not to Pass Report.

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

The motion prevailed.

Divided Report

The Majority of the Committee on Natural Resources on Bill, "An Act to Provide for Protection of the Air, Water and Other Natural Resources." (H. P. 729) (L. D. 935)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1495) (L. D. 1923)

Signed:

Senator:

CUMMINGS of Penobscot
Representatives:

HERRICK of Harmony
SMITH of Exeter
PETERSON of Windham
BRIGGS of Caribou
ROLDE of York
HUBER of Falmouth

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

Signed:

Senators:

SCHULTEN of Sagadahoc
MARCOTTE of York

Representatives:

CURRAN of Bangor
PALMER of Nobleboro
MacLEOD of Bar Harbor
BERUBE of Lewiston

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

Which reports were Read.

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

Mrs. CUMMINGS: Mr. President, I move we accept the Ought to Pass Report and I would like to speak to my motion.

The PRESIDENT: The Senator from Penobscot, Senator Cummings, moves that the Senate accept the Majority Ought to Pass in New Draft Report of the Committee.

The Senator has the floor.

Mrs. CUMMINGS: Mr. President and Members of the Senate: The heart of this bill is the first section, which is entitled "Actions." This section states clearly that the purpose of this act is to allow any person or any entity to maintain an action against any other person or entity for the protection of any natural resource.

An individual who desires to bring an action must satisfy the court that an interest of his has been adversely affected by the conduct of another, and that he has enough at stake in the action to assure responsible litigation. Otherwise, the individual's case would fail for lack of standing.

There are safeguards in this bill to protect individuals and industries from frivolous law suits. For instance, in Section 1262, under "Procedure", the first safeguard requires the court to refer any action which can be appropriately decided by an agency to that agency. The obvious objectives of this provision are to reduce the burdens this act might place on the courts, and to provide the various agencies their rightful place in the decision making process.

Under "Standards", in the original draft of this act the paragraph on standards gave the court the authority to pass on the validity and reasonableness of environmental standards. The legislature, with its regular and special sessions, meets frequently enough to provide up to date, reasonable standards.

Also, under "Bonds", the bonding requirement is included in the bill to discourage frivolous suits. A plaintiff, realizing his instigation of an environmental action could result in the loss of substantial monies, is likely to think twice. The wording of this provision in the redraft differs from the original draft. The change was made to make it clear that the \$2500 bond applies to court costs only. Damages, the money lost by the defendant as a result of the suit, are to be treated independently. The court may continue, as it presently does, to require a bond to cover any anticipated damages.

I think this is an important bill. There have been similar bills passed in six other states, but in two years Connecticut has had only one case brought before the courts; Florida in two years has had three; Massachusetts in one and a half years has had six cases actually brought to court; and Michigan in three years has had 33.

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

Mr. SCHULTEN: Mr. President and Members of the Senate: With all due deference and respect to our distinguished Senator from Penobscot County, Senator Cummings, I felt it incumbent to sign the Minority Ought Not to

Pass Report of this particular bill because, in reading it over, I felt that it was quite irresponsible; irresponsible to the point that it practically allows anybody and everybody to sue anybody and everybody and every agency that they might wish on any environmental problem that they may have a particular grievance against.

I do feel that we have many safeguards in the state that, if there is a serious problem to be taken care of, that we have the machinery to make certain that these things are done and done properly. I think to load the courts and load the statutes with the right to sue, and to take this to the extreme point that Section 1261 talks about in the Actions: "The Attorney General, any group of five individuals, any municipality, partnership, corporation, association, organization, government agency, or other legal entity, may maintain an action in the superior court for declaratory and equitable relief against the state, against any political subdivision thereof, against any person, partnership, corporation, association, organization, or other legal entity, for the legal protection of the air, water, land, and other natural resources from damage or destruction," while I am certain that the motives that prompted this bill are correct, I think the mechanics of it go to the point of ridiculousness, and for that reason I signed the Minority Ought Not to Pass Report.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Cummings, that the Senate accept the Majority Ought to Pass in New Draft Report of the Committee on Bill, An Act to Provide for Protection of the Air, Water and Other Natural Resources."

The Chair will order a division. As many Senators as are in favor of accepting the Majority Ought to Pass in New Draft Report will rise and remain standing until counted.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President, I request a roll call, and I also would like to know if this bill is debatable at this point?

The PRESIDENT: The bill is not debatable; the Chair had put the matter to a vote. The Senator from Cumberland, Senator Richardson, has requested a roll call. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. As many Senators as are in favor of ordering a roll call will please rise and remain standing until counted.

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

The Chair has been informed that the Chair is in error. Since the vote had not been announced on the division vote, and a roll call is requested, the matter is still open to debate.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: Apparently my friends in the other branch of government have lobbied this, and I have no quarrel with their right to do so. I am quite sure that many of you have already made up your mind, but to those of you who have not, I would like to attempt to answer as thoughtfully and objectively as possible the statements made by the good Senator from Sagadahoc, Senator Schulten.

