

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 22, 1973

Senate called to order by the President.

Prayer by Rabbi Norman Geller of Lewiston.

Reading of the Journal of yesterday.

**Papers From The House
Non-concurrent Matter**

Bill, "An Act Relating to State Parole Board Composition and Compensation." (S. P. 155) (L. D. 389)

In the Senate May 18, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (S-136).

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

Mr. Hichens of York moved that the Senate Recede and Concur.

Mr. Brennan of Cumberland then moved that the matter be tabled and Tomorrow Assigned, pending the motion by Mr. Hichens of York to Recede and Concur.

Mr. Hichens of York requested a Division on the tabling motion and, subsequently, Mr. Brennan of Cumberland 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 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 Bill, "An Act Relating to State Parole Board Composition and Compensation", be tabled for one legislative day, pending the motion of the Senator from York, Senator Hichens, that the Senate recede and concur with the House.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, would a motion to table until later in today's session be acceptable?

The PRESIDENT: It would certainly be all right with me.

Mr. KATZ: I so move, Mr. President.

The PRESIDENT: First the Senator from Cumberland, Senator Brennan, would have to withdraw his motion to table for one legislative day.

A "Yes" vote will be in favor of tabling; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators, Aldrich, Berry, Brennan, Cianchette, Clifford, Conley, Cox, Cummings, Cyr, Danton, Fortier, Graffam, Greeley, Joly, Katz, Kelley, Marcotte, Morrell, Peabody, Roberts, Sewall, Shute, Speers, Tanous, MacLeod.

NAYS: Senators, Anderson, Hichens, Huber, Minkowsky, Olfene, Richardson, Schulten, Wyman.

A roll call was had. 25 Senators having voted in the affirmative, and eight Senators having voted in the negative, the matter was tabled and Tomorrow Assigned, pending the motion by Mr. Hichens of York that the Senate Recede and Concur.

Non-concurrent Matter

Bill, "An Act Authorizing the Commissioner of Agriculture to Investigate Certain Farming Practices." (H. P. 1497) (L. D. 1924)

In the House May 14, 1973, Passed to be Engrossed.

In the Senate May 16, 1973, the Minority Ought Not to Pass report Read and Adopted in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

Mr. Hichens of York then moved that the Senate Adhere.

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

Mr. CLIFFORD: Mr. President, I would move that the Senate insist and join in a committee of conference, if that motion is in order.

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, moves that the Senate insist and join in a committee of conference. That motion is in order.

Mr. CLIFFORD: The bill, as I understand it, L.D. 1924, allows the Department of Agriculture to investigate certain farming practices on complaint or upon reasonable grounds for their belief that there is a problem as far as pollution is concerned. It is especially relevant to pollution of water. Apparently once the waste from the farms get into the water it is very difficult to trace the source. Although the Senate voted one way before, the House has voted the other way, and I think that a committee of conference might be able to come up with a solution on this matter.

The PRESIDENT: As many Senators as are in favor of the motion of the Senator from Androscoggin, Senator Clifford, that the Senate insist and join in a committee of conference will please say "Yes"; those opposed, "No".

A viva voce vote being taken, the motion prevailed.

Non-concurrent Matter

Bill, "An Act Providing for a State Lottery." (H. P. 1507) (L. D. 1938)

In the House May 17, 1973, Passed to be Engrossed.

In the Senate May 18, 1973, the Minority Ought Not to Pass report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

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

Mr. KATZ: Mr. President and Members of the Senate: This was debated at substantial length the other day, and I think that we were all surprised at the strength of the vote in opposition. As I recall it, it was 19 to 12. On the basis of that vote and the debate the other day, I move that the Senate adhere.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate adhere.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I move that the Senate insist and join in a committee of conference.

The PRESIDENT: The Senator from Kennebec, Senator Speers, moves that the Senate insist and join in a committee of conference.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I ask for a roll call.

The PRESIDENT: 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 Kennebec, Senator Speers, that the Senate insist and join in a committee of conference on Bill, "An Act Providing for a State Lottery." A "Yes" vote will be in favor of insisting and joining in a committee of conference; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators, Aldrich, Cianchette, Clifford, Cummings, Cyr, Danton, Graffam, Kelley, Marcotte, Richardson, Sewall, Speers.

NAYS: Senators, Anderson, Berry, Brennan, Conley, Cox, Fortier, Hichens, Huber, Joly, Katz, Minkowsky, Morrell, Olfene, Peabody, Roberts, Schulten, Shute, Tanous, Wyman, MacLeod.

ABSENT: Senator Greeley.

A roll call was had. 12 Senators having voted in the affirmative, and 20 Senators having voted in the negative, with one Senator being absent, the motion did not prevail.

Thereupon, the Senate voted to Adhere.

Non-concurrent Matter

Bill, "An Act Relating to the Prohibition of the Advertising of Drug Prices." (H. P. 930) (L. D. 1227)

In the House May 11, 1973, Passed to be Engrossed.

In the Senate May 16, 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. Hichens of York, the Senate voted to Adhere.

Non-concurrent Matter

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

In the House May 10, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (H-310) and House Amendments "B" (H-352), "C" (H-353) and "D" (H-360).

In the Senate May 17, 1973, Passed to be Engrossed as Amended by Committee Amendment "A", House Amendments "B" and "C" and Senate Amendments "A" (S-119) and "B" (S-128), in non-concurrence.

Comes from the House, that Body having Adhered.

On motion by Mr. Clifford of Androscoggin, tabled and Tomorrow Assigned, pending Consideration.

Orders

On motion by Mr. Berry of Cumberland.

ORDERED, the House concurring, that the sum of \$10,000 be allocated from the Legislative Appropriation to the Joint Standing Committee of the 106th Legislature on Business Legislation for the purpose of obtaining professional assistance in evaluating "no fault" insurance bills pending before the Legislature. (S. P. 629)

Which was Read.

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

Mr. COX: Mr. President and Members of the Senate: I rise in support of the order. As a matter of fact, it is at the request of the Committee on Business Legislation. I have to admit that this is an opposite point of view than I took early in January when we discussed where "no fault" would go.

