

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 23, 1973

Senate called to order by the President.

Prayer by Rev. Canon Roger Smith of Augusta.

Reading of the Journal of yesterday.

Papers From The House
Non-concurrent Matter

Bill, "An Act Relating to Membership on the State Board of Barbers." (H. P. 844) (L. D. 1118)

In the Senate May 11, 1973, Indefinitely Postponed, in non-concurrence.

In the House May 18, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (H-336) and House Amendment "A" (H-390), in non-concurrence.

In the Senate May 21, 1973, that Body having Insisted.

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

On motion by Mr. Minkowsky of Androscoggin, the Senate voted to Insist and Join in a Committee of Conference.

Non-concurrent Matter

Bill, "An Act Repealing the Bank Stock Tax." (H. P. 1491) (L. D. 1919)

In the House May 15, 1973, Passed to be Engrossed as Amended by House Amendment "B" (H-380).

In the Senate May 21, 1973, Passed to be Engrossed in non-concurrence.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "B" as Amended by House Amendment "A" Thereto (H-426), in non-concurrence.

On motion by Mr. Wyman of Washington, tabled until later in today's session, pending Consideration.

State of Maine
House of Representatives
Augusta, Maine 04330

May 22, 1973

Hon. Harry N. Starbranch
Secretary of the Senate
106th Legislature

Dear Mr. Secretary:

Today the House adhered to its action of May 16 whereby it Indefinitely Postponed Bill "An Act Relating to Liability of Distributing Utility for Death or Injury to Person or Damage to Property Caused by Natural Gas" (S. P. 448) (L. D. 1415).

Respectfully,
E. Louise Lincoln
House of Representatives

Which was Read and Ordered Placed on File.

Committee Reports
House

Leave to Withdraw

The Committee on County Government on, Bill, "An Act Relating to Fees and Traveling Expenses for State Humane Agents." (H. P. 129) (L. D. 153)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence.

Ought to Pass

The Committee on Judiciary on, Bill, "An Act Relating to Forcible Detainer of Personal Property." (H. P. 141) (L. D. 174)

Reported that the same Ought to Pass.

The Committee on Judiciary on, Bill, "An Act Repealing Certain Laws Relating to Actions by Shareholders." (H. P. 313) (L. D. 431)

Reported that the same Ought to Pass.

The Committee on Judiciary on, Bill, "An Act Relating to Jurisdiction in Subpoena of Judgment Debtor under Enforcement of Money Judgments Law." (H. P. 591) (L. D. 782)

Reported that the same Ought to Pass.

The Committee on Judiciary on, Bill, "An Act Relating to Removal of Private Nuisance by Owner or Occupant of Private Property." (H. P. 593) (L. D. 784)

Reported that the same Ought to Pass.

The Committee on Marine Resources on, Bill, "An Act Relating to Dragging of Scallops in Blue Hill Bay." (H. P. 880) (L. F 1167)

Reported that the same Ought to Pass.

The Committee on Public Utilities on, Bill, "An Act to Amend the Charter of Stonington Water Company." (H. P. 1488) (L. D. 1917)

Reported that the same Ought to Pass.

Come from the House, the Bills Passed to be Engrossed. Which reports were Read and Accepted in concurrence, the Bills Read Once and Tomorrow Assigned for Second Reading.

The Committee on Taxation on, Bill, "An Act Exempting Fuels Used to Heat Commercial Broiler Houses from the Sales Tax." (H. P. 1068) (L. D. 1393)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-405).

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

Ought to Pass - As Amended

The Committee on Judiciary on, Bill, "An Act Relating to Criminal Contempt for Failure to Pay Alimony and Support of Children." (H. P. 359) (L. D. 474)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-415).

The Committee on Judiciary on, Bill, "An Act to Improve the Efficiency and Fairness of the Local Welfare System." (H. P. 469) (L. D. 617)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-416).

The Committee on Business Legislation on, Bill, "An Act Relating to a Minimum Warranty Standard for Mobile Homes." (H. P. 924) (L. D. 1222)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-412).