I think that it is a little bit overstated, to say the best for it, to refer to this legislation as irresponsible. The legislation contains very specific safeguards and places a very heavy burden, indeed a penalty, on any person who would subvert the judicial process by maintaining an action when he didn't have reasonable grounds to do so.

I would specifically call your attention to subparagraph 6 on the second page of the bill relating to security. It provides that if an action is brought and the court entertains doubts as to the financial solvency of the plaintiff to compensate the defendant for damages caused by the plaintiff

unreasonably, arbitrarily or capriciously bringing the action, then the court may order the posting of bond to insure that those damages are paid.

Secondly, as an attorney and a member of this legislature, I have heard repeatedly the old stagnant argument about opening the floodgates of litigation, and I say to you that the day that this Senate closes the door to people who have a legal right, except for some old concepts, of standing to sue, then the Senate is not fulfilling its obligation to the people of Maine.

Now, there is absolutely nothing in this bill, the implication of Senator Schulten of Sagadahoc to the contrary, that duplicates existing law. Members of the Senate, Section 1262 provides for a procedure which requires the court to send the plaintiff and the defendant, the parties to the suit, back to the administrative agency or department of state government if that agency or department has any legitimate concern with it. So you are not duplicating existing statutory or regulatory provisions, not a bit.

I think you should realize that those of us who are concerned with this sort of litigation, not as attorneys but as individuals, feel very strongly that the court system in Maine, and indeed in the United States, is proving more and more to be the place where disputes can be worked out under rules of law instead of out in the street. This is where we should be having these disputes ironed out, in a thoughtful, deliberative process; not in the street, not in newspapers, but in the courts.

The Senator from Penobscot, Senator Cummings, has indicated to you that something on the order of six states have adopted similar legislation. The statement made by my friend, the Senator from Sagadahoc, Senator Schulten, that this sort of legislation opens the floodgates to litigation and leads to court congestion is simply not borne out by the facts. The facts are as stated to you by the distinguished lady from Penobscot.

In short, I am sure that you have all been lobbied, but I really

believe that if you look at this bill objectively, objectively, as to what it does and what it doesn't do, you will find that it falls a good deal short of being irresponsible.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I agree wholeheartedly with the positions given by Senator Cummings of Penobscot and Senator Richardson. I would only disagree with Senator Richardson in that I am sure there are members of the Senate, after listening to this explanation, will give the matter serious consideration without their minds perhaps having been made up.

The key, I think, is in the very last sentence of the bill, which says that only violation of existing laws is affected. This is not a capricious action, as visualized here. This is not an anti-business or an anti-industry bill. It opens up to the people of the state at least a practical method for finding relief from violations of existing laws. It seems, on this basis, that we should give our citizens of this state the right to participate in protecting their environment. I would hope that you would vote for passage of this bill and support Senator Cummings in her motion.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Very briefly, I haven't been lobbied by either side. Apparently no one is interested in what my views are on it. So I am going to look the bill over very closely and, for the time being, I am going to vote to keep it alive so I can look into it very closely.

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

Mr. SCHULTEN: Mr. President and Members of the Senate: I am just almost at a loss for words as to what to say and how to say it without causing offense, because when I hear remarks made and statements made that I consider

rather loose I am tempted to react, and when I react I never win.

I am not trying to win on this bill. I just felt, in my own opinion, after hearing the bill — and after all, I was there — I felt it did not do the job it was intended to do.

Now, the good Senator from Cumberland, Senator Brennan, just stood and acknowledged that he had not been lobbied by either side, and yet we hear from another distinguished Senator from Cumberland County that probably everybody has been lobbied. I would just like to say that whether my decision to sign the Minority Report is correct or is horribly wrong, I just want you to know that no one has said one word to me about this bill at the hearing, except in my capacity of sitting there and listening, after the hearing, or right up to this moment. So when we are told as a body sitting here, supposedly in judgment of bills for consideration, that we have all been lobbied, that I signed the Minority Report and I have been lobbied, it just isn't true. I think we should be a little more careful in our remarks when we made statements like this.

Also, the implication that I was trying to perhaps deceive the Senate into believing that there was something in this bill that actually isn't there: I think, if you so wish, we will have the Reporter read back my statements. Principally, what I was saying was that I read out of the book Section 1261, and I didn't put that language in there. I didn't say who could sue who. All I said was that, as far as I could see, it was giving the right to everybody practically to sue everybody else, and I don't think this is terribly responsible.