As a brief review of my participation in the 106th Legislature, I have three memories that will stay with me. The first one

was the first day when I got up, presented an order and moved its passage, and I couldn't find the order. The following week I got up to participate in a debate and I pulled the microphone so high I couldn't get it down to speak into it. The third item is saying that no way did we need \$10,000 to study "no fault" insurance.

The Committee has spent about 18 hours on "no fault", and we have six bills. No other state in the United States considering "no fault" has this amount of legislation.

The Ford Foundation and the U.S. Department of Transportation have worked with a national actuarial firm to lay out a computer model to evaluate "no fault" bills. They also will be looked at by other actuaries. What the Committee proposed is to submit some or all of the bills for a proposal as to the cost to the consumer. I think this is the first determination that has to be made and, in order to do so, we need an actuarial study.

We are not saying that we will spend the \$10,000, but we would like to spend some, or up to all of it if we have to, and I urge your support.

The PRESIDENT: Is it now the pleasure of the Senate that this order receive passage?

Thereupon, the Order received Passage.

Sent down for concurrence.

Committee Reports House

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

Bill, "An Act Relating to Certain Agreements in Construction Contracts." (H. P. 92) (L. D. 113)

Bill, "An Act Limiting Prejudgment Attachments and Prejudgment Trustee Process." (H. P. 232) (L. D. 312)

Bill, "An Act Clarifying the Laws Relating to Corporations Without Capital Stock." (H. P. 394) (L. D. 523)

Bill, "An Act to Reorganize the Maine Land Use Regulation Commission under the Department of

Environmental Protection." (H. P. 1105) (L. D. 1441)

Resolve, Authorizing Walter G. Thorstad and Richard J. Thorstad to Bring Civil Action Against the State of Maine. (H. P. 553) (L. D. 766)

Bill, "An Act to Improve the Efficiency and Fairness of the Local Welfare System." (H. P. 477) (L. D. 624)

Bill, "An Act to Improve the Pauper Relief System." (H. P. 982) (L. D. 1296)

Leave to Withdraw

The Committee on Marine Resources on, Bill, "An Act to Prohibit Lobster Fishing after 4 p.m." (H. P. 1110) (L. D. 1446)

Reported that the same be granted Leave to Withdraw.

The Committee on Marine Resources on, Bill, "An Act to Allow for Escapement of Sublegal Lobsters from Lobster Traps." (H. P. 998) (L. D. 1317)

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 Legal Affairs on, Bill, "An Act Relating to Permit Fees for Automobile Graveyards or Junkyards." (H. P. 1438) (L. D. 1864)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-396).

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

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

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act Providing that Examination Reports of the Insurance Commissioner be Public Records." (H. P. 672) (L. D. 877)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-403).

Signed:

Senators:

KATZ of Kennebec
MARCOTTE of York

Representatives:

TRASK of Milo
MADDOX of Vinalhaven
JACKSON of Yarmouth
DONAGHY of Lubec
BOUDREAU of Portland
CLARK of Freeport
DESHAIES of Westbrook
TIERNEY of Durham
O'BRIEN of Portland

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

Signed:

Senator:

COX of Penobscot

Representative:

HAMBLEN of Gorham

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

Which reports were Read, the Majority Ought to Pass 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.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to Psychotherapist and Patient Privilege." (H. P. 1226) (L. D. 1601)

Reported that the same Ought Not to Pass.

Signed:

Representatives:

BAKER of Orrington
PERKINS

of So. Portland
WHITE of Guilford
WHEELER of Portland
HENLEY of Norway
GAUTHIER of Sanford
CARRIER of Westbrook

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

Pass as Amended by Committee Amendment "A" (H-413).

Signed:

Senators:

TANOUS of Penobscot

BRENNAN

of Cumberland

SPEERS of Kennebec

Representatives:

McKERNAN of Bangor

DUNLEAVY

of Presque Isle

KILROY of Portland

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

Which reports were Read.

On motion by Mr. Tanous of Penobscot, the Minority Ought to Pass as Amended Report of the Committee was Accepted in non-concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in non-concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Prohibit Discrimination in Suspending Motor Vehicle Operator's Licenses." (H. P. 1222) (L. D. 1592)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot

SPEERS of Kennebec

BRENNAN

of Cumberland

Representatives:

BAKER of Orrington

PERKINS of So. Portland

CARRIER of Westbrook

WHITE of Guilford

GAUTHIER of Sanford

HENLEY of Norway

McKERNAN of Bangor

WHEELER of Portland

KILROY of Portland

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

Signed:

Representative:

DUNLEAVY

of Presque Isle

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

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Regulating Handguns." (H. P. 938) (L. D. 1238)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot

SPEERS of Kennebec

Representatives:

WHITE of Guilford

KILROY of Portland

BAKER of Orrington

DUNLEAVY

of Presque Isle

CARRIER of Westbrook

GAUTHIER of Sanford

HENLEY of Norway

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-414).

Signed:

Senator:

BRENNAN of Cumberland

Representatives:

PERKINS

of So. Portland

WHEELER of Portland

McKERNAN of Bangor

Comes from the House, Bill and accompanying papers Indefinitely Postponed.

Which reports were Read.

Mr. Speers of Kennebec then moved that the Senate accept the Majority Ought Not to Pass Report of the Committee.

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

Mr. CLIFFORD: Mr. President I am not a member of the Judiciary Committee but, as a member of the City Council of Lewiston, I sponsored an ordinance which is in effect in the City of Lewiston now. The city seems to be living with it fairly well and it doesn't cause many problems.

Essentially what it does is that before a person purchases a hand-

gun, and it applies to handguns only — and with the amendment it does not apply to antique handguns — it applies to handguns, and before a person can purchase a handgun the seller has to notify the police department, and the police department has 72 hours in which to investigate the purchaser. If that purchaser has a conviction of a felony, or is under indictment for a felony, then the purchaser cannot purchase the handgun. If the police department does not act within the 72 hours, then the person can purchase, or if there is no record, the person also can purchase.