The Committee on Business Legislation on, Bill, "An Act Relating to Certain Disclosures in the

Solicitation of Charitable Contributions." (H. P. 1344) (L. D. 1778)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-411).

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

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

The Committee on Education on, Bill, "An Act Relating to Motorcycle Operators' Licenses." (H. P. 1097) (L. D. 1434)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-384).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A" as Amended by House Amendment "B" Thereto (H-407).

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

The Committee on Natural Resources on, Bill, "An Act Adopting Emission Regulations of the Department of Environmental Protection." (H. P. 1146) (L. D. 1595)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-398).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A", House Amendment "A" (H-404) and House Amendment "B" (H-427).

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A", and House Amendment "B" were Read and Adopted in

concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Judiciary on, Bill, "An Act to Insure that Citizens are Granted Due Process of Law by Governmental Agencies." (H. P. 360) (L. D. 475)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1518) (L. D. 1947)

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

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

The Committee on Business Legislation on, Bill, "An Act Regulating Mass Marketing of Casualty and Property Insurance." (H. P. 1234) (L. D. 1609)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1489) (L. D. 1913)

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-409).

Which report was Read and Accepted in concurrence and the Bill in New Draft Read Once. House 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 Liquor Control on, Bill, "An Act Raising the Age of Persons Who May Purchase Alcoholic Beverages or Sell as Licensee." (H. P. 799) (L. D. 1069)

Reported that the same Ought Not to Pass.

Signed:

Senators:

OLFENE of Androscoggin
SCHULTEN of Sagadahoc

Representatives:

KELLEHER of Bangor
TANGUAY of Lewiston
CRESSEY

of North Berwick

STILLINGS of Berwick
FAUCHER of Solon

RICKER of Lewiston
GENEST of Waterville

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

Signed:

Senator:

FORTIER of Oxford

Representatives:

IMMONEN of West Paris
CHICK of Sanford

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

Which reports were Read.

On motion by Mr. Fortier of Oxford, tabled and Tomorrow Assigned, pending Acceptance of Either Report.

Divided Report

The Majority of the Committee on Marine Resources on, Bill, "An Act Relating to Research Development and Cultivation of Marine Species." (H. P. 856) (L. D. 1143)

Reported that the same Ought to Pass.

Signed:

Senators:

HUBER of Knox
RICHARDSON

of Cumberland
DANTON of York

Representatives:

BROWN of Augusta
BUNKER of Gouldsboro
LEWIS of Pemaquid
SHUTE

of Stockton Springs
GREENLAW

of Stonington
WEBBER of Belfast
KNIGHT of Scarborough
LaCHARITE of Brunswick
MULKERN of Portland

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

Signed:

Representative:

DAVIS of Addison

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

Which reports were Read.

Thereupon, the Majority Ought to Pass Report of the Committee was Accepted in concurrence, the

Bill Read Once and Tomorrow Assigned for Second Reading.

Senate

Change of Reference

Mr. Speers for the Committee on State Government on, Bill, "An Act to Establish Title to Islands in Maine's Coastal Waters and to Create the Maine Coastal Island Registry." (S. P. 500) (L. D. 1608)

Reported that the same be referred to the Committee on Public Lands.

Which report was Read and Accepted and the Bill referred to the Committee on Public Lands.

Under suspension of the rules, Sent down forthwith for concurrence.

Leave to Withdraw

Mr. Speers for the Committee on State Government on, Bill, "An Act Relating to the State Employees Appeal Board." (S. P. 327) (L. D. 1031)

Reported that the same be granted Leave to Withdraw.

Mr. Clifford for the Committee on State Government on, Resolution, Proposing an Amendment to the Constitution Making a Further Exception to State Credit Loaning and Debt Limit by Exceeding for Construction of Buildings to be Used in Whole or in Part by the State Government. (S. P. 274) (L. D. 799)

Reported that the same be granted Leave to Withdraw.