There was another thing that was mentioned — I can't find my notes here — but basically this covers my objections to the types of debate we are sometimes subjected to. I signed this report in good faith, and whether the report goes according to the way I signed it or didn't sign it, I believe has nothing to do with my veracity or with my feelings of how I vote at any particular time. And

frankly, I take my position behind no one in a desire for the proper environment for the State of Maine, and I think my record over some 13 years sporadically in the legislature will prove this, and I will be glad to match it with anybody else any time they would like to sit down or stand up and discuss it. I just want the members of the Senate to know how I feel about some of these things.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Penobscot, Senator Cummings, that the Senate accept the Majority Ought to Pass in New Draft Report of the Committee on Bill, "An Act to Provide for Protection of the Air, Water and Other Natural Resources." A "Yes" vote will be in favor of accepting the Majority Ought to Pass in New Draft Report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Aldrich, Berry, Brennan, Cummings, Hichens, Kelley, Richardson, Sewall, Shute, Speers, Tanous, Wyman, MacLeod.

NAYS: Senators Anderson, Cianchette, Clifford, Conley, Cox, Cyr, Danton, Fortier, Graffam, Greeley, Huber, Joly, Katz, Marcotte, Minkowsky, Morrell, Olfene, Peabody, Roberts, Schulten.

A roll call was had. 13 Senators having voted in the affirmative, and 20 Senators having voted in the negative, the motion did not prevail.

Thereupon, the Minority Ought Not to Pass Report of the Committee was Accepted in concurrence.

Divided Report

The Majority of the Committee on Labor on Bill, "An Act Increasing Minimum Wages." (H. P. 91) (L. D. 112)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-318).

Signed:

Senators:

TANOUS of Penobscot

KELLEY of Aroostook

Representatives:

CHONKO of Topsham

HOBBS of Saco

McHENRY of Madawaska
BINNETTE of Old Town
FARLEY of Biddeford

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

Signed:

Senator:

HUBER of Knox

Representatives:

McNALLY of Ellsworth
BROWN of Augusta
ROLLINS of Dixfield
GARSOE of Cumberland
FLYNN of South Portland

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

Which reports were Read, the
Majority Ought to Pass as
Amended Report of the 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.

Senate

Leave to Withdraw

Covered by Other Legislation

Mr. Shute for the Committee on
Transportation on Bill, "An Act
Revising the School Bus Law." (S.
P. 73) (L. D. 190)

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

Which report Was Read and
Accepted.

Sent down for concurrence.

Ought to Pass — As Amended

Mr. Clifford for the Committee
on State Government on Bill, "An
Act Creating a Polygraph
Examiners Act." (S. P. 509) (L.
D. 1662)

Reported that the same Ought
to Pass as Amended by Committee
Amendment "A" (S-126).

Which report was Read.

Mr. Anderson of Hancock then
moved that the Bill and all
accompanying papers be
Indefinitely Postponed.

The PRESIDENT: The Senator
has the floor.

Mr. ANDERSON: Mr. President
and Members of the Senate: I am

sick and tired of this word
"create" and I would like to see
as a substitute "evaluate" for the
word "create." Create, as a rule,
means another bureau with office
space, costly furnishings and
personnel to put it into operation,
and this simply puts another
burden on the backs of the
taxpayers. Mr. President, when the
vote is taken, I move it be taken
by the yeas and nays.

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

Thereupon, on motion by Mr.
Speers of Kennebec, tabled until
later in today's session, pending
the motion by Mr. Anderson of
Hancock to Indefinitely Postpone
the Bill and all accompanying
papers.

Mr. Minkowsky for the Commit-
tee on Education on Bill, "An Act
to Correct Errors and
Inconsistencies in the Education
Laws." (S. P. 417) (L. D. 1378)

Reported that the same Ought
to Pass as Amended by Committee
Amendment "A" (S-127).

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. Greeley for the Committee
on Transportation on Bill, "An Act
Relating to School Buses." (S. P.
131) (L. D. 313)

Reported that the same Ought
to Pass in New Draft under Same
Title (S. P. 622) (L. D. 1936)

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

Divided Report

The Majority of the Committee
on Labor on Bill, "An Act Relating
to Notice or Severance Pay by
Employers." (S. P. 451) (L. D.
1417)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot

HUBER of Knox

Representatives:

ROLLINS of Dixfield

GARSOE of Cumberland

McNALLY of Ellsworth

FLYNN of South Portland

BROWN of Augusta

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

Signed:

Senator:

KELLEY of Aroostook

Representatives:

McHENRY of Madawaska

CHONKO of Topsham

FARLEY of Biddeford

HOBBINS of Saco

BINNETTE of Old Town

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on Labor on Bill, "An Act Relating to Unemployment Compensation During a Lockout Because of a Labor Dispute." (S. P. 261) (L. D. 758)

Reported that the same Ought to Pass.

Signed:

Senators:

TANOUS of Penobscot

KELLEY of Aroostook

Representatives:

BINNETTE of Old Town

HOBBINS of Saco

McHENRY of Madawaska

FLYNN of South Portland

CHONKO of Topsham

BROWN of Augusta

FARLEY of Biddeford

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

Signed:

Senator:

HUBER of Knox

Representatives:

McNALLY of Ellsworth

GARSOE of Cumberland

ROLLINS of Dixfield

Which reports were Read.