The amendment which has been added provides for a referendum for the people to vote on this, and the purpose is to prevent the so-called crime of passion, when somebody is emotionally upset, emotionally involved, full of hatred, and runs out and buys a handgun to commit murder or assault. These crimes have occurred within our state, and this is just one method to prevent their occurring more.

It seems to me that this is a reasonable and a moderate bill. It is not an attempt on the part of the people sponsoring it to register all handguns or all weapons, and I certainly understand and am in sympathy with those who oppose that kind of legislation, but I think this is the moderate kind of reasonable legislation which would do a great deal to prevent and prohibit the crime of passion.

I hope you would oppose the motion of the Senator from Kennebec, Senator Speers, and then move to accept the Minority Ought to Pass Report as amended by Committee Amendment "A". Thank you.

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

Mr. TANOUS: Mr. President and Members of the Senate: At the public hearing on this particular bill, my recollection is that there was no evidence at all, with the exception of one particular case, involving a crime of passion, and this did not involve a handgun; it involved a rifle.

Relative to my good friend, Senator Clifford from Androscoggin, as you perhaps recognize, the bill has an amendment on it and it calls for a referendum. Communities can already do this on their own, if they so desire. If a community wishes to enact an ordinance like the City of Lewiston has done or the City of Portland has done, any municipality can enact an ordinance at the local level to do what this particular bill in its amended form attempts to do.

Now, as far as the argument is concerned on criminal records and so forth, the federal government already has laws in this area. No criminal may legally purchase a handgun or any type of a gun unless he is cleared through the federal government, and they have forms to conform with the federal government already; they have to fill out a form to the effect that they have not been convicted of a felony.

So I don't see any need for this legislation, and this is why I signed Ought Not to Pass on the Bill and I hope you would support Senator Speers of Kennebec on his motion.

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

Mr. ANDERSON: Mr. President when the vote is taken I move it be taken by a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I believe this is a very vital matter, and 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 Kennebec, Senator Speers, that the Senate accept the Majority Ought Not to

Pass Report of the Committee on Bill, "An Act Regulating Handguns." A "Yes" vote will be in favor of accepting the Majority Ought Not to Pass Report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Cox, Cummings, Cyr, Danton, Fortier, Graffam, Greeley, Hichens, Huber, Joly, Katz, Kelley, Marcotte, Minkowsky, Peabody, Richardson, Sewall, Shute, Speers, Tanous.

NAYS: Senators Aldrich, Brennan, Cianchette, Clifford, Conley, Morrell, Olfene, Roberts, Schulten, Wyman, MacLeod.

A roll call was had. 22 Senators having voted in the affirmative, and 11 Senators having voted in the negative, the Majority Ought Not to Pass Report of the Committee was Accepted.

Senate

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

Bill, "An Act to Differentiate and Set Apart Industrial Banks from Industrial Loan Companies." (S. P. 415) (L. D. 1254)

Leave to Withdraw

Mr. Tanous for the Committee on Judiciary on, Bill, "An Act Regulating the Interception of Wire and Oral Communications." (S. P. 377) (L. D. 1108)

Reported that the same be granted Leave to Withdraw.

Which report was Read.

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

Leave to Withdraw -

Covered by Other Legislation

Mr. Wyman for the Committee on Taxation on, Bill "An Act to Exempt Maine Home Health Service Agencies from the Sales Tax." (S. P. 431) (L. D. 1300)

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

Mr. Hichens for the Committee on Health and Institutional Services on, Resolve, Authorizing the Commissioner of Mental Health and Corrections to Lease Land in Windham to the Maine State Society for the Protection of Animals. (S. P. 617) (L. D. 1928)

Reported pursuant to Joint Order (S. P. 614) that the Same Ought to Pass.

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

Ought to Pass - As Amended

Mr. Anderson for the Committee on Public Utilities on, Bill, "An Act to Allow the Brunswick Sewer District to Treat Sewerage from the Topsham Sewer District and Septic Tanks." (S. P. 395) (L. D. 1175)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-149).

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Creating the Uniform Alcoholism and Intoxication Treatment Act." (S. P. 13) (L. D. 76)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-150).

Signed:

Senators:

TANOUS of Penobscot
SPEERS of Kennebec
BRENNAN

of Cumberland

Representatives:

WHITE of Guilford
BAKER of Orrington
PERKINS

of So. Portland

DUNLEAVY of Presque Isle

GAUTHIER of Sanford

WHEELER of Portland

McKERNAN of Bangor

KILROY of Portland

CARRIER of Westbrook

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

Signed:

Representative:

HENLEY of Norway

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

Second Readers

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

House

Bill, "An Act to Clarify Municipal Appointing Authority." (H. P. 1299) (L. D. 1711)

Bill, "An Act Exempting from the Sales Tax Sales to Nonprofit Health Care Corporations." (H. P. 1512) (L. D. 1942)

Bill, "An Act to Remove the Exception for Paper Mills Allowed to Store and Drive Logs on Maine Surface Waters." (H. P. 698) (L. D. 904)

Bill, "An Act Creating the Stationary Steam Engineers' and Boiler Operators' Licensing Law." (H. P. 1502) (L. D. 1939)

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

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

House - As Amended

Bill, "An Act to Amend the Laws Administered by the Department of Environmental Protection." (H. P. 818) (L. D. 1140)

Bill, "An Act Changing the Number of Parole Board Members and Modifying the Qualifications for Eligibility for Appointment." (H. P. 1030) (L. D. 1352)

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

Bill, "An Act Requiring the Registration of Off-highway Vehicles." (H. P. 1510) (L. D. 1940)

Which was Read a Second Time.

Mr. Joly of Kennebec then moved that the Senate reconsider its action of yesterday whereby House Amendment "A" was Adopted.

Mr. Aldrich of Oxford requested a division on the motion.

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

Mr. CONLEY: Mr. President, a question to the Chair: Wasn't House Amendment "A" indefinitely postponed yesterday?

The PRESIDENT: House Amendment "A" was read and adopted in concurrence yesterday.