Which reports were Read and Accepted.

Sent down for concurrence.

Leave to Withdraw — Covered by Other Legislation

Mr. Katz for the Committee on Education on, Bill, "An Act Relating to Viet Nam Era Veterans Student Assistance Program." (S. P. 519) (L. D. 1650)

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

Mr. Richardson for the Committee on Marine Resources on, Bill, "An Act to Limit Lobster Fishermen to Fishing from Only One Vessel." (S. P. 522) (L. D. 1653)

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

Which reports were Read.

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

Mr. KATZ: Mr. President, I would just like to call the attention of the Senate to Item 6-22, L. D. 1650. This was a bill sponsored by the Senator from Kennebec, Senator Speers, that the Committee on Education felt was a very, very farsighted bill. Everyone on the Committee not only liked the bill but admired Mr. Speers for sponsoring it.

The subject matter covered by this you will find in Item 6-24, which is a comprehensive student assistance bill which gives preference to veterans of the Vietnam era.

The PRESIDENT: Is it the pleasure of the Senate to accept the reports of the committees whereby these bills be granted leave to withdraw?

Thereupon, the Committee Reports were Accepted.

Sent down for concurrence.

The PRESIDENT: The Chair would ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Berry, to the rostrum to assume the duties of President pro tem.

Thereupon, the Sergeant-at-Arms escorted Senator Berry to the rostrum where he assumed the duties of President pro tem, and President MacLeod retired from the Senate Chamber.

Ought to Pass - As Amended

Mr. Katz for the Committee on Education on, Bill, "An Act Establishing the Maine State Student Incentive Grants Program." (S. P. 539) (L. D. 1758)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-153).

Mr. Richardson for the Committee on Public Lands on, Resolve, to Develop a Comprehensive Development Concept for Maine Mountain Areas and Provide Funds for a Preliminary Plan. (S. P. 542) (L. D. 1694)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-151).

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

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act Relating to Mobile Home Parks." (S. P. 488) (L. D. 1554)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 630) (L. D. 1956)

Signed:

Senators:

JOLY of Kennebec
ALDRICH of Oxford
ROBERTS of York

Representatives:

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

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-152).

Signed:

Representatives:

FAUCHER of Solon
CONNOLLY of Portland

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

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

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Create the Department of Business Regulation." (S. P. 350) (L. D. 1102)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-154).

Signed:

Senators:

SPEERS of Kennebec

CLIFFORD

of Androscoggin

Representatives:

COONEY of Sabattus
CROMMETT

of Millinocket

FARNHAM of Hampden
GAHAGAN of Caribou
GOODWIN of Bath
NAJARIAN of Portland
BUSTIN of Augusta
CURTIS of Orono

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

Signed:

Senator:

WYMAN of Washington

Representatives:

SILVERMAN of Calais
STILLINGS of Berwick

Which reports were Read.

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

Mr. KATZ: Mr. President, this is a government reorganization bill. Might I pose through the Chair a question of any member of the Committee as to the direction this bill takes?

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

Mr. SPEERS: Mr. President and Members of the Senate: This is indeed a governmental reorganization bill, following along the lines of the reorganization that was introduced in the 105th Legislature and along the lines that we are following in a number of other reorganization bills in this particular legislature.

The Department of Banks and Banking and the Department of Insurance are the two major departments that are combined into one larger department, the Department of Business Regulation and I guess it goes to the philosophy of reorganization as to whether or not you are for this particular bill; that philosophy being that we are trying to combine those departments which have similar functions into larger departments so that the Executive Branch may have some further or better control over that one larger department instead of a number of smaller departments. But the

major portion of this particular bill, the major function, is to combine the Department of Banks and Banking with the Department of Insurance under a Department of Business Regulation.

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

Thereupon, the Majority Ought to Pass as Amended Report of the Committee was Accepted and the 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:

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

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

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

Bill, "An Act Relating to Psychotherapist and Patient Privilege," (H. P. 1226) (L. D. 1601)

Which was Read a Second Time.

