

# 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

Friday, May 25, 1973

Senate called to order by the President.

Prayer by the Rev. Robert Gunn of Gardiner.

Reading of the Journal of yesterday.

### Joint Order

Out of Order and Under Suspension of the Rules:

ORDERED, the House concurring, that when the Senate and House adjourn, they adjourn to Tuesday, May 29, at 10 o'clock in the morning. (S. P. 636)

Which was Read and Passed.

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

### Papers from the House Non-concurrent Matter

Bill, "An Act Relating to School Buses." (S. P. 622) (L. D. 1936)

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

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-429), in non-concurrence.

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

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

Mr. SPEERS: Mr. President, I would like to ask a question through the Chair: Could the Senator explain what the House Amendment does?

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

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: This House Amendment requires that all substitute drivers driving a school bus have to pass school bus operators' laws in order to be a substitute driver. We have many cases, especially in small towns, where it is difficult to get enough drivers, let alone substitute drivers, and on occasion when a driver is ill or cannot drive for

a reason, they can call in a substitute for that day.

The law definitely states that that substitute driver cannot drive more than ten days within a year without having a regular school bus operator's license. But with the handicap that it brings, this has been brought up several other times when school bus laws have been revised, and it has been found to be a good exemption to let these substitute drivers drive for one day without having to have a special license.

The PRESIDENT: Is it now the pleasure of the Senate that the Senate insist?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I recognize the problem that exists in many of the small towns in not being able to get enough drivers, but it seems to me that without the House Amendment what we are doing is gambling the safety of the children of the state in that nothing could happen to them on that one day on which there happens to be a substitute driver driving the school bus.

It seems a little incongruous to me to say that if we are requiring drivers of school buses to comply with certain standards in qualifications, if we find it necessary for drivers of school buses to comply with these qualifications, that we make an exception on one or two days, or three or four days, or up to ten days throughout the school year. We are taking a gamble that nothing is going to happen to the school children on one of those ten days.

This is not something that I had been aware of before this moment but, Mr. President, I would move that the Senate recede and concur.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate recede and concur. Is this the pleasure of the Senate?

The motion prevailed.

### Non-concurrent Matter

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)

In the Senate May 22, 1973, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-444), in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

#### **Non-concurrent Matter**

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

In the House May 7, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (H-319).

In the Senate May 16, 1973, Indefinitely Postponed, in non-concurrence.

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

On motion by Mr. Olfene of Androscoggin, the Senate voted to Adhere.

#### **Non-concurrent Matter**

Bill, "An Act to Establish the Saco River Corridor." (S. P. 469) (L. D. 1545)

In the Senate May 21, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (S-131) as Amended by Senate Amendment "D" Thereto, (S-148).

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-434), and by Committee Amendment "A" as Amended by Senate Amendment "D" Thereto, in non-concurrence.

On motion by Mr. Richardson of Cumberland, the Senate voted to Recede and Concur.

#### **Non-concurrent Matter**

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

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

In the House May 22, 1973 Passed to be Engrossed as Amended by House Amendment "B" (H-380) as

Amended by House Amendment "A" Thereto (H-426), in non-concurrence.

In the Senate May 23, 1973, that Body having Insisted and Asked for a Committee of Conference.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "B" as Amended by House Amendments "A" (H-426) and "B" (H-446) Thereto, in non-concurrence.

Mr. Katz of Kennebec then moved that the Senate Insist and Request a Committee of Conference.

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

Mr. SCHULTEN: Mr. President, I understood the Secretary to refer to Amendment H-426, and I don't seem to have a copy in my book. Perhaps I didn't hear the number correctly. Was it H-426?

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

Mr. KATZ: Mr. President, I might explain that House Amendment H-446 merely applies a date for distribution of dollars to conform with the distribution of school subsidies.

The PRESIDENT: Is it the pleasure of the Senate that the Senate insist and ask for a committee of conference?

The motion prevailed.

(See action later in today's session.)

#### **Joint Order**

WHEREAS, legislation has been proposed to provide for the licensing of all dispensing opticians in the State; and

WHEREAS, such regulation would be accomplished by establishing a State Board of Registration and Examination for Opticians; and

WHEREAS, it is generally felt more information is needed in this area of health care service before proceeding further; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee be authorized and directed to study the subject matter of the Bill, "AN ACT to

Register and License Dispensing Opticians," House Paper No. 1233, Legislative Document No. 1610, as introduced at the regular session of the One Hundred and Sixth Legislature to determine whether or not the best interests of the State would be served by enactment of such legislation; and be it further

ORDERED, that the committee report its findings and recommendations at the next regular or special session of the Legislature. (H. P. 1536)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Berry of Cumberland, placed on the Special Legislative Research Table.

WHEREAS, there is concern that consumers should be represented on state regulatory and examining boards, agencies and commissions; and

WHEREAS, it is not currently known how many boards, agencies and commissions already have such representatives; and

WHEREAS, it is also not known whether a distinction should exist in this regard between policy-making boards and examining boards; and

WHEREAS, members of some boards have indicated that consumer members should not be reimbursed by fees which support such boards; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the subject matter of the following bills: "AN ACT Providing for a Consumer Member on All Regulatory Boards and Commissions," House Paper 1115, Legislative Document 1451; "AN ACT Establishing a Consumers' Council," Senate Paper 464, Legislative Document 1495; "AN ACT to Provide that Consumers Shall be Included on Certain Boards," House Paper 1291, Legislative Document 1679; and "AN ACT to Establish an Insurance Consumers' Advisory Board," House Paper 1357, Legislative Document 1813, as introduced at the regular session of the 106th Legislature, in order to determine to the extent possible,

through consultation with interested parties and groups, and such public hearings as it deems appropriate, whether or not the best interests of the State would be served by enactment of such legislation; and be it further