The Chair recognizes the Senator from Kennebec, Senator Joly.

Mr. JOLY: Mr. President and Members of the Senate: This amendment simply adds motorized golf carts in the definition of off-highway vehicles. We debated this yesterday, and I don't want to take too much of your time, except to point out that in Title 29, Chapter 5, section E: "The Secretary of State may issue, upon application and payment of a fee of \$2, a special registration permit authorizing the limited operation on the highway of self-propelled golf carts, lawnmowers, and other such vehicles." As I said yesterday, golf carts are covered in another section, and I very frankly feel that this amendment was put on to kill the bill.

The bill is not a revenue raising bill; it is a control bill. It is to help the law enforcement officials when they have a complaint of a dune buggy or a broken down car that isn't registered to drive, which people generally use on their own land, that when somebody takes it off their own land onto someone else's and does some damage and, if they want to report it, there is no way they can report it today, so this would make them put a registration plate on it.

The bill is a \$5 registration fee, and then another \$6 in lieu of ad valorem taxation so, if they are already being taxed by a town as personal property, they wouldn't be

taxed again. So we are talking about a \$5 registration fee to help the law enforcement people. And we have had some complaints right here in Augusta from the local police.

For this reason, I hope that we would reconsider and kill the amendment.

The PRESIDENT: As many Senators as are in favor of the motion of the Senator from Kennebec, Senator Joly, that the Senate reconsider its action whereby it adopted House Amendment "A" to Bill, "An Act Requiring the Registration of Off - Highway Vehicles", will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 20 Senators having voted in the affirmative, and nine Senators having voted in the negative, the motion prevailed.

Mr. Aldrich of Oxford then moved that the Bill and accompanying papers be Indefinitely Postponed.

Mr. Joly of Kennebec requested a division on the motion.

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

Mr. ALDRICH: Mr. President and Members of the Senate: This matter came before the Legal Affairs Committee. Basically, what it consists of is another nuisance type of legislation. This is going to apply to all off-highway motorized vehicles. It is going to apply to the kiddies after this legislation goes into effect, if it does, going down camp roads, logging roads, going along the cow paths and fields of Oxford County, Franklin County, up in the rural areas where we have a little freedom still.

Now, this bill has no revenue purpose. This legislation is absolutely ridiculous. It has no useful purpose, it has no revenue purpose. All it has is what some people call a policing purpose. Well I really think we have enough policing purposes in some areas of our government, and I don't think this is good legislation.

We don't have any problems up in the country where I come from.

Everybody is friendly, everybody is neighbors to someone else, and we have never had any complaints up there about these off-highway vehicles being used to the detriment of the neighbors, and I don't see how this legislation could apply to the cities where you really don't have any areas where you could operate these off-highway vehicles.

I just don't see the philosophy of this body in chipping away at the freedoms that we have to use these little kiddie carts and go-go carts. Now they have got to be registered. They don't have to be inspected for safety under this proposed legislation, but they have to be registered. So you can see the little kiddies running around the fields with a great big, brand new license plate, big and shiny; it is registered. I really don't understand the philosophy behind this legislation.

Perhaps in some areas we should register vehicles, but if they are not going to be used on the highway then I see no useful purpose, therefore, I would urge that you do support the motion to indefinitely postpone.

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

Mr. CLIFFORD: Mr. President, I would ask through the Chair the same question that was asked yesterday because I don't believe it was answered. These vehicles do not go onto the highways, and yet the \$5 registration fee is going into the highway fund. Is that what I understand? Because of the dedicated nature of the highway fund, I understand that the \$5 registration fee is going to go toward highways. These vehicles do not use the highways, so it is a little incongruous.

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, has posed a question through the Chair which any Senator may answer if he desires.

The Chair recognizes the Senator from Oxford, Senator Aldrich.

Mr. ALDRICH: Mr. President and Members of the Senate: As I indicated yesterday, there was no consideration given, at least that I heard, in committee as to

the purpose of this money or where it was going. I don't believe anyone gave any consideration as to where the dough was going, who was going to use it, or for what purpose. All they want to do is require that all of these off-highway vehicles be registered, so you have got to pay some money, and where it is going or for what purpose, I don't know. I didn't hear any evidence as to any useful purpose of this legislation.

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

Mr. JOLY: Mr. President and Members of the Senate: In answer to the question of the good Senator from Androscoggin, Senator Clifford, the bill reads that the Secretary of State may register such off-highway vehicles in the normal vehicle registration period. Just before that, they mention the \$5, so I would take it that the \$5 goes to the Secretary of State. This is merely a nominal charge, I suppose, for the cost of the plates, the bookkeeping involved in taking care of this, and the mailing out.

As far as the other question that Senator Aldrich inquired about, as to what good it does, the case evidently of what has happened here in Augusta is that someone will have one of these vehicles normally on their property and they will go off onto the state highway and race down the highway, which is of course a lot easier to drive on than the terrain. The police cruiser will see him, but there is no license plate on it because it is not registered, so they try to catch him and he will take off into the woods, and the police cruiser can't follow him, of course. There is just no way of knowing who these people are. They are not supposed to be on the highway because they are not registered for the highway, and yet they do go on the highway. If they had a plate on them, they would know who they were. Of course, if they are registered they are all right, but if they do some damage they will know who to follow up on. If they raise Cain, they will have some way of identifying them. So it is really not a bad bill.

As far as affecting all the kiddies that keep being referred to, I think any parent that buys a kid one of these motorbikes — they are not cheap, so I think they can afford another \$5 in addition to the original cost of the bike.

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

Mr. ALDRICH: Mr. President and Members of the Senate: You know, up in the country everybody knows everybody up there. We don't have problems finding out who is going across whose field up there. Everybody knows their neighbor, and we don't need license plates shining through on these old tractors and go-go carts; it is absolutely ridiculous. I would ask for a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Cox.

Mr. COX: Mr. President, I would like to pose a question through the Chair to a member of the committee. I own a boat with a 9-horsepower motor not required to be registered. Would this be considered an off-highway vehicle?