(On motion by Mr. Tanous of Penobscot, Tabled until later in today's session, Pending Passage to be Engrossed.)

Senate

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)

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

Sent down for concurrence.

Senate - As Amended

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)

Bill, "An Act Creating the Uniform Alcoholism and Intoxication

Treatment Act." (S. P. 13) (L. D. 76)

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 Probate Fees. (S. P. 172) (L. D. 427)

(On motion by Mr. Roberts of York, Tabled and Tomorrow Assigned pending Enactment.)

An Act Relating to Conferring Degrees by Portland School of Art. (S. P. 189) (L. D. 496)

An Act Relating to Time of Holding a Municipal Caucus Prior to a State Convention (S. P. 481) (L. D. 1548)

An Act Relating to the Statute on Boards of Visitors to State Institutions. (S. P. 612) (L. D. 1915)

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

An Act Relating to Penalty for Burglary. (H. P. 206) (L. D. 279)

An Act Relating to Exceptional Children. (H. P. 751) (L. D. 965)

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

An Act Classifying Certain Inland Waters of Saco River Basin. (H. P. 765) (L. D. 998)

An Act Relating to Political Campaign Reports and Finances. (H. P. 1066) (L. D. 1391)

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

(On Motion by Mr. Sewall of Penobscot, tabled and Specially Assigned for May 25, 1973, Pending Enactment.)

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, 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.

Emergencies

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

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

These being emergency measures and having received the affirmative votes of 27 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:

Bill, "An Act Increasing Minimum Wages." (H. P. 91) (L. D. 112)

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

Pending — Passage to be Engrossed.

Committee Amendment "A" (H-318).

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

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

An Act Prohibiting the Acceptance of Money for Enrollment of Voters. (H. P. 1270) (L. D. 1645)

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

Pending — Enactment.

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

Mr. SHUTE: Mr. President, I understand there is a severe question of constitutionality on this particular document, and I now move that it be indefinitely postponed.

The PRESIDENT pro tem: The Senator from Franklin, Senator Shute, moves that L.D. 1645 be indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: As I understand it, in last year's primaries some thousands of dollars were apparently spent in an effort to register voters in one particular political party, which doesn't happen to be of my political persuasion. Early in that effort the going price for new members was 50 cents, and for changed registrations a dollar. Because of the premium attached to switching, it is my understanding that many young people first registered as Democrats and then almost immediately switched to the Republican Party in order to get the benefit of the additional 50 cents. This created a lot of additional paper work for the voter registration boards.

Really, the chief abuse is the idea of distorting voter preferences through money incentives. We are all acutely aware of the train of election abuses that can follow financial investments in campaigns. We are all appalled at the idea of buying elections. This act would curb one of the major abuses to free and open elections uninfluenced by the massive injection of private funds to influence the preference of voters.

I would oppose the motion to indefinitely postpone. I think this is a bill that is a step in the right direction. I trust we are getting some messages from the recent massive, incredible, bizarre abuse of the use of money in the political process. So I would strongly urge you to vote against the motion to indefinitely postpone, and I would ask for a roll call.

The PRESIDENT pro tem: A roll call has been requested. In order for the Chair to order a roll call, it must have the affirmative vote, under the Constitution, of one fifth of the members present and voting. Will all those Senators in favor of a roll call please rise and remain standing until counted?

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: I think

it would be rather difficult to identify in this chamber any Senator who is not in support of the concept of the bill.

My vote will be based upon whether or not this bill has constitutional implications. A question has been raised and hasn't been answered. If this bill in its present form is not constitutionally acceptable, responsibly we don't want to enact it. On the other hand, if it is a bill that has no constitutional implications, I think we would like to support it. And that question has not yet been resolved to my satisfaction.

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

Mr. BRENNAN: Mr. President and Members of the Senate: As I understand it, those who assert unconstitutionality have the burden of enlightening the Senate. Now, I have heard the word said that it is unconstitutional, but I haven't heard one sentence or one idea as to why it is unconstitutional.