ORDERED, that the Consumer Fraud Division of the Office of the Attorney General be directed to provide the Committee with such technical advice and assistance as the Committee feels necessary or appropriate to carry out the purposes of this Order; and be it further

ORDERED, that each regulatory or examining board or commission authorized by the Revised Statutes of the State of Maine be directed to provide such assistance as the Committee deems necessary or desirable to carry out the purposes of this Order; and be it further

ORDERED, that the Committee report its findings, together with any necessary recommendations or implementing legislation, at the next special or regular session of the Legislature; and be it further

ORDERED, upon passage of this Order, in concurrence, that each office, board, agency and commission specified herein be notified accordingly of the pending study. (H. P. 1534)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Berry of Cumberland, placed on the Special Legislative Research Table.

WHEREAS, the State of Maine operates computers in various state agencies, including within the Employment Security Commission, the Department of Transportation and for general use with the Department of Finance and Administration; and

WHEREAS, statutory authority has been proposed for centralization of such services within a single agency for the orderly coordination and economical processing of all data; and

WHEREAS, such legislation might improve economical utilization of equipment; provide data processing services to the Legislature in its legislative process; and prevent the unnecessary prolifera-

tion of equipment programs and personnel and the overlapping of functions among the various state departments and agencies; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee study the subject matter of the Bills: "AN ACT Creating the Bureau of Data Processing within the State Planning Office, House Paper 1339, Legislative Document 1754 and "AN ACT Creating the Bureau of Central Computer Services within the Department of Finance and Administration," House Paper 154, Legislative Document 178, both introduced at the regular session of the 106th Legislature, and further to explore the feasibility of establishing an electronic Data Processing Center as a separate entity and to analyze the benefits which might accrue to the Legislative, Judicial and Executive Branches of State Government to determine whether the best interests of State Government would be served by enactment of this type of legislation; and be it further

ORDERED, that the Committee investigate the use of computers which has been made in this and other states and the Federal Government and that the Committee confer with the Maine Management and Cost Survey and the University of Maine; and be it further

ORDERED, that the Department of Finance and Administration, the Department of Transportation, the Employment Security Commission and such other agencies or departments as may be determined by the Legislative Research Committee, be directed to provide the Committee with such information, technical advice and assistance as the Committee deems necessary or desirable to carry out the purposes of this Order; and be it further

ORDERED, that the Legislative Research Committee report its findings, including potential cost savings and utilization benefits, with any implementing legislation to the first special session of the 106th Legislature in 1974; and be it further

ORDERED, that upon passage of this Order, in concurrence, each agency specified herein be notified of the pending study. (H. P. 1535)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Berry of Cumberland, placed on the Special Legislative Research Table.

### Reconsidered Matter

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

Mr. SCHULTEN: Mr. President, would I be in order to ask the Senate to reconsider its action whereby on L.D. 1919 it voted to insist and ask for a committee of conference? My question was directed to House Amendment 426, and I understand the good Senator from Kennebec, Senator Katz, referred to House Amendment 446. I am a little confused, frankly.

The PRESIDENT: The Senator from Sagadahoc, Senator Schulten, moves that the Senate reconsider its action whereby it insisted and asked for a committee of conference on Item 1-5, Bill, "An Act Repealing the Bank Stock Tax", H.P. 1491, L.D. 1919. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Kennebec Senator Katz.

Mr. KATZ: Mr. President, I have no objection to reconsideration, but if the thrust of the motion is to identify the nature of this particular amendment, this amendment which was adopted by the other body distributes dollars in the form of revenue sharing to various communities. The second house amendment just stipulates on what dates it would be distributed.

Mr. President, may I inquire through the Chair whether this obviates the necessity for reconsideration by the Senator from Sagadahoc?

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

The Chair recognizes the Senator from Sagadahoc, Senator Schulten.

Mr. SCHULTEN: Mr. President, the question has now been satisfactorily answered and I understand the difference between House Amendment 426, which I asked for information about, and 446, the information which was given to us. There is no need for consideration.

The PRESIDENT: The Chair understands the Senator from Sagadahoc, Senator Schulten, withdraws his motion to reconsider.

### Order

Out of Order and Under Suspension of the Rules, on motion by Mr. Richardson of Cumberland:

WHEREAS, it appears to the Senate of the 106th Legislature that following are important questions of law and that this is a solemn occasion; and

WHEREAS, a Bill, H. P. 1382, L. D. 1812, entitled "AN ACT to Organize the Unorganized and Deorganized Territories of the State and to Provide for Management of the Public Reserved Lands," has been introduced into the Legislature, and the constitutionality of portions of the Act has been questioned, and it is important that the Legislature be informed as to the constitutionality of those portions of the Act; now, therefore, be it

ORDERED, that in accordance with the provisions of the Constitution of the State, the Senate herewith submits the following Statement of Facts and respectfully requests the Justices of the Supreme Judicial Court to give to the Senate their opinion on the following Questions of Law:

### STATEMENT OF FACT

Beginning as early as 1786, 1/ Massachusetts reserved from townships of its public domain which it sold, four lots of 320 acres each for public uses. The reserved lots are hereinafter referred to as the

1/ Laws and Resolves of Massachusetts, 1786, Chapter 40.

"public lots." The specific public uses for which some of the earliest public lots were reserved included the first settled minister, the use of the ministry, a public grammar school, public education in general and such public uses as the Legis-

lature of Massachusetts might thereafter direct. Massachusetts generally followed this practice during the ensuing years as portions of her public domain were sold.