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

As many Senators as are in favor of the motion of the Senator from Oxford, Senator Aldrich, that Bill, "An Act Requiring the Registration of Off-Highway Vehicles", be indefinitely postponed will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 17 Senators having voted in the affirmative, and 13 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 Oxford, Senator Aldrich.

Mr. ALDRICH: Mr. President, I would request that we reconsider this matter, and I hope that you vote against my motion.

The PRESIDENT: The Senator from Oxford, Senator Aldrich, now

moves that the Senate reconsider its action whereby it indefinitely postponed Bill, "An Act Requiring the Registration of Off-Highway Vehicles." As many Senators as are in favor of the motion to reconsider will please say "Yes"; those opposed, "No".

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

Senate

Resolve, Authorizing Fred P. Haskell, or his Legal Representative, to Bring Civil Action Against State of Maine. (S. P. 77) (L. D. 194)

Bill, "An Act Relating to Protective Services for Incapacitated Adults." (S. P. 152) (L. D. 386)

Bill, "An Act Relating to Lack of Privity as a Defense in Action Against Manufacturer, Seller or Supplier of Goods." (S. P. 310) (L. D. 976)

(On motion by Mr. Anderson of Hancock, temporarily set aside.)

Bill, "An Act Relating to the Statute of Limitations in Contracts for Sale." (S. P. 311) (L. D. 977)

Bill, "An Act Relating to Requirement of Notices of Breach in Contracts of Sale Where Personal Injuries are Suffered." (S. P. 313) (L. D. 979)

Bill, "An Act Relating to Warranties on Consumer Goods and Services." (S. P. 343) (L. D. 1042)

Bill, "An Act to Amend Maine Water Pollution Control Laws to Conform with Requirements of Federal Water Pollution Control Act Amendments of 1972." (S. P. 624) (L. D. 1945)

Bill, "An Act to Create a Department of Conservation." (S. P. 465) (L. D. 1521)

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

Bill, "An Act to Provide Moneys for Planning Residential Accommodations for the Retarded in Maine." (S. P. 625) (L. D. 1948)

(On motion by Mr. Hichens of York, temporarily set aside.)

Bill, "An Act Making Current Service Appropriations from the General Fund for the Fiscal Year

Ending June 30, 1974." (S. P. 627) (L. D. 1949)

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

Sent down for concurrence.

The President laid before the Senate the matter temporarily set aside by Mr. Hichens of York:

Bill, "An Act to Provide Moneys for Planning Residential Accommodations for the Retarded in Maine." (S. P. 625) (L. D. 1948)

The PRESIDENT: The Senator has the floor.

Mr. HICHENS: Mr. President and Members of the Senate: We all have put in bills of extreme interest and concern to us individually, but this bill, L.D. 1948, a redraft of L.D. 254, is one not only of interest and concern to me individually but to hundreds of people throughout the State of Maine.

Ever since I have been a member of the legislature, and especially since I have been a member of the Health and Institutional Services Committee, I have had people come to me heart-broken because they couldn't find any relief for the circumstances in their home because of a mentally incapacitated child, many of them physically deformed, and through my intervention and help, I have been able to get two of them placed at Pineland, one of them up at the Levinson Center in Bangor, and yet there are about 80 families that we know of right now who are under these conditions, just surviving and existing under these conditions.

So last year when I got a call from Dr. Anderson of the Department of Mental Retardation to go down with him to Kittery to look at a facility down there, one of which I was very familiar with, it having been the Tri-County Osteopathic Hospital, we visited there and found out that this facility was for sale. We also found out that under the Hill-Burton Act, with which the hospital was built, that the state could purchase this facility for some hundred thousand dollars less than any individual buyer, so we looked into the feasibility of such a purchase.

It was determined that here we had a 42-bed respite care unit on the floor just above ground level, which was easily accessible by ramps, and downstairs office space which could be rented to different agencies such as mental health facilities, home maker services, and so forth; 28 acres of cleared land for expansion, for exercise yards and so forth, and for further building by the Department of Mental Health and Corrections.

Dr. Anderson and I notified people all over the state, and we had a tremendous response. The Grange, the Legion, and other groups interested in mental retardation supported this bill 100 percent.

An emergency provision was put on the bill, and then we found out from the Attorney General's office that it could not be an emergency bill because it was buying land, which was against the laws of the State of Maine as an emergency bill, so I put it in as a regular measure. We felt that if this bill was accepted that plans could be made during the summer, and when the law became effective next October the patients could be moved in immediately.

The Appropriations Committee studied this extensively, sent their staff workers there, and everything seemed rosy, until suddenly a sewerage problem popped up. Estimates of anywhere from \$20,000 to \$300,000 have been made to correct this sewerage problem. Yet, even with the \$300,000 added to the \$600,000 purchase price, here we can obtain a facility for a little less than \$1 million. It is estimated that the cost of building a new building of that same size, by the same architect who built the Levinson Center, would be \$2,400,000.

The Committee has come out with a redraft of that bill which changes the bill completely around. It eliminates the purchase of the facility altogether, and asks for a study for a more central location for a building three-quarters the size of the regional facility there at Kittery and which would cost a million and a half dollars to build, plus the cost of the land.

With this study and with the architect's plans, and so forth, it would be at least five years before we would have this building built, if it did materialize. In the meantime we have these families, and there will be more like them as the years pass by, who do not know what to do or where to go.

We have spent thousands of dollars on studies. The Department of Mental Retardation wouldn't have come up with this idea if they hadn't been studying it all over the state; regional care facilities, sheltered workshops, and even this year the Committee on Health and Institutional Services heard a bill for residential centers, which now lays on the Appropriations Table, for some \$70,000 for the construction of some of these throughout the state. I don't think we need to have any more studies, especially at the cost of \$27,000, as suggested in this new redraft, but I do think that we do need a facility. It may be a little bit off the beaten path, yet it is very easily accessible and, with no feeling of animosity against the Committee, because I feel they have looked into the matter very strongly, I would now make the motion to indefinitely postpone L.D. 1948 and all accompanying papers.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that Bill, "An Act to Provide Moneys for Planning Residential Accommodations for the Retarded in Maine", be indefinitely postponed. Is this the pleasure of the Senate?