The PRESIDENT pro tem: Is the Senate ready for the question? The question before the Senate is the motion of the Senator from Franklin, Senator Shute, that Bill, An Act Prohibiting the Acceptance of Money for Enrollment of Voters, be indefinitely postponed. A roll call has been ordered.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would like to ask a question through the Chair to any member of the body who may answer, as to whether or not this particular bill would prohibit political parties from hiring field men whose duty then will be to enroll voters for that particular party?

The PRESIDENT pro tem: The Senator from Kennebec, Senator Speers, has posed a question to any member of the Senate who may answer if he so desires.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: My interpretation of this particular bill is that anyone employed either by the Democratic Party of the State of Maine or Republican Party at

their headquarters, who is employed for remuneration, compensation of any kind, also in any political campaign when an individual has a staff working for him that is being compensated in some way or other, it would be unlawful for any one of these individuals to register and enroll voters.

Certainly I don't think it is the intention of my good friend, Senator Brennan from Cumberland, to prohibit all of an individual's staff that are being compensated from enrolling voters. If you enact this, in my opinion, this is exactly what you are going to do. You would prohibit any of these employed individuals from enrolling or registering voters. This is the area which renders this bill unconstitutional. It is a prohibition against the livelihood of an individual. So I hope you would join in defeating this bill.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I sort of get the feeling that this might be a party issue, that possibly the other party met on it and became united on it, and they have got 22 and we have got 11. But these questions of constitutionality have been raised, and I don't think there has been any meaningful assertion that it is unconstitutional, but in deference to those who have qualms about its constitutionality, I would appreciate it if someone would table it for a couple of days so we can go to the appropriate authority and get his opinion on that.

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

Thereupon, on motion by Mr. Tanous of Penobscot, tabled and Tomorrow Assigned, pending the motion by Mr. Shute of Franklin that the Bill be Indefinitely Postponed.

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

Bill, "An Act Relating to State Parole Board Composition and

Compensation" (S. P. 155) (L. D. 389)

Tabled — May 22, 1973 by Senator Brennan of Cumberland.

Pending — Motion of Senator Hichens of York to Recede and Concur.

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

(In the House on May 21, 1973, Indefinitely Postponed, in non-concurrence.)

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

Mr. BRENNAN: Mr. President, seeing that my very good friend, the Senator from York, Senator Hichens, isn't here, maybe someone would want to retable this in his behalf.

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

Thereupon, on motion by Mr. Minkowsky of Androscoggin, retabled and Tomorrow Assigned, pending the motion by Mr. Hichens of York that the Senate Recede and Concur.

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

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

Tabled — May 22, 1973 by Senator Clifford of Androscoggin.

Pending — Consideration.

(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.)

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: After discussing this matter with my very dear friend, Senator Clifford of Androscoggin, and since the

amendments we felt were vital to this particular bill have been deleted, I now move that this bill be indefinitely postponed.

The PRESIDENT pro tem: The Chair would advise the Senator that his motion is out of order. The Senate is in non-concurrence with the House, and the motions in order would be to recede and concur, insist, or adhere.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, A parliamentary inquiry: There is no way that the Senate could indicate its desire to defeat this bill?

The PRESIDENT pro tem: The Chair would advise the Senator that if the motion to adhere is placed, and voted on affirmatively by the body, this would kill the bill.

The Chair understands that the Senator from Androscoggin, Senator Minkowsky, moves that the Senate adhere.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, would not a motion to adhere mean that the Senate is adhering to passage of the bill to be engrossed with the amendments, Committee Amendment "A", House Amendments "B" and "C", and Senate Amendments "A" and "B"?

The PRESIDENT pro tem: That is correct, but this action is in disagreement with the House action.

Mr. SPEERS: The House may then vote to recede and concur at that point, however. Is that not correct?