The Articles of Separation (Article X of the Constitution of Maine) provide in Paragraph Seventh that:

"Seventh. All grants of land, franchises, immunities, corporate or other rights, and all contracts for, or grants of land not yet located which have been or may be made by the said Commonwealth, before the separation of said District (of Maine) shall take place, and having or to have effect within the said District, shall continue in full force, after the said District shall become a separate State.

" . . . ; and in all grants hereafter to be made by either state of unlocated land within said District, the same reservations shall be made for the benefit of Schools, and of the Ministry, as have heretofore been usual, in grants made by this Commonwealth."

In 1824, the Legislature of Maine declared that title to all public lots which were then located in incorporated towns and which had not theretofore become vested in a particular individual or parish within the town, was to be vested in the inhabitants of the town, subject to the supervision of a board of trustees comprised of various municipal officers.1/ At that

1/ Chapter 254, Public Laws of 1824.

time, the Legislature required that the towns use the public lots for the purposes for which they were originally reserved, to wit: schools and the ministry. With the exception of this latter provision, that law, together with other laws delineating the powers and responsibilities of the board of trustees in each town containing public lots or school and ministerial funds, is in effect today. 1/

With respect to the public lots yet to be reserved in land yet to be sold by Maine, the Legislature of Maine also declared in

1824 that:

"There shall be reserved in every township, suitable for settlement, one thousand acres of land to average in quality and situation with the other land in such township, to be appropriated to such public uses for the exclusive benefit of such town, as the Legislature may hereafter direct."<sup>2/</sup>

The essential provisions of this law remained in effect throughout the time during which Maine's public domain was sold and are in effect today.<sup>3/</sup>

In 1831 the Legislature of Maine sought to modify the Articles of Separation to acquire the power to "direct the income of any fund arising from the proceeds of the sale of land required to be reserved for the benefit of the Ministry, to be applied for the benefit of primary schools, in the town in which such land is situate, where the fee has not already vested in some particular Parish in such town, or in some individual."<sup>4/</sup> Massachusetts responded with legislation which

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1/ Title 13 M.R.S.A. § 3161.

2/ Chapter 280, § 8, Public Laws of 1824.

3/ Title 30 M.R.S.A. § 4151.

4/ Chapter 492, § 2, Public Laws of 1831.

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repeated, substantially verbatim, the act of the Maine Legislature and which recited that the Articles of Separation were thereby "so far modified, as to permit an exercise of legislation by the Government of the State of Maine, over the subject of ministerial and school lands within its territorial jurisdiction, granted or reserved for those purposes before the separation of that State from the Commonwealth..."

1/Pursuant to that modification, therefore, the Legislature of Maine directed that proceeds from the sale of public lots be "annually applied to the support of primary schools in each town."<sup>2/</sup> This law is in effect today.<sup>3/</sup>

As a result of the foregoing laws, public lots were reserved from substantially all of the townships which were sold by Maine and by Massachusetts and by both jointly. As townships became incorporated, title to the public lots vested in the

inhabitants in accordance with the provisions of what is now Title 13 M.R.S.A. § 3161. Regardless of the purposes for which the public lots were originally reserved, since 1832 towns have been required to use these lands for the support of public schools in the town.

Prior to the incorporation of the townships or tracts from which the public lots were reserved, the public lots have remained under the control of the State. In 1831, the Legislature of Maine directed, for the first time, that the Land Agent of the State should "take care of

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1/ Laws of Massachusetts, 1831, chapter 47.

2/ Chapter 39, Public Laws of 1832.

3/ Title 13 M.R.S.A. § 3167.

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the public lots which have been and shall hereafter be reserved for public uses in the several townships in this State, until the fee shall vest in the town or otherwise, according to the force and effect of the grant, and preserve the same from pillage and trespass."<sup>1/</sup> In 1853, Massachusetts conveyed to Maine all of its right, title and interest in the public lots and recited in the deed that the public lots were to be held by Maine in accordance with and subservient to the provisions and stipulations contained in the Articles of Separation. The deed also specified that it was not intended to impair or invalidate the obligation in the Articles of Separation for "setting apart and reserving lands to educational and religious uses."<sup>2/</sup>

In 1842, the Legislature directed that income accruing from the public lots in the unincorporated townships be deposited into a fund to be held by the treasurers of each County and paid "to treasurers of towns rightfully owning it, whenever applied for."<sup>3/</sup> The basic requirements of this law remain in effect today,<sup>4/</sup> except that the fund is now, and since 1848 <sup>5/</sup> has been held by the State Treasurer instead of the County Treasurers. In 1846,

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1/ Chapter 510, Public Laws of 1831.

2/ Maine House Document No. 12, 1854.



- 3/ Chapter 33, § 23, Public Laws of 1842.
- 4/ Title 30 M.R.S.A. § 4164.
- 5/ Chapter 82, Public Laws of 1848.

the Legislature directed that income from the fund should be used for school purposes pursuant to a specified formula.<sup>1/</sup> Though the formula has been significantly refined by the establishment of the Unorganized Townships Fund and the Organized Townships Fund, the basic requirements of the 1846 law remain in effect today.<sup>2/</sup> The principal amounts of the Unorganized Townships Fund and the Organized Townships Fund continue to be held by the State Treasurer with a separate accounting for each township and tract in the unincorporated areas of the State, awaiting the incorporation of each such township or tract into a town.

Since 1850 the public lots in the unincorporated areas of the State have been in the care and custody of the Land Agent.<sup>3/</sup> the functions of which are now performed by the Forest Commissioner.<sup>4/</sup> There remain today approximately 415 unincorporated tracts and townships in Maine, including approximately 40 plantations.