The motion prevailed.

Sent down for concurrence.

The President laid before the Senate the matter temporarily set aside by Mr. Anderson of Hancock:

Bill, "An Act Relating to Lack of Privity as a Defense in Action Against Manufacturer, Seller or Supplier of Goods." (S. P. 310) (L. D. 976)

The PRESIDENT: The Senator has the floor.

Mr. ANDERSON: Mr. President, I would like to ask through the Chair if some member of the Committee will clarify this document.

I can't seem to get much out of it.

The PRESIDENT: The Senator from Hancock, Senator Anderson, has asked a question through the Chair to any member of the Committee who may answer if he desires.

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President, although I am not a member of the Judiciary Committee, I would like, as the sponsor of the bill, to explain what this bill does.

It does not change existing law. It provides that lack of privity is no defense in an action against a manufacturer when the person who is affected by the breach of warranty or wrongful conduct is a person whom the manufacturer might expect to use, consume, or be affected by the goods.

To put that in the simplest possible terms, what that means is that if Mrs. Richardson goes down to the corner store and buys a loaf of bread, brings it home, and serves it to members of the Senate who are there visiting as our guests, and there is a piece of glass in it and Senator Anderson eats a piece of bread and gets a piece of glass in his throat, that he would have no action based on a breach of warranty against the manufacturer, because under the old law he would not be a member of the family of the purchaser.

The existing law provides that the person who sold the bread would be liable to any person whom he might reasonably anticipate would use, consume, or be affected by the goods and, under that definition, that would include a guest of the household.

L. D. 976 codifies existing law in the first section. In the second section it codifies the case law. I don't want to go all through it, but it simply provides that lack of privity is no defense. In other words, the man who made the goods can't say "Well, I didn't sell him this; it went through a middle man and, therefore, I am not liable." It makes the manufacturer of a defective product liable, if there is a defect in the product,

to anyone whom he might reasonably anticipate would use, consume, or be affected by the goods.

Again, I want to assure the members of the Senate that this L.D. does not effect a change in existing law. It simply puts it in at least somewhat more understandable terms, at least to those of us who are attorneys.

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

Thereupon, the Bill was Passed to be Engrossed.

Sent down for concurrence.

Senate - As Amended

Bill, "An Act Repealing the Corporate Franchise Tax and Adjusting Fees in the Office of the Secretary of State." (S. P. 412) (L. D. 1251)

Bill, "An Act Relating to Qualifying Foreign Corporations to do Business in Maine." (S. P. 229) (L. D. 664)

Resolve, to Reimburse Certain Persons for Property Taken by State Department of Transportation in the Town of Bingham. (S. P. 134) (L. D. 346)

Bill, "An Act Relating to Qualifications for Jury Service of 18-year-old Voters." (S. P. 496) (L. D. 1583)

Which were 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 Maine Sardine Inspection Service. (S. P. 615) (L. D. 1927)

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

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

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

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)

(On motion by Mr. Richardson of Cumberland, temporarily set aside.)

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

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.

The President laid before the Senate the matter temporarily set aside by Mr. Richardson of Cumberland:

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)

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

Mr. RICHARDSON: Mr. President, if I may, I would like to inquire of any member of the Appropriations Committee or any member of the Republican Senate Leadership as to whether or not it is their intention to permit L.D. 1920 to receive final enactment at this time? If that is the case, I wonder whether or not this would not be best incorporated within a general overhaul of our tax system, as opposed to taking this action now, and then at some later time perhaps wanting to amend this or take a little different tack on it. I would appreciate some explanation as to what the plan is with respect to this L.D. as part of an overall tax reform package.

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

Mr. WYMAN: Mr. President and Members of the Senate: This is an attempt to remove the sales tax from new machinery, and it is to increase the corporation tax two percent. The manufacturers say they would rather pay the extra two percent on monies earned rather than to pay the sales tax on the new machinery when it is received. I think it is an

inducement to industry and an inducement to our manufacturers to bring new machinery into Maine and make the climate more favorable for business.

Now, the question as to whether we put this in another package means that the whole thing may get involved somewhere else and be lost altogether. It has been very thoroughly aired. The Taxation Department estimates that there will be enough income from the extra two percent which applies to corporations earning more than \$25,000, or incomes of more than \$25,000 earned by corporations, so that it will fund its own way, and it seems to me that we shouldn't get it involved in other possible measures to improve the tax situation. Therefore, I hope it may move along to enactment.

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

Mr. MORRELL: Mr. President and Members of the Senate: I think there is just one point here I would like to make. I think I am in favor of this philosophically, but I think the thing that all of us should bear in mind is that this is giving a substantial amount of relief to a certain number of corporations, and that make-up from that loss of revenue is going to be from a much broader range of corporations. So, I think when you think about this, that is one point which to me has some relevance.

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

Mr. SCHULTEN: Mr. President and Members of the Senate: I would support the question of the good Senator from Cumberland, Senator Richardson. I feel that to pass this bill at this time really would not be of any particular value to anyone other than locking the legislature into a position that somehow unexpectedly it might find itself embarrassed to find itself to be in. I would feel that a matter like this could always be considered, could always be enacted, and so I would hope that this matter could lie upon the table with an indefinite date.

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

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

Emergencies

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

An Act Relating to Membership in State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals. (S. P. 140) (L. D. 352)

These being emergency measures, and having received the affirmative votes of 32 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.

Orders of the Day

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

Bill, "An Act to Amend the Site Location of Development Act." (H. P. 1375) (L. D. 1831)

Tabled — May 18, 1973 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

Committee Amendment "A" (H. 375).

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

Mr. BERRY: Mr. President and Members of the Senate: You will recall yesterday the debate on this matter centered on the inclusion of the aspect of economic desirability and impact. Dated as of yesterday, we have an opinion from the Attorney General that basically says the L.D. is unconstitutional, however, there is a broad problem involved here. The indications are that perhaps the matter should be either studied by a committee appointed by the Governor or a committee appointed partly by the Governor and the legislature.