The PRESIDENT pro tem: The Chair would state that the records on the bill indicate the last action of the House was that it adhered.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, very briefly, I would support the motion of the Senator from Androscoggin, Senator Minkowsky. The reason being not that I don't feel we need this airport authority, but I think recent talks with the city people indicate that they feel it can be handled at the local level.

This is why I would concur with the motion of the Senator from Androscoggin.

The PRESIDENT pro tem: Is it now the pleasure of the Senate to adhere?

The motion prevailed.

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

SENATE REPORT — from the Committee on Judiciary — Bill, "An Act Regulating the Interception of Wire and Oral Communications." (S. P. 377) (L. D. 1108) Leave to Withdraw.

Tabled — May 22, 1973) by Senator Katz of Kennebec.

Pending — Acceptance of Report.

Mr. Katz of Kennebec then moved that the Bill be Substituted for the Report.

The PRESIDENT pro tem: The Senator has the floor.

Mr. KATZ: Mr. President, I direct the Senate's attention to L. D. 1108, which actually is a bill in two parts. The first part is a prohibition against interception of wire or oral communications, and you can call it an anti-bugging bill. And the second part has certain exceptions; the exceptions being certain exceptions on behalf of the Attorney General's office and law enforcement in general.

To be perfectly candid, the second section of this bill is extremely controversial. I am sure there is a wide difference of opinion within the Senate as to whether or not we want to, for the first time by statute, give authority to law enforcement within the State of Maine to wiretap, even though it may be under close judicial control.

But the first part of the bill is not, to my mind, controversial at all. For example, if you went up Route 4 in the City of Auburn to Beech Hill Road and you came to a large home with lots of glass sitting up on top of the hill, which is inhabited by Senator Olfene, by the way, and if in Senator Olfene's home he discovered a bug in his bedroom, and he determined who placed it there, and determined that use had been made of the information gained from the bug,

he would have no redress under Maine statutes at all. He would have civil remedies under common law, and if he felt he was damaged by the placement of this bug he could go into court and sue. But insofar as any criminal penalties involved, there just wouldn't be any.

Now, this is why I say that this is not controversial. Presently the people of Maine are just as naked as jaybirds insofar as protection against many forms of bugging and wiretapping in the State of Maine.

This is not a new issue. We argued it four years ago, and we got all kinds of hangups with respect to the second part of the bill. But I am addressing the Senate's attention today to the first part of the bill and, if the Senate goes along with me, I would attempt in the second reading to amend the bill to take the law enforcement exceptions out of it. If when the climate is better, at the next session or the session thereafter, and the Senate wants to involve law enforcement as an exception, that Senate will have a right to. But there seems to be a general feeling here right now that emotions are high enough that this would be inappropriate.

It may very well be said that there is federal law covering the issue. And federal law does cover the issue, but in a very narrow sense. For example, if you are bugged, and if you can prove that the information that was obtained was information used in interstate traffic or that there are any interstate implications, or if you are in the District of Columbia or Puerto Rico, you come under the umbrella of federal law. But in the simple case of having your home bugged - and notice I am not talking about telephones, because with a telephone it is a question of whether it is interstate commerce or not, whether you are calling West Grandville Center up in the woods or whether you are calling San Francisco - but electronic surveillance is done with other methods other than telephones, and presently your remedies just don't exist.

Now, I am aware of the fact that I am opening up a can of worms that most Senators would rather not face, but I suggest to you that if you face it only on the basis of giving this immediate protection to Maine people, and set the law enforcement implications aside for a moment, I really, really don't understand that there is any controversy involved here at all.

I am a Republican, and perhaps it is just as well that a Republican stands up and says this, but it doesn't have Watergate implications because we argued this same bill four years ago. It is a good bill and it is capable of amendment, so I ask you go along with the motion to substitute the bill for the report, and I request a division.

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

Mr. TANOUS: Mr. President and Members of the Senate: With reference to Senator Katz's remarks relative to a bug in Senator Olfene's bedroom, I imagine I would agree with him. Since we have outlawed DDT in Maine, it might be difficult to find the proper potion to get rid of that bug. But, in any event, Senator Katz has touched on the reasoning behind the bill being withdrawn.