- 1/ Chapter 217, Public Laws of 1846.
- 2/ Title 30 M.R.S.A. §§ 4165, 4166.
- 3/ Chapter 196, § 1, Public Laws of 1850. The Land Agent was given custody and care of public lots in plantations by Chapter 284 of the Public Laws of 1852.
- 4/ The Land Agent was made Forest Commissioner by Chapter 100, § 1 of the Public Laws of 1891 and the title "Land Agent" was abolished by Chapter 196 of the Public Laws of 1923.

Although portions of a few public lots have been sold pursuant to legislative authority,<sup>1/</sup> the unincorporated tracts and townships in Maine presently contain approximately 398,000 acres of public lots. Of these, approximately two-thirds have been "located" or partitioned from the townships or tracts from which they were reserved and the remainder have

not yet been located or partitioned, although there exist statutory procedures to effect such a partition.<sup>2/</sup> While the public lots have been used by the State in recent years essentially to produce funds to be deposited with the Treasurer of the State as described above, they have been required to be managed under the principles of multiple use since 1965 <sup>3/</sup> and the public lots in Baxter State Park have been used like the other lands in Baxter State Park. <sup>4/</sup>

There is presently pending before the 106th Legislature, H. P. 1392, L. D. 1812, entitled, AN ACT to Organize the Unorganized and Deorganized Territories of the State and to Provide for Management of the Public Reserved Lands (the "Act"). The Act is intended, among other things, to effect the following changes in the manner in which and the purposes for which the public lots are managed and owned by the State:

- 1/ "Report on Public Reserved Lots" prepared by State Forestry Department, 1963, pursuant to Chapter 76, Resolves of 1961. See also chapters 8, 13 and 16, Resolves of 1971.
- 2/ Title 30 M.R.S.A. § 4151, et seq.
- 3/ Title 12 M.R.S.A. § 501-A, subsection 7.
- 4/ Title 12 M.R.S.A. § 902.

1. Section 5 of the Act would amend Title 13 M.R.S.A. § 3161 to provide that title to public lots shall vest in the inhabitants of any town incorporated and in existence on January 1, 1973. Title to public lots would no longer vest in the inhabitants of towns which may hereafter become incorporated.

2. Section 7 of the Act would direct that the public lots shall be used for the benefit of the State of Maine, to be managed and preserved as State assets, and not for the benefit of the present or future inhabitants of the township or tract from which the public lots were reserved. Section 15 of the Act (in the proposed provisions of Title 30 M.R.S.A. § 4162, subsection 5) further recites that the requirement that the public lots be used for the exclusive

benefit of the township from which they were reserved is abolished.

3. Section 14 of the Act would require that in partitioning or locating public lots which have not heretofore been located, the Forest Commissioner shall consider, in addition to the value of timber and minerals, such qualities as scenic value, recreational potential, preservation of significant natural resources critical to the ecology of the State and contiguousness to other public lands.

4. Section 15 of the Act would require, in effect, that the public lots be used and managed as multiple use State forests and gives the Forest Commissioner the power, under certain conditions, to sell, purchase and exchange public lots, without retaining a public lot in each unincorporated township or tract, in order to assemble larger contiguous quantities of land.

5. Section 16 of the Act would discontinue the practice of depositing all income from the public lots into a fund to await the incorporation of the presently unincorporated tract and townships and income from the public lots would be used (or an equivalent amount from the General Fund would be used) for the management of the public lots and for the acquisition of additional lands to be managed under the same statutory provisions which would be applicable to the public lots.

#### QUESTIONS OF LAW

##### QUESTION NO. I:

Do the provisions of Section 5 of the Act violate the Articles of Separation, the Distribution of Power provisions or the Due Process Clauses of the Federal or State Constitutions?

##### QUESTION NO. II:

If the answer to the preceding question is that any of the provisions of Section 5 of the Act violate the Articles of Separation, would such provisions be constitutional upon consent to such provisions by the Legislature of Massachusetts?

##### QUESTION NO. III:

Do the provisions of Section 7 of the Act violate the Articles of Separation, the Distribution of Power provisions or the Due Pro-

cess Clauses of the Federal or State Constitutions?

##### QUESTION NO. IV:

If the answer to the preceding question is that any of the provisions of Section 7 of the Act violate the Articles of Separation, would such provisions be constitutional upon consent to such provisions by the Legislature of Massachusetts?

##### QUESTION NO. V:

Do the provisions of Section 14 of the Act violate the Articles of Separation, the Distribution of Power provisions or the Due Process Clauses of the Federal or State Constitutions?

##### QUESTION NO. VI:

If the answer to the preceding question is that any of the provisions of Section 14 of the Act violate the Articles of Separation, would such provisions be constitutional upon consent to such provisions by the Legislature of Massachusetts?

##### QUESTION NO. VII:

Do the provisions of Section 15 of the Act violate the Articles of Separation, the Distribution of Power provisions or the Due Process Clauses of the Federal or State Constitutions?

##### QUESTION NO. VIII:

If the answer to the preceding question is that any of the provisions of Section 15 of the Act violate the Articles of Separation, would such provisions be constitutional upon consent to such provisions by the Legislature of Massachusetts?

##### QUESTION NO. IX:

Do the provisions of Section 16 of the Act violate the Articles of Separation, the Distribution of Power provisions or the Due Process Clauses of the Federal or State Constitutions?

##### QUESTION NO. X:

If the answer to the preceding question is that any of the provisions of Section 16 of the Act violate the Articles of Separation, would such provisions be constitutional upon consent to such provisions by the Legislature of Massachusetts?