Accordingly, I think perhaps we should send this bill back to the committee, and I move, Mr. President, that the rules be suspended and the Senate reconsider its

action whereby it accepted the Ought to Pass Report of the Committee.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now moves that the Senate reconsider its action, under suspension of the rules, whereby the Senate accepted the Ought to Pass Report of the Committee, the Bill given its first reading and Committee Amendment "A" adopted. Is this the pleasure of the Senate?

The motion prevailed.

The Bill was then Substituted for the Ought to Pass Report of the Committee.

Thereupon, on further motion by Mr. Berry of Cumberland, the Bill was Recommitted to the Committee on Natural Resources in non-concurrence.

Sent down for concurrence.

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

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

Tabled — May 18, 1973 by Senator Joly of Kennebec.

Pending — Enactment.

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

Mr. BERRY: Mr. President and Members of the Senate: You will recall that this was the bill which I explained was a partial attempt on removal of Brunswick from Cumberland County, and it appeared that there should not be an exception made for the instance of Brunswick as opposed to any other city in any other county. Accordingly, I would urge the members of the Senate to vote against enactment.

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

Mr. MORRELL: Mr. President and Members of the Senate: I quite agree with the Senator from Cumberland, Senator Berry, that this is somewhat piecemeal. On the other hand, I have seen more logical efforts to solve this immediate problem proposed in

previous legislatures, and nothing ever comes of it. So I do think we reach a point at some point in history when we ought to take this kind of remedy, which is rather simple, to relieve a seriously overcrowded situation in Superior Court in Cumberland, and give an added and more intelligent work load to that in Bath in Sagadahoc.

However, I think this does have some bearing on the bill having to do with Brunswick's withdrawal from Cumberland County, and I think it might be appropriate to keep this on the table until that matter is ultimately resolved. So I would suggest that perhaps someone might give some consideration to tabling this for several days until we get a little further along with that other bill.

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

Mr. BERRY: Mr. President and Members of the Senate: I would hope, in the interest of progress, we would not table this bill. The principles involved are the same, be it in the bill to annex Brunswick to Sagadahoc County or to make an exception for Brunswick in this bill only in the court matter. I would think that we really should move this matter along and decide it one way or the other. I hope we would not table it.

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

Mr. MORRELL: Mr. President and Members of the Senate: I agree, I think we do have to move things along, and move them along in an orderly and logical manner. However, I was not the one who has been tabling this for several days, and we heard no discussion as to why that should be tabled previously. Now for some reason it is very vital to move things along. I think it would make a lot of sense to delay it at this point and see what the outcome is going to be on our deliberations relative to the bill I just mentioned.

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

Mr. Clifford of Androscoggin, then moved that the Bill be tabled

and Specially Assigned for May 25, 1973, pending Enactment.

On motion by Mr. Richardson of Cumberland, a division was had. 24 Senators having voted in the affirmative, and eight Senators having voted in the negative, the motion to table prevailed.

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

HOUSE REPORTS — from the Committee on Taxation — Bill, "An Act Exempting all Livestock and Poultry from the Personal Property Tax." (H. P. 948) (L. D. 1245) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — May 21, 1973 by Senator Berry of Cumberland.

Pending — Acceptance of Either Report.

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

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

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

Tabled — May 21, 1973 by Senator Richardson of Cumberland.

Pending — Enactment.

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

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

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

Tabled — May 21, 1973 by Senator Berry of Cumberland.

Pending — Enactment.

Mr. Hichens of York 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.

Obvious less than one-fifth having arisen, a roll call is not ordered. Is the Senate ready for the question?

Thereupon, this being an emergency measure and having received the affirmative votes of 26 members of the Senate, with seven Senators voting in the negative, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Mr. Berry of Cumberland then moved that the Senate reconsider its action whereby the Bill was Passed to be Enacted.

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

The PRESIDENT: I think it is interesting to note that one of the first bills taken from the Appropriations Table and enacted by this body was a loss of revenue of \$175,000 each year of the biennium to go to the racing interests.

Mr. Speers of Kennebec was granted unanimous consent to address the Senate:

Mr. SPEERS: Mr. President and Members of the Senate: I don't think that this body ought to adjourn today without making some comment on the events of the weekend that we are just past and that were just revealed yesterday.

The actions which were revealed to have been taken by the Chief Executive of this State, I feel, is an affront not only to the Senate, not only to the Legislature, but to the people of the State of Maine as well.

I find it rather incredible, particularly in light of the revelations going on now in Washington in regards to Watergate, that the Chief Executive would even give the appearance of interference with the process of the investigation of wrongdoings that the legislature has undertaken, let alone actually interfere with that process.

I find it even more incredible that the Chief Executive of this State has impounded evidence and

refuses to release that evidence that may well show illegal activities on the part of certain individuals. The Governor of the State of Maine is sworn to uphold the Constitution and the laws of the State of Maine. And yet he refuses to release evidence and cooperate with the Legislature in finding evidence that has been gathered that may very well show illegal activities on the part of some individuals.

The issue that faces us right now, today, is not the issue of public power. It has been very clear and it has been stated time and time again by the Majority Party, and it has been agreed to by the Minority Party, that there has been a commitment for the public power question to go to the people for a vote, so it is not an issue of whether or not you are in favor of public power. The issue right now has come down to the question of whether or not the Legislature may conduct its constitutional duty and its constitutional responsibility to investigate the authenticity of petitions, and uphold the integrity of the petition process, without the interference of the Executive Branch.

It has been well demonstrated and well stated time and time again that there are certainly suspicions of wrongdoings in the process of gathering these particular petitions. There is enough evidence to give rise to a reasonable question as to whether or not there have been wrongdoings. We, the Legislature, speaking through the Judiciary Committee, the Senate as a part of the Legislature, have the responsibility and the duty to investigate any kind of wrongdoing that may have taken place in the gathering of these petitions.