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

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

Mr. TANOUS: Mr. President and Members of the Senate: I oppose his motion, and I would like to very briefly explain this document to the members of the Senate.

This is L. D. 758, and I have a close association with this bill because it happens to be my own bill. This deals with unemployment compensation, as the title indicates. Title 26, Section 1193, of our unemployment laws provide certain disqualifications for being able to draw unemployment benefits, and there are quite a few of these disqualifications. Presently if there is a lockout, an individual is disqualified from drawing unemployment benefits. My feeling is that in the case of a lockout, certainly it is not the fault of an employee that he is locked out of his place of employment and, therefore, he should be compensated or should be eligible to draw unemployment compensation.

I usually try to explain the pros and cons of a bill, and I fully recognize the opposite views of such a bill, the fact that this is a labor dispute, and when there are labor disputes this is no area to afford anyone any benefits, either the employer or the employees, because it tends to interfere with the proper dispute that is being discussed by the parties. But in any event, I still feel that in a case of a lockout this is certainly not the fault of the employees, and they are as much unemployed as if they are without work. So I oppose my good friend of the Labor Committee, Senator Huber from Knox, on his motion. I would ask for a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President, I would ask for 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 Knox, Senator Huber, that the Senate accept the Minority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Unemployment Compensation during a Lockout Because of a Labor Dispute." A "Yes" vote will be in favor of accepting the Minority Ought Not to Pass Report of the Committee; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Cianchette, Cox, Cummings, Graffam, Greeley, Hichens, Huber, Joly, Katz, Morrell, Olfene, Peabody, Roberts, Shute, MacLeod.

NAYS: Senators Aldrich, Brennan, Conley, Cyr, Danton, Fortier, Kelley, Marcotte, Minkowsky, Richardson, Speers, Tanous.

ABSENT: Senators Clifford, Schulten, Sewall, Wyman.

A roll call was had. 17 Senators having voted in the affirmative, and 12 Senators having voted in the negative, with four Senators absent, the Minority Ought Not to Pass Report of the Committee was Accepted.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Labor on Bill, "An Act Relating to the Public Employees Labor Relations Board." (S. P. 520) (L. D. 1651)

Reported that the same Ought to Pass.

Signed:

Senators:

TANOUS of Penobscot

HUBER of Knox

KELLEY of Aroostook

Representatives:

ROLLINS of Dixfield

McHENRY of Madawaska

BINNETTE of Old Town

GARSOE of Cumberland

BROWN of Augusta

CHONKO of Topsham

FLYNN of South Portland

HOBBINS of Saco

FARLEY of Biddeford

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

Signed:

Representative:

McNALLY of Ellsworth

Which reports were Read.

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

Second Readers

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

House

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

Bill, "An Act Relating to Ownership of any Real Property Formerly Held by the State Colleges." (H. P. 1499) (L. D. 1926)

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

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

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

Sent down for concurrence.

Bill, "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)

Which was Read a Second Time.

Mr. Roberts of York then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-124, was Read and Adopted

and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

House - As Amended

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)

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

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

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

Senate

Bill, "An Act to Amend the Maine Fair Trade Act." (S. P. 621) (L. D. 1935)

Bill, "An Act Providing Funds for Director of Volunteer Services in the Division of Probation and Parole." (S. P. 429) (L. D. 1299)

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

Sent down for concurrence.

Enactors

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

An Act Repealing Certain Definition of Timber and Grass Relating to the Public Lots. (S. P. 290) (L. D. 837)

An Act Relating to the Certification of State Employees' Compensation (S. P. 326) (L. D. 1030)

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

An Act Appropriating Funds to Facilitate Access to Services Essential for Older People. (S. P. 547) (L. D. 1701)

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

An Act to Revise the Maine Insurance Code as Related to Separate Accounts Established by Insurance Companies. (H. P. 870) (L. D. 1158)

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

An Act to Enable Communities to Establish Multiple Community Solid Waste Districts. (H. P. 1138) (L. D. 1520)

An Act Relating to Venue of Personal and Transitory Actions Involving the Residents of Brunswick and Harpswell. (H. P. 1169) (L. D. 1508)

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

An Act Relating to Oral Settlements or Releases from Injured Persons Confined to Hospitals. (H. P. 1154) (L. D. 1487)

An Act Appropriating Funds to Provide a Public Information Officer at Bangor State Hospital. (H. P. 1254) (L. D. 1631)

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

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

Resolve, Providing Funds for the Maintenance of Ocean Beaches. (S. P. 278) (L. D. 826)

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

Emergencies

An Act to Replace Lump Sum Financing of State Employees Retirement with Percentage Financing Based Upon Payrolls Paid. (H. P. 216) (L. D. 289)

An Act to Validate and Amend the Charter of the Kennebec Sanitary Treatment District. (H. P. 1457) (L. D. 1884)

These being emergency measures and having received the affirmative votes of 31 members of the Senate, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

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

House Reports — from the Committee on Health and Institu-

tional Services — Bill, An Act Relating to the Prohibition of the Advertising of Drug Prices." (H. P. 930) (L. D. 1227) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

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

Pending — Acceptance of Either Report.