Which was Read.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: This order from the Senate

soliciting an advisory opinion from the Supreme Judicial Court of Maine is reproduced and on your desks. You will note that it is several pages long, and I thought it might be helpful if I attempted to explain the gist of what this request for an advisory opinion is.

Its purpose, very simply stated, is to determine the scope of the state's sovereignty over the public lots.

In order to make intelligent decisions, we need to know: first, if we must under the Constitution use the public lots for school purposes; second, if we must under the Constitution put the income from the public lots in the treasury and keep it forever, or until the wildlands become towns—that is, until the unincorporated townships become incorporated.

We must know if we are required under the Constitution to have one public lot per township scattered across 12 million acres, or if we can consolidate them for more functional and, I believe, a more 20th Century use.

Finally, we must know whether or not we can under the Constitution locate the public lots, which have not yet been located, only with an eye toward timber and minerals, or whether we can properly consider within the scope of the sovereignty of the State of Maine such things as recreation, conservation, and so forth.

This request for an advisory opinion does not seek a determination of grass and timber rights. I would make the observation that, from my own personal point of view, I believe that private property rights, including grass and timber rights owned by the several major paper companies, should be determined in a full-blown adversary proceeding, and not through the course of an advisory opinion. We must, however, decide or understand what the scope of our sovereignty is over these lands. Without this information, members of the Senate, we can't make any plans for any use of these lands, and we cannot intelligently discuss how these lands should be administered.

Finally, let me say that some of the questions that have come

before our Committee indicate that there is a very serious need for us to get this initial question decided, and decided as promptly as possible, so that we can answer other questions that are related: Should the state invest money in the administration of these lands? Would the public benefit from such an investment? Must the public lots lie fallow and dormant awaiting settlement of every wildland township in the State of Maine?

I might indicate to you that certainly I don't expect that the wildlands, or the unincorporated territories, when they become incorporated, are all going to become thriving industrial communities, but I think we have got to have an understanding of this basic issue, on what is the scope of our sovereignty, before we can make all these other decisions.

I have attempted to give you this brief outline. I hope, if there is any request to table this matter, that it be for not beyond later in today's session, because I think that the request for an advisory opinion has been delayed too long by extraneous considerations, which are no part of the Senate's deliberative process, and I would like to ask the indulgence of the members of the Senate that it not be tabled until sometime next week but, if there is someone here who really wants to review it, that it be until later in today's session.

The reason for the order I think is clear, or at least I hope it is. If any member of the Senate has any questions, I will be very pleased to attempt to answer them.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I, and I suspect most of you, just received this 10-page document. I have had the benefit of talking to the good Senator from Cumberland, Senator Richardson, and he gave me a synopsis of what he was going to say this morning.

I do believe this is a body that is supposed to deliberate and consider things. Now, substantial questions are being asked of our court. I am not so sure if this

is put off until Tuesday that anything great will result. I don't know if the judges even work weekends. We have a situation here though that I would like to look over during the weekend, and maybe I could, or maybe some member of this body may be able to, help out with some of these questions.

Frankly, advisory opinions are not controlling legally, but I think they are terribly persuasive as to whatever future action might take place. I am not aware of many of the judges or courts overruling their own advisory opinions, so I think it is terribly important just what is posed.

I personally am not terribly fond of advisory opinions; I like the adversary proceeding, and hopefully the best of both worlds is the result.

For the reason though, with ten pages of this, and I am sure most of the Senators here haven't digested it - and I suspect I am going to have some trouble digesting it during the remaining part of this session - I would hope someone would table this for a day.

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

Mr. DANTON: Mr. President, I move this lie on the table until Tuesday.

The PRESIDENT: The Senator from York, Senator Danton, moves that this matter be tabled until the next legislative day, pending passage. Is this the pleasure of the Senate?

The motion prevailed.

#### **Committee of Conference**

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Relating to Membership on the State Board of Barbers" (H. P. 844) (L. D. 118), the President appointed the following Conferees on the part of the Senate:

Senators:  
GREELEY of Waldo  
HICHENS of York  
MINKOWSKY  
of Androscoggin.

#### **Papers from the House House Paper**

Resolve, Authorizing the Commissioner of Mental Health

and Corrections to Convey Land at the Augusta State Airport to the Augusta Sanitary District. (H. P. 1533) (L. D. 1966)

(Approved by a Majority of the Committee on Reference of Bills pursuant to Joint Rule No. 10)

Comes from the House, referred to the Committee on State Government and Ordered Printed.

Which was referred to the Committee on State Government and Ordered Printed in Concurrence.

State of Maine  
Senate Chamber  
President's Office  
Augusta, Maine 04330

24 May 1973

Mr. Harry N. Starbranch  
Secretary of the Senate  
Augusta, Maine

Dear Mr. Starbranch:

The Committee on Reference of Bills has met and decided to extend the date by which all bills must be reported out for the committees on Business Legislation, Education, Labor, Marine Resources, Natural Resources, Transportation, Public Lands and Veterans and Retirement to June 1, 1973. The extension date for the committees on Appropriations and Financial Affairs, Judiciary, State Government and Taxation will be June 8, 1973.

All other committees must report out their bills and resolves by 5:00 p.m. May 25, 1973.

Respectfully yours,  
Kenneth P. MacLeod  
President, Maine Senate

Which was Read and Ordered Placed on File.

State of Maine  
One Hundred and  
Sixth Legislature  
Committee on Health &  
Institutional Services

May 24, 1973  
Honorable Kenneth P. MacLeod  
President of the Senate  
State House

Dear President MacLeod:

The Committee on Health & Institutional Services is pleased to report the completion of that business of the 106th Legislature that

was placed before this Committee.