The second part of that particular bill, which would in a very narrow circumstance give the Attorney General the authority to bug certain homes, the telephones, when they feel there is reasonable evidence that there is criminal activity involved, was not acceptable to the Committee whatsoever.

We didn't discuss the first part of the bill too much, with the exception that it was the unanimous opinion of the Committee that this was covered under federal legislation. So I don't personally feel we need to duplicate federal legislation in this area. Add this on to the request of the sponsor of the bill that it be given leave to withdraw, I would hope that the Senate would abide by the wishes of the sponsor of this bill, vote against the motion by Senator Katz, and join Senator Joly from Kennebec in his request for leave to withdraw. Thank you.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I am personally opposed to all wiretapping in this state, whether by law enforcement or non-law enforcement.

Secondly, though, I think I would like to commend the very distinguished Senator from Kennebec, Senator Joly, for his wisdom in withdrawing this bill.

Thirdly, I think wiretapping is an insidious evil in any form, and I would support the remarks of the good Senator from Kennebec, Senator Katz. I hope you would substitute the bill for the report so that we could prohibit it as far as private enterprise is concerned as well.

I frankly suspect that this is one of the first good results, the good fall-out, of Watergate. I think most people now, because of what has taken place down there, find wiretapping obnoxious.

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

Mr. KATZ: Mr. President and Members on the Senate: I would like to express my confusion. I have heard every time I have turned around that we are presently protected by federal legislation, but I have the federal law in front of me and if this offers me protection, I would say it is inadequate protection for me. True, I could go into federal court, but it seems to me I would have to prove that there have been some interstate commerce implications. I don't know what goes on in our individual homes here, but I suspect most of the conversation in the homes have nothing to do with interstate commerce or interstate traffic.

If I go to the same home on Beech Hill Road and peek in Senator Olfene's window, that is a criminal offense; I am a peeping Tom, but I don't think Senator Olfene has equal protection under the state law for bugging, and I say I think we should give it to him, and we should give it to the entire State of Maine. We should put aside any thoughts about getting

into the implications of authorizing bugging for law enforcement at this time, but give protection to the people of the State under Maine statutes which presently they do not have.

The PRESIDENT pro tem: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Katz, that the bill be substituted for the report.

Thereupon, on motion by Mr. Tanous of Penobscot, a division was had. 22 Senators having voted in the affirmative, and five Senators having voted in the negative, the Bill was Substituted for the Report, the Bill Read Once and Tomorrow Assigned for Second Reading.

The President pro tem laid before the Senate the sixth tabled and especially assigned matter:

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

Tabled — May 22, 1973 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

Mrs. Cummings of Penobscot then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-155, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

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

Tabled — May 22, 1973 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

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

The President pro tem then laid before the Senate the matter tabled earlier in today's session by Mr. Wyman of Washington:

Bill, "An Act Repealing the Bank Stock Tax". (H. P. 1491) (L. D. 1919)

Pending - Consideration.

The PRESIDENT pro tem: The Chair recognizes the Senator from Kennebec, Senator Katz:

Mr. KATZ: Mr. President and Members of the Senate: I hope that a motion to insist might be acceptable to the Senator from Washington, Senator Wyman. We are in non-concurrence, there is an amendment that is controversial that exists between us, and I suspect the best way for us to get out of it is to insist and request a committee of conference, and sit down with the other body which presently is pursuing a different course of action. If there is no objection on the part of the Senator, I will move that the Senate insist and request a committee of conference.

The PRESIDENT pro tem: The Senator from Kennebec, Senator Katz, moves that the Senate insist and request a committee of conference. Is this the pleasure of the Senate?

The motion prevailed.

The President pro tem laid before the Senate the matter tabled earlier in today's session by Mr. Tanous of Penobscot:

Bill, "An Act Relating to Psychotherapist and Patient Privilege." (H. P. 1226) (L. D. 1601)

On motion by Mr. Tanous of Penobscot, the Senate voted to reconsider its action whereby Committee Amendment "A" was Adopted and, subsequently, Committee Amendment "A" was Indefinitely Postponed.