Mr. Brennan of Cumberland then moved that the Senate accept the Minority Ought to Pass Report of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. BRENNAN: Mr. President and Members of the Senate: I know we discussed a similar bill yesterday, however, I do not feel I will be imposing on this Senate to speak on this bill again today. I appreciate the fact that it does not have all the sex appeal of a battle between the Value House and Porteous or the battle between two merchants. I think this bill really concerns about a million people in this state.

On this bill there has been no battery of lobbyists on either side that I know of — I know there has been one for the druggists that has gotten a great deal of attention in regard to this bill.

I think this bill is concerned with one thing; where does the public interest lie? Does the public interest lie in permitting drug prices to be advertised? Will advertising drug prices lead to lower prices? Does competition encourage lower prices? Why should there be a prohibition against drug advertising? I have yet to be shown any real good reason.

I was at the public hearing and sponsored a similar bill, as I said. At the same time at that hearing I sponsored a measure calling for the sale of generic drugs. At that time the opponents showed us what I call about a Class Z movie, saying that the drugs made by the generic makers, in effect, are made in musty old cellars. They were unable to come up with any movie or anything to oppose this drug price advertising.

I can appreciate where people of reasonable minds could distinguish, differentiate, or come

to a different conclusion on the sale of generic drugs, but I really have been shown no reason whatsoever why we can't advertise drug prices. I think we mentioned yesterday more than half the states permit it now. Most of them have done it by statute. The trend in the law is to do it by court decision. I think we have a chance right now to do something for the consumers in this state.

Again, if this bill passes, no druggist in the State of Maine has to advertise anything. It is merely permissive legislation, simply enabling legislation to let these people advertise.

I think one of the incongruous things here is that most of these druggists advertise everything but drugs. As I understand it, drug-stores' principal reason for being was to sell drugs, but they seem to advertise, I don't know, beach pails, barbecue pits, and things of that nature, but not drugs.

I would hope today that we would reconsider our action of yesterday. I appreciate there was an 18-14 vote, but I know we Senators are the type of people that can reconsider our action if we have made a mistake. If we really feel today it is in the public interest to advertise drug prices, we could change our position. So, I would strongly urge you to accept the Minority Ought to Pass Report, and I would ask for a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: I would rise in opposition to the motion of the good Senator from Cumberland, Senator Brennan.

I would be the first one in the Senate to provide lower price advertising for commodities if the lower price wouldn't affect quality and service.

In the case of prescription drugs, I feel that health comes before drug pricing. When a member of my family is ill, I am sure that I am not going to run all over creation with that doctor's prescription to find out where the prescription can be filled at the

lowest cost. I personally have enough faith in my druggist to provide the drug at a nominal profit, which I have no argument with.

One speaker at the hearing told how one customer complained vigorously over the cost of a prescription drug that was helping to keep her alive. Shortly afterward she came to the same clerk with a beauty aid preparation (which in the clerk's opinion could do nothing for the lady) and paid the same price for it as she had for the prescription, and at the same profit to the druggist, with no comment.

I feel that after two lengthy hearings on L. D. 1227, and the companion bill, L. D. 1590, that the ten member majority of the committee was convinced that competitive prices of prescription drugs is not necessary for the best interests of all concerned.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I certainly do not want to reiterate the same text to you as I did yesterday because I think the good Senator from Cumberland's bill was better than the one we are hearing at the present time. The only point I would want to clarify is this: he made a remark in reference to the fact that the drug stores advertise everything, such as charcoal and everything else that goes along with it. This may be true, but I think you will find that the prescription department is in a different category altogether.

For the consumer's own protection, a prescription, as I had told you yesterday, cannot be sold like any other commodity; it has to be prescribed by a physician and it has to be dispensed by a pharmacist. I think this is the major reason why I would definitely oppose the acceptance of the Minority Ought to Pass Report.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Very briefly, the good Senator from

York, Senator Hichens, if we pass this bill and we permit drug advertising, could continue to go to his local druggist whether he advertised or not. He could continue to go there and possibly pay a higher price if that is his heart's content; that is fine. All we are saying is we just want to give the ability or just enable these druggists to advertise so the average consumer can find out what the difference is and what the differentiation is in prices.

If I recall, at the hearing on this bill a bright young legislator appeared before that hearing supporting this bill and, in effect, said he made a survey of his own; he called 20 or 30 drug stores. And the ironical thing about it was that for the same quantity and the same item the highest price happened to be by the biggest chain in this state, the chain that does the most advertising. I think a lot of our poor consumers think the one that does a lot of advertising and has the biggest chain may be able to give lower prices, but I think a lot of people are being faked out. Again, I would urge you to accept the Minority Report and let the market determine the price.