Total number of	
bills received	61
Ought to Pass	16
Ought Not to Pass	5
Ought to Pass as Amended	16
Ought to Pass New Draft	4
Divided Reports	11
Leave to Withdraw	8
Referred to	
Another Committee	1

Sincerely

Sen. Walter W. Hichens

Which was Read and Ordered  
Placed on File.

The PRESIDENT: The Chair would like to inform the Senate that the recent practice of putting on the calendar bills that are being held is still being carried on, but the Chair feels it should inform the Senate that it is the Chair's understanding there will be a motion made during orders of the day that the rules be suspended in order to consider reconsideration of Bill, "An Act to Remove Certain Restrictions Under the Small Loan Law", Legislative Document 740.

#### Committee Reports House

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 Relating to County Estimates." (H. P. 1337) (L. D. 1771)

#### Refer to Special Session of 106th Legislature or regular session of 107th Legislature

The Committee on Marine Resources on, Bill, "An Act to Promote the Conservation and Management of Maine's Shellfish Resources." (H. P. 753) (L. D. 1076)

Reported that the same be referred to the next regular session of the 107th Legislature or a special session of the 106th.

Comes from the House, the report Read and Accepted and the Bill referred to the next regular session of the 107th Legislature or a special session of the 106th.

Which report was Read and Accepted, in concurrence, and the

Bill referred to the next regular session of the 107th Legislature or a special session of the 106th.

#### Ought to Pass

The Committee on State Government on, Bill, "An Act Amending the Laws Relating to Community Mental Health" (H. P. 483) (L. D. 627)

Reported that the same Ought to Pass.

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

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

#### Ought to Pass - As Amended

The Committee on Labor on, Bill, "An Act to Clarify Procedures under the Municipal Public Employees Labor Relations Act" (H. P. 1100) (L. D. 1436)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-430).

The Committee on Marine Resources on, Bill, "An Act to Allow Coastal Wardens to Inspect Licenses." (H. P. 1310) (L. D. 1740)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-432).

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.

#### Ought to Pass in New Draft

The Committee on Natural Resources on, Bill, "An Act to Amend Municipal Regulation of Land Subdivision Law." (H. P. 502) (L. D. 655)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1513) (L. D. 1943)

The Committee on Labor on, Bill, "An Act Relating to Self-insurance under Workmen's Compensation Law." (H. P. 1155) (L. D. 1488)

Reported that the same Ought to Pass in New Draft under New Title: "AN ACT Relating to Self-in-

surance under Workmen's Compensation Law and to Create a Fund for Payment of Adjudicated Industrial Accident Claims Involving State Employees and to Establish a Safety Program." (H. P. 1528) (L. D. 1958)

Come from the House, the Bills in New Draft Passed to be Engrossed.

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

#### Divided Report

The Majority of the Committee on Transportation on, Bill, "An Act Authorizing Use of Maine Turnpike by Legislators." (H. P. 1281) (L. D. 1668)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-431).

Signed:

Senator:

SHUTE of Franklin

Representatives:

FRASER of Mexico

WOOD of Brooks

WEBBER of Belfast

JACQUES of Lewiston

KEYTE of Dexter

STROUT of Corinth

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

Signed:

Senators:

GREELEY of Waldo

CIANCHETTE

of Somerset

Representatives:

BERRY of Madison

McCORMICK of Union

DUNN of Turner

McNALLY of Ellsworth

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 County Government on, Bill, "An Act Providing for a County Budget Review Board for York County." (H. P. 320) (L. D. 438)

Reported that the same Ought Not to Pass.

Signed:

Senators:

PEABODY of Aroostook

CLIFFORD

of Androscoggin

Representatives:

DAM of Skowhegan

CHURCHILL of Orland

FARRINGTON of China

SHELTRA of Biddeford

DYAR of Strong

PONTBRIAND of Auburn

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

Signed:

Senator:

ROBERTS of York

Representatives:

McMAHON of Kennebunk

WHITZELL of Gardiner

TANGUAY of Lewiston

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

Which reports were Read.

Mr. Roberts of York then moved that the Senate Accept the Minority Ought to Pass Report of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. ROBERTS: Mr. President and Members of the Senate: One of the problems that has been bothersome apparently for years here — as you know, I am here for my first time — is the problem of trying to get county budgets settled, accepted by the legislature, and adjusted. That situation, as it exists now, one of the great problems about it is the fact that we have a situation where the county budgets are made up and developed by the county commissioners and reviewed by the legislature, but the towns and the cities, who in turn raise the money to pay for these budgets, have no actual participation in the preparing of these budgets or in the review of the budgets, other than one and sometimes two so-called

budget hearings that they have at the end of the year just prior to the legislature.

Now, these hearings are more recently being well attended by communities, or at least they are in my county, and I know they are, from the remarks that I have heard, in several of the other counties. However, there are as many as 40 pages of figures involving, in my county, as much as half a million dollars. And in one evening, where we spent from 7:00 until 12:00 o'clock, we only went over it, and nobody got a chance really to learn very much about it and certainly not to get any input into it.

Now, we have two bills coming before this body shortly. One is in the other body now, Representative Henley's bill, which would reform county government. In that bill is a provision for a committee which would work with the county commissioners or, at least in his case, work with the county administrator, I guess you might call him, in working up the budget in the first analysis, so that the input from the towns and cities would be in the budget, or at least they would have a chance to put it in at the beginning.

There is also a redraft of a bill that will be coming up here very shortly, which is an outgrowth of the various home rule bills that were presented before County Government. That also has a committee of seven members, five of which are from the cities and towns.