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

Senate Amendment "A", Filing No. S-156, was Read.

The PRESIDENT pro tem: The Senator has the floor.

Mr. TANOUS: Mr. President and Members of the Senate: This proposed amendment strikes out the social worker from the provisions of this bill and also better describes the psychiatrist. This is the sole reason for the amendment. Thank you.

The PRESIDENT pro tem: Is the Senate ready for the question?

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

Sent down for concurrence.

Reconsidered Matter

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

Mr. PEABODY: Mr. President, is the Senate in possession of L. D. 989?

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

Mr. PEABODY: Mr. President, having voted on the prevailing side, I move the Senate reconsider its action whereby this bill was indefinitely postponed.

The PRESIDENT pro tem: The Senator from Aroostook, Senator Peabody, moves that the Senate reconsider its action whereby the Senate indefinitely postponed, Bill, "An Act to Provide a Portion of all Public Places and Transportation Vehicles to be Set Aside for Nonsmokers." (S. P. 322) (L. D. 989)

The Chair recognizes the Senator from Androscoggin, Senator Olfene.

Mr. OLFENE: Mr. President and Member of the Senate: I rise to oppose that motion. I think this bill was well discussed and well debated, twice it has been through this Senate and I would say, without going into any lengthy debate at this time, that this bill is a bill, as I explained before, that I think is an extremely difficult bill to put under a controlled manner. Therefore, I urge you to not support the motion as presented by the Senator from Aroostook, Senator Peabody.

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

Mr. JOLY: 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 Aroostook, Senator Peabody, that the Senate reconsider its action whereby it indefinitely postponed Bill, "An Act to Provide a Portion of all Public Places and Transportation Vehicles to be Set Aside for Nonsmokers." All those in favor of reconsideration will vote "Yes"; those opposed "No".

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, Cianchette, Conley, Cox, Cummings, Fortier, Greeley, Joly, Katz, Minkowsky, Morrell, Peabody, Roberts, Schulten, Sewall, Shute, Speers, Tanous.

NAYS: Senators Aldrich, Anderson, Brennan, Clifford, Cyr, Danton, Graffam, Huber, Kelley, Marcotte, Olfene, Wyman, MacLeod.

ABSENT: Senators Hichens, Richardson.

A roll call was had. 18 Senators having voted in the affirmative, and 13 Senators having voted in the negative, with two Senators being absent, the motion prevailed.

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

Sent down for concurrence.

Reconsidered Matter

On motion by Mr Sewall of Penobscot, the Senate voted to reconsider its prior action whereby Bill, "An Act to Provide Moneys for Planning Residential Accommodations for the Retarded in Maine", (S. P. 625) (L. D. 1948), was Indefinitely Postponed.

On further motion by the same Senator, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

Mr. Tanous of Penobscot was granted unanimous consent to address the Senate:

Mr. TANOUS: Mr. President and Members of the Senate: I am indeed pleased to read in the morn-

ing paper about the individual that wrote the section and made a report regarding our Supreme Court Justice, Donald W. Webber; I am pleased to see that he has apologized to Justice Webber, according to the newspaper this morning. Personally, I felt that the original attack that was made upon Justice Webber was definitely unwarranted and vicious upon his character and his ability. I have personally known Justice Donald W. Webber for many, many years. He is perhaps one of the most sincere, able and dedicated jurists in the State of Maine, along with the other members of our bench as

well, and I had felt that the original attack made upon him was indeed unwarranted. I know, as reasonable people and lawyers, we perhaps can disagree with the opinions of another attorney, or another judge, or another individual, but certainly these disagreements should never result in such, as I mentioned, unwarranted attack upon one of our most able jurists in the State of Maine. Thank you.

On motion by Mr. Sewall of Penobscot,

Adjourned until 9:30 tomorrow morning.