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

Mr. JOLY: Mr. President and Members of the Senate: I rise to agree with the good Senator from York, Senator Hichens. One thing that hasn't been mentioned in this debate is that the selling of prescription drugs is almost a professional item.

You know that, historically, professional people, attorneys and medical people, do not advertise. The reason behind this is simply that we don't want the public to be sold on a particular doctor or a particular lawyer on their advertising. We want them to do it on their integrity and their professionalism. Perhaps one poor professional could have a very good advertising firm and, as a result, would get the business instead of the better one. This is the same thing in drugs.

I am afraid that too often we worry about the low price. We are talking about price all the time to help our low income people, and we forget quality and forget the professionalism here. Therefore, I hope you would go along with the Senator from York, Senator Hichens.

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

Mr. KATZ: Mr. President and Members of the Senate: I support the position of the Senator from Cumberland, Senator Brennan. I would suggest to the Senator from Kennebec, Senator Joly, that the main difference between the druggist and the other professions is, so far as I can recall, he is the only one that is selling any goods; the others are selling services. There is a very real difference between the ability to advertise the cost of the goods that you are selling vis-a-vis the cost of the services that you are offering.

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

Mr. CONLEY: Mr. President and Members of the Senate: I have been listening with a great deal of interest to the remarks made here this morning on this bill, and it sort of makes me recall a situation back in Portland during the great Model City years when the community was establishing different programs to benefit the people within the community. I recall that they set up a drug co-op, which was primarily set up to aid and assist the elderly people and low income people of the community so they could purchase drugs at a lower price. I can remember that the city council had a great deal of debate on the passage of that particular order and the funding of that program, but wholeheartedly went for it after a few things were ironed out. But when it came time for the hiring of a pharmacist to be able to dispense the drugs, we found that the Maine Pharmaceutical Commission got into the act, and the only way that the program ever got off the ground was because of the fact

that people actually went before the Attorney General's Office, and then the Commission backed off. There was one pharmacist who was eventually hired and was ready to go to work, and he was threatened with the loss of his license if he took the job, that he would no longer be able to participate, that they would find some fault within his drug store to be able to bring some sort of action against him.

I just think it becomes a little bit disgraceful when, as the good Senator from Cumberland, the junior Senator from Portland, Senator Brennan, keeps talking about just purely enabling legislation — and that is all that this bill does, is simply just allow those individuals, those pharmacists, who want to advertise to advertise; there is no reason why they shouldn't be able to. I would support his motion.

The PRESIDENT: 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 Report of the Committee on Bill, "An Act Relating to the Prohibition of the Advertising of Drug Prices". A roll call has been requested. In order for the Chair to order a roll call, under the Constitution, 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 Report of the Committee on Bill, "An Act Relating to the Prohibition of the Advertising of Drug Prices". A "Yes" vote will be in favor of accepting the Minority Ought to Pass Report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Aldrich, Brennan, Clifford, Conley, Cummings, Danton, Katz, Kelley, Marcotte,

Morrell, Richardson, Roberts
Sewall, Speers, Tanous.

NAYS: Senators Anderson,
Berry, Clanchette, Cox, Cyr, For-
tier, Graffam, Greeley, Hichens,
Huber, Joly, Minkowsky, Olfene,
Peabody, Schulten, Shute, Wyman,
MacLeod.

A roll call was had. 15 Senators
having voted in the affirmative,
and 18 Senators having voted in
the negative, the motion did not
prevail.

Thereupon, the Majority Ought
Not to Pass Report of the Commit-
tee was Accepted in non-concur-
rence.

Sent down for concurrence.

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

Bill, "An Act to Allocate Money
from the Federal Revenue Sharing
Fund for the Fiscal Years Ending
June 30, 1974 and June 30, 1975."
(H. P. 341) (L. D. 456)

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

Pending — Passage to be En-
grossed. Committee Amendment
"A" (H-326)

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

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

House Report — from the
Committee on Natural Resources
— Bill, "An Act Classifying Certain
Inland Waters of Saco River
Basin." (H. P. 765) (L. D. 998)
Ought to Pass report.

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

Pending — Acceptance of Report.

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

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

Joint Order — Relative to
Committee on Appropriations and
Financial Affairs to make con-
tinuing review and evaluation of
State budget. (S. P. 606)

Tabled — May 15, 1973 by
Senator Brennan of Cumberland.

Pending — Consideration.

(Senate — Passed.)

(House—Passed as amended by
House Amendment "A" (H-372).)

Thereupon, the Senate voted to
Recede and Concur.

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

House Report — from the
Committee on Election Laws —
Bill, "An Act Relating to Political
Campaign Reports and Finances."
(H. P. 1066) (L. D. 1391) Ought
to Pass as amended by Committee
Amendment "A" (H-356)

Tabled — May 15, 1973 by
Senator Shute of Franklin.