Now, in our County of York we have had problems, I know, for several years with the budget. We had them this year and they had them two years ago. This particular bill is a bill to have a review board for that county only. Now, if either of the other two bills are passed, then this will not be necessary, but I would like to see this bill kept alive, at least until we can find out what the results may be of Representative Henley's bill or Representative Dyar's bill, both of which have similar provisions on a statewide basis. Thank you.

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

Mr. DANTON: Mr. President, I oppose that motion. I realize that York County perhaps has problems with their county budget, but every county has their problems. Now, what are we going to do with this review board?

Here is what we are actually creating. There are 21 legislators here from throughout York County, and there are three county commissioners, so that makes it 31. Now we are asking for 28 more people to sit down and try to get together on the county budget. I don't have to tell any of you Senators here that it is difficult to try to get your delegation together to discuss the county budget, and this would only compound the problem.

I think we should kill this bill, and I so move, Mr. President, the indefinite postponement of this bill. Let's allow the other legislation to come forward. And I request a division. Thank you very much.

The PRESIDENT: The Senator from York, Senator Danton, now moves that Bill, "An Act Providing for a County Budget Review Board for York County", be indefinitely postponed, and he has asked for a division. Is the Senate ready for the question?

As many Senators as are in favor of the motion of the Senator from York, Senator Danton, that this bill be indefinitely postponed will please rise and remain standing until counted. All those opposed will please rise and remain standing until counted.

A division was had. 12 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion did not prevail.

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

#### Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act Establishing Educational Requirements for Real Estate Brokers." (H. P. 839) (L. D. 1113)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COX of Penobscot  
MARCOTTE of York

Representatives:

TRASK of Milo  
DONAGHY of Lubec  
HAMBLÉN of Gorham  
JACKSON of Yarmouth  
CLARK of Freeport  
DESHAIES of Westbrook  
TIERNEY of Durham

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

Signed:

Senator:

KATZ of Kennebec

Representatives:

BOUDREAU of Portland  
O'BRIEN of Portland  
MADDUX of Vinalhaven

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

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

### Divided Report

The Majority of the Committee on State Government on, Resolution, Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors. (H. P. 467) (L. D. 615)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington  
CLIFFORD

of Androscoggin

Representatives:

COONEY of Sabattus  
STILLINGS of Berwick  
GAHAGAN of Caribou  
FARNHAM of Hampden  
SILVERMAN of Calais  
NAJARIAN of Portland

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

Signed:

Senator:

SPEERS of Kennebec

Representatives:

CROMMETT

of Millinocket

BUSTIN of Augusta

CURTIS of Orono

GOODWIN of Bath

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

Which reports were Read.

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

Mr. SPEERS: Mr. President and Members of the Senate: I think that we are all very well aware of the various proposals that have been made in the past to change the method by which the constitutional officers of the State of Maine are chosen. We are all very well aware that they are now presently chosen by election in the joint convention of the legislature.

This particular bill has to do with the constitutional office of Attorney General, and there have been a number of proposals made regarding how the Attorney General should be selected. Two of the most prominent proposals are: to have him elected by the electors of the State of Maine, the people of the State of Maine, or to have him appointed by the Governor.

I would certainly vigorously oppose the idea or the theory that the Attorney General should be appointed by the Governor of the State. There are numerous arguments in favor of that, to the effect that the Attorney General should be the Governor's lawyer. My basic feeling on that is simply that the Attorney General is not the Governor's lawyer; he is the attorney for the people of the State. There have been, there may be in the future — and I am not speaking of any one particular Governor or any one particular Attorney General — but there certainly are instances when the interest of the Attorney General in interpreting the laws of the State for the people of the State may very well be in conflict with the opinion of the Governor's Office as to any one particular issue.

If the method for choosing the Attorney General is to change, I would very much be in favor of having that changed toward having him elected by the people of the State, rather than having him



appointed by the Governor of the State. As I mentioned, he is the attorney for all of the people. Just as the Governor is elected by the people to execute the laws, the Attorney General should be elected by the people to enforce the laws. I, therefore, move acceptance of the Minority Ought to Pass Report on this bill.

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

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I am opposed to the motion of the good Senator from Kennebec, Senator Speers, for the election of the Attorney General.

It was the feeling of the majority of the State Government Committee that only the policymakers, the Legislators and the Governor, should be elected by the people statewide. The Attorney General does not fall into that category; he is a member of the Executive. And if the Attorney General were to be elected, I think you could follow that theory through to the Secretary of State, the Treasurer, and perhaps other offices.

I think if we look at other states, particularly the Commonwealth of Massachusetts, where those officers are elected, we find that within the Executive there is nothing but conflict between those elected officials. The Attorney General's Office has become in the Commonwealth of Massachusetts nothing but a springboard to run for the office of Governor.

I think that what we need are two things: I think we need harmony within the Executive Department. And this certainly would not create harmony because what we would have, in many instances, is a Governor elected of one political party and an Attorney General of another political party who would have ambitions to become Governor, and I think law enforcement in the end would suffer.

I also think it would tend to weaken the legislature to have an

Attorney General elected by the people at large. I think our thrust and one of the main thrusts of this legislature has been the strengthening of the legislature through various types of reform. And I think for the legislature to cope with two, as opposed to one, members of the Executive elected at large would put the legislature at a disadvantage.

I think probably the most important thing, Mr. President and Members of the Senate, is that law enforcement should not become, in my opinion, mixed up with this political game, which it inevitably would should this constitutional amendment pass.