The Chief Executive of the State has indicated that he is quite concerned with the kind of tactics that are being used by the State Police in this instance. Well, what are the tactics that are causing such great concern? The State Police have gone in plain clothes, knocked on the door at reasonable hours of the day, and asked if they might ask a few questions. The individuals obviously did not even have to let them into the house. They

were very civil, very polite, just as you would expect from anyone in conducting an investigation as to whether or not there was any wrongdoing. Now, many times the State Police have stopped cars on the highway on a routine check of the registration of an automobile, and I hardly think that that could be called storm trooper tactics.

There are reasonable questions as to whether or not there are wrongdoings in the obtaining of these petitions, and I simply can't understand the position of the Governor of this State in refusing to release evidence that might bear upon that question. I call upon the Governor today to immediately cease his interference with this investigation, to release the evidence that has been gathered by the State Police, and to further cooperate with the Legislature in performing its constitutional duty to determine the authenticity of the petitions that are before us.

Mr. Brennan of Cumberland was granted unanimous consent to address the Senate:

Mr. BRENNAN: Mr. President and Members of the Senate: First, I might say Governor Curtis needs no defense. I think personally he is a person of the highest loyalty, the highest integrity, and one of the most compassionate people I have ever met. I consider him, frankly, one of the finest living Americans, and I honestly think that many members of the Majority Party in this body feel likewise. I think he is concerned with the little guy and protecting the average citizen.

I think, constitutionally, Governor Curtis is on sound ground. The Legislature cannot order the Executive Branch around. The Legislature cannot order the State Police around. These are Executive Branch functions. There is a separation of powers.

It has been said on many occasions in reference to this power situation that there is no evidence of criminal conduct. Senator Tanous, the distinguished Senator from Penobscot, has said it many times himself; no evidence of criminal conduct. The State Police that have gone around to these

homes have said that there is no evidence of a criminal violation, no evidence of criminal conduct. In effect, they have also said there is not even an investigation.

I say, if there is no evidence of criminal conduct, why send the State Police around to homes of people who circulated petitions that just want to give someone a chance to vote for public power or against public power. I say, State Police going up there with their cars and their big aerials and from the homicide squad is intimidation per se. The thing that bothers me is I think we have an excellent State Police, and I really hate to see the State Police being exploited for political purposes.

I frankly think that the Governor showed one of his finest hours, really, being concerned about the civil liberties of people. I think as the top Executive of this State he did the right thing in calling a halt to these unwarranted intrusions.

If we have a function here dealing with the Legislative Branch of government, we ought to look into it from the Legislative Branch of government. I don't think that we have any business whatsoever sending the State Police around when there is no criminal investigation being conducted.

I honestly believe that, frankly, instead of condemning the Governor here, I think more appropriately we probably should be passing a resolution commending him for protecting the rights of the citizens, the people of the State of Maine.

In regard to this investigation, I have asked the good Senator from Penobscot, Senator Tanous, on several occasions "Let's get minority counsel and majority counsel and let's get to the bottom of this and go right at it, instead of turning it over to the Attorney General's Office and making use of the State Police for partisan political purposes." Again, I just must condemn the remarks of the Senator from Kennebec, Senator Speers.

Reconsidered Matter

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

Mr. FORTIER: Mr. President, is the Senate in possession of S. P. 322, L.D. 989?

The PRESIDENT: The Chair would answer in the affirmative, the paper having been held at the request of the Senator.

Mr. FORTIER: Mr. President, having voted on the prevailing side on this issue, I now move reconsideration.

The PRESIDENT: The Senator from Oxford, Senator Fortier, moves that the Senate reconsider its action whereby Bill, "An Act to Provide a Portion of all Public Places and Transportation Vehicles to be Set Aside for Nonsmokers", was passed to be enacted. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: This matter was fairly well debated yesterday, and I think we should oppose the motion for reconsideration.

The PRESIDENT: As many Senators as are in favor of the motion of the Senator from Oxford, Senator Fortier, that the Senate reconsider its action whereby this bill was passed to be enacted will please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion to reconsider prevailed.

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

Mr. OLFENE: Mr. President, I move that the Senate Indefinitely postpone this L.D.

The PRESIDENT: The Senator from Androscoggin, Senator Olfene, now moves that the Bill be indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I would request a roll call on that motion.

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 Androscoggin, Senator Olfene, that the Bill be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Joly.

Mr. JOLY: Mr. President and Members of the Senate: I don't want to go into lengthy debate on this; we did it yesterday. I just want to add one point. There is some fear, and it was brought out yesterday, that every time someone walks into a restaurant they will have to be asked, "Do you smoke or do you not smoke?" And I don't think this is really to the point.

All this bill says is that in each place of over 1,500 square feet there will have to be an area set off for non-smokers. This could be adjusted. Some restaurants that have heavy summer business may find in the summertime they have more non-smokers than they do in the wintertime, so the area will be expanded a little bit, but that won't be a problem because once this bill is passed it will be known all over the state and every restaurant of any size will have these signs that people will get used to. When they walk in, if they are cigar smokers or heavy cigarette smokers, they will look for the area that says non-smoking and make sure they don't sit in that area.

I don't think it is going to cause a lot of commotion, but it is going to be an awful lot of good and a lot of help to a lot of poor people that really suffer from the exhalation of those of us who do smoke. Therefore, I hope that you would oppose the motion to indefinitely postpone.

The PRESIDENT: A "Yes" vote will be in favor of indefinite postponement; a "No" will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Aldrich, Anderson, Brennan, Cianchette, Clifford, Conley, Cox, Cyr, Danton, Fortier, Graffam, Huber, Kelley, Marcotte, Morrell, Olfene, Peabody, Tanous, Wyman.

NAYS: Senators Berry, Cummings, Greeley, Hichens, Joly, Katz, Minkowsky, Richardson, Roberts, Schulten, Sewall, Shute, Speers, MacLeod.

Mr. Danton of York was granted permission to change his vote from Yea to Nay.

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

and 15 Senators having voted in the negative, the Bill was Indefinitely Postponed in concurrence.

On motion by Mr. Sewall of Penobscot,

Adjourned until 9:30 tomorrow morning.