Pending — Acceptance of Report.

On motion by Mr. Shute of
Franklin, the Ought to Pass as
Amended Report of the Committee
was Accepted in concurrence and
the Bill Read Once. Committee
Amendment "A" was Read.

On motion by Mr. Shute of
Franklin, Committee Amendment
"A" was Indefinitely Postponed.

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

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

House Reports — from the
Committee on Agriculture — Bill,
"An Act Authorizing the Commis-
sioner of Agriculture to Investigate
Certain Farming Practices." (H.
P. 1207) (L. D. 1559) Majority
Report — Ought to Pass in New
Draft (H. P. 1497) (L. D. 1924);
Minority Report — Ought Not to
Pass.

Tabled — May 15, 1973 by
Senator Anderson of Hancock.

Pending — Acceptance of Either
Report.

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
Androscoggin, Senator Olfene.

Mr. OLFENE: Mr. President, through the Chair, might I ask a brief explanation of the bill and, furthermore, might I ask for the committee report?

The PRESIDENT: The Secretary will give the committee report.

The SECRETARY: The Ought to Pass in New Draft Report was signed by Senator Peabody of Aroostook, Representatives Mahany of Easton, Hunter of Benton, Albert of Limestone, Cooney of Sabattus, Berry of Buxton, and Evans of Freedom. The Ought Not to Pass Report was signed by Senators Hichens of York and Cyr of Aroostook; Representatives Rollins of Dixfield, Morin of Fort Kent, and Pratt of Parsonsfield.

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

Mr. PEABODY: Mr. President, I would ask for a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: This L. D. is unnecessary and to some extent rather ridiculous. Here we have a statement of fact on L. D. 1924, and where the Senator from — I don't know what district he does represent — Senator Olfene, asked for an explanation of it, I am going to read the whole bill. It says, "In addition to duties expressly authorized in this Title, the Commissioner may, upon complaint or for other reasonable cause, investigate any farm operation, method or practice with respect to animal waste, to determine whether such operation, method or practice may have an adverse effect upon the natural resources of the State. When, in the opinion of the commissioner, such adverse effects are evident, he shall bring such fact to the attention of the appropriate individuals and agencies empowered to restrain such practices and equipped to provide assistance which may bring about necessary improvements in the operation, method or practice cited. The cost of such investigations shall be borne by the

State." The statement of fact goes on to say, "This Act is intended to provide the Commissioner of Agriculture with authority to investigate questionable farming practices brought to his attention and following investigation to make recommendations to the party involved on how they should be corrected."

Already in operation in the State we have divisions to take care of these matters, such as the Soil Conservation Service, the Environmental Protection Department, and the Health and Welfare Department.

This bill adds more work for the Commissioner of Agriculture, and clearly states that when a person complains about farm practices of his neighbor that the Commissioner may investigate and make recommendations. I submit to you this morning that when neighbors are at such a place that they can not discuss their problems together that the calling in of the Commissioner of Agriculture isn't going to help the matter in any way.

A situation that initiated this bill cannot be corrected by the Department of Agriculture if the Department of Environmental Protection hasn't been able to correct it when, according to the sponsor, a body of water is being polluted.

What this boils down to, in my estimation, is that the sponsor does not appreciate the smell of spring that many of us were associated with back on the farm or as we motored in the country. These odors of spring, as the winter's supply of waste was spread on the fields, initiated thoughts of green grass, strawberries and corn which were to follow.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from York, Senator Hichens, that the Senate accept the Minority Ought Not to Pass Report of the Committee. As many Senators as are in favor of accepting the Minority Ought Not 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 13 Senators having voted in the negative, the Minority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

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

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

Tabled — May 15, 1973 by Senator Katz of Kennebec.

Pending — Enactment.

On motion by Mr. Katz of Kennebec, retabled and Tomorrow Assigned, pending Enactment.

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

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

Tabled — May 15, 1973 by Senator Berry of Cumberland.

Pending — Enactment.

Mr. Fortier of Oxford then moved the pending question.

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

The President laid before the Senate the ninth 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 15, 1973 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

On motion by Mr. Aldrich of Oxford, the Bill and accompanying papers were Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the tenth 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 15, 1973 by Senator Berry of Cumberland.

Pending — Acceptance of Either Report.

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

Mr. TANOUS: Mr. President and Members of the Senate: I would like to explain the reason that this item has been tabled day after day.

As you notice, this is qualifying 18-year-olds to serve on a jury. I am personally opposed to permitting 18-year-olds to serve on juries, primarily because 90 percent of these kids are in high school and it would be a terrible imposition on 18-year-olds to serve on a jury.

Senator Brennan from Cumberland who signed the Ought to Pass Report brings up an interesting constitutional question. Presently under our jury system, we choose the jurors from the voting lists, and so it may well be that when we choose our jurors from the voting lists that this is unconstitutional, the method that we are using in exempting the 18 and 19-year-olds. So I asked for an opinion from the Attorney General's Office. Apparently it is quite an involved item, and they have been working on this, so in the essence of time, I would appreciate it if somebody would table this until next Monday.

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

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Specially Assigned for May 21, 1973, pending Acceptance of Either Report.

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

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

Tabled — May 15, 1973 by Senator Morrell of Cumberland.

Pending — Passage to be Engrossed. Committee Amendment

"A" (H-310); House Amendment "B" (H-352); and House Amendment "C" (H-353) (in non-concurrence)

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

Senate Amendment "A", Filing No. S-119, was Read and Adopted.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I hope this cannot be construed as Androscoggin County Day again. I have an amendment also that I would like to propose to this particular bill. It does change Section 11, and I think it takes the ambiguous language out of that particular section. It clarifies it by putting six people on the authority instead of five. It does strike out the city manager of Auburn and the controller of the City of Lewiston, because I don't think, if we are going to have an authority, we should have people directly involved in the political arena making these decisions. I think it should be done by an unbiased board. Mr. President, I offer Senate Amendment "B" and move its Adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, offers Senate Amendment "B" and moves its adoption. The Secretary will read the Amendment.

Senate Amendment "B", Filing No. S-128, was Read and Adopted.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I have another amendment, which is Senate Amendment "C". At least I want to be consistent with this particular bill insofar as this airport authority is concerned. I think it is of paramount importance that the people of Lewiston-Auburn have an opportunity to vote on this particular matter. I don't think, as was expressed by my very dear friend, Senator Clifford, in a previous debate that this particular amendment would kill the entire measure. I doubt this very much.

I would like to reiterate one particular phrase, and that is this: that I believe, since the people of Lewiston-Auburn will be paying for the maintenance and upkeep of this particular facility, that they should have a right to make a decision on this particular matter.

The PRESIDENT: The Chair would inform the Senator that Senate Amendment "C" is out of order since it is identical to House Amendment "D" which was indefinitely postponed and reconsidered in this body several days ago. It is identical words, and it cannot be offered to this body at this time since the identical amendment on the same piece of legislation was defeated by this body, and a reconsideration motion was made and that also was defeated.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. Minkowsky of Androscoggin then moved that the Bill be tabled and Tomorrow Assigned pending Passage to be Engrossed.

On motion by Mr. Clifford of Androscoggin, a division was had. 24 Senators having voted in the affirmative, and five Senators having voted in the negative, the Bill was tabled and Tomorrow Assigned, pending Passage to be Engrossed.

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

Bill, "An Act Creating a Polygraph Examiners Act" (S. P. 509) (L. D. 1662)

Pending — Motion by Mr. Anderson of Hancock to Indefinitely Postpone.

Thereupon, on motion by Mr. Brennan of Cumberland, retabled and Tomorrow Assigned, pending the motion by Mr. Anderson of Hancock that the Bill and accompanying papers be Indefinitely postponed.

Reconsidered Matter

On motion by Mr. Wyman of Washington, the Senate voted to Reconsider its action of yesterday whereby Bill, "An Act to Repeal

the Seasonality Provisions of the Employment Security Law" (H. P. 519) (L. D. 684), was Passed to be Engrossed.

The same Senator then moved that the Bill and accompanying papers be Indefinitely Postponed.

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

Mr. TANOUS: Mr. President and Members of the Senate: I don't particularly appreciate having to stand up here this morning to oppose the motion of my good friend, Senator Wyman from Washington. His wisdom in matters of seasonal employment, I am sure, is much greater than mine.

Yesterday I spent quite a bit of time debating this and explaining the seasonality provisions under our present law, and I won't repeat that. I would like merely to say that I think everybody is agreed that the present seasonality provisions of our law are complicated, ambiguous, and difficult to interpret by the Commissioner. It was my understanding that all parties were pretty well agreed that this is a needed bill, and it was compromised to the apparent liking of most people. So I would urge you to vote against the motion of my good friend, Senator Wyman, and I would request a division.

The PRESIDENT: A division has been requested. The pending motion before the Senate is the motion of the Senator from Washington, Senator Wyman, that

the Senate indefinitely postpone Bill, "An Act to Repeal the Seasonality Provisions of the Employment Security Law." As many Senators as are in favor of the motion to indefinitely postpone this bill will please rise and remain standing until counted. All those opposed will please rise and remain standing until counted.

A division was had. 16 Senators having voted in the affirmative, and 15 Senators having voted in the negative, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

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

Mr. WYMAN: Mr. President, having voted on the prevailing side, I now move reconsideration and hope everybody will vote against me.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that the Senate reconsider its action whereby this bill was indefinitely postponed. As many Senators as are in favor of reconsideration will please say "Yes"; those opposed "No".

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

(Off Record Remarks)

On motion by Mr. Sewall of Penobscot,

Adjourned until 9:30 tomorrow morning.