I think there are other proposals, I, myself would favor the appointment of the Attorney General by the Governor. But I think that I would prefer the present method, the appointment by the legislature, to this method, which is election statewide. Therefore, I would oppose the motion of the Senator from Kennebec, Senator Speers, and hope that you would accept the Majority Ought Not to Pass Report of the Committee.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Some sixty years ago we stopped the practice of electing U. S. Senators by the legislature. I think that constitutional change was undertaken to make government more responsive to the people, and I think it made some sense. I think it was a very good reform; I think it is good to have some elected officials.

Presently, as I understand it, the principal qualifications for Attorney General are two: One, you have got to be a lawyer. Second, you have to have been a member of the legislature. That seems to be the way it has been historically. I don't think that makes any sense whatsoever. I personally feel that someone who is running for Attorney General should have been someone that has had some experience either in prosecution or experience in the trial of criminal cases, either in defense or prosecu-

tion. I think just because you are a legislator, that gives you no real qualifications to be Attorney General.

Personally, I think I could support the concept of the Governor appointing them, but I think this is a step in the right direction. I think our present situation is terrible, as far as I can see. And frankly, I am not afraid to think of the Attorney General wandering through the state seeking votes. I think while he is out campaigning he may get some feel for what the people want, as far as setting a tone for law enforcement. I think this is a real good democratic measure — I guess it is a big "D" — so I would strongly urge you to support the remarks and the motion of the good Senator from Kennebec, Senator Speers, and accept the Minority Ought to Pass Report.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would simply like to second the remarks of the Senator from Cumberland, Senator Brennan, and would further ask for a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I wholeheartedly support the motion to accept this report. I think this is a far-reaching and forward step that the legislature can take.

For many years we have been bandying back and forth what we should do about improving our law enforcement process, and we are starting right exactly at the foundation stone, which is the statewide person responsible for law enforcement.

The objections which have been raised this morning, I feel, can very easily be answered in the bill. These are the ones particularly raised by the good Senator from Androscoggin, Senator Clifford. If we make the election of the Attorney General in the off-year so that he is not running on the same ticket with the Governor, this would presumably at the expiration

of his office give him two years of oblivion, which we politicians understand very well can well end a person's political aspirations.

Quite to the contrary of Senator Clifford's statements about the State of Massachusetts, we have had some real good Attorneys General elected in Massachusetts, and one I would call to your attention is the present Senator from Massachusetts, Senator Brooke, who was an outstanding Attorney General.

We have seen in the past measures along this line debated on party politics, and I very happy today to see it receive the support of many of the statesmen in the Democratic Party. I would only correct the good Senator from Cumberland, Senator Brennan, in that the letter that starts democratic is small "d" and not big "D", as far as this bill is concerned. I hope you would support the motion of Senator Speers.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that the Senate accept the Minority Ought to Pass Report of the Committee on Resolution, Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors. 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 now 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 Minority Ought to Pass Report of the Committee on Resolution, Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors. A "Yes" vote will be in favor of accepting the Minority Ought to Pass Report; a "No" vote will be opposed.

The Secretary will call the roll.

**ROLL CALL**

**YEAS:** Senators Aldrich, Anderson, Berry, Brennan, Conley, Cox, Cummings, Cyr, Danton, Greeley, Hichens, Huber, Joly, Katz, Kelley, Marcotte, Morrell, Peabody, Richardson, Roberts, Schulten, Sewall, Shute, Speers, MacLeod.

**NAYS:** Senators Cianchette, Clifford, Fortier, Graffam, Minikowsky, Olfene, Tanous, Wyman.

A roll call was had. 25 Senators having voted in the affirmative, and eight Senators having voted in the negative, the Minority Ought to Pass Report of the Committee was Accepted in non-concurrence, the Resolution Read Once and Tomorrow Assigned for Second Reading.

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**Senate  
Leave to Withdraw -  
Covered by Other  
Legislation**

Mr. Clifford for the Committee on State Government on, Bill, "An Act Relating to Regional Planning." (S. P. 291) (L. D. 838)

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

Which report was Read and Accepted.

Sent down for concurrence.

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**Ought to Pass -  
As Amended**

Mr. Greeley for the Committee on Transportation on, Bill, "An Act Relating to Snow Removal on State Highways in Built-up Sections of Certain Municipalities." (S. P. 295) (L. D. 842)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-164)

Mr. Cianchette for the Committee on Transportation on, Bill, "An Act Relating to Winter Maintenance of State Aid Highways and Town Ways by Municipalities." (S. P. 119) (L. D. 264)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-119)

Mr. Morrell from the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Institute a Priority Program Budget System." (S. P. 592) (L. D. 1869)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-167)

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

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**Ought to Pass  
in New Draft**

Mr. Cyr for the Committee on Public Utilities on, Bill, "An Act Relating to Public Utilities Commission Rate Regulation for Carriers of Freight." (S. P. 378) (L. D. 1104)

Reported that the same Ought to Pass in New Draft under same Title. (S. P. 634) (L. D. 1965)

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

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**Divided Report**

The Majority of the Committee on State Government on, Bill, "An Act to Reorganize the Departments of Health and Welfare and Mental Health and Corrections." Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-166)

Signed:

Sensors:

**SPEERS** of Kennebec  
**CLIFFORD**

of Androscoggin

Representatives:

**BUSTIN** of Augusta  
**GOODWIN** of Bath  
**NAJARIAN** of Portland  
**FARNHAM** of Hampden  
**COONEY** of Sabattus  
**CROMMETT**

of Millinocket

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:

**CURTIS** of Orono  
**STILLINGS** of Berwick  
**SILVERMAN** of Calais

Which reports were Read.

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

Mr. SPEERS: Mr. President and Members of the Senate: I noticed the good Senator from Kennebec, Senator Katz, jumping to his feet and I, probably correctly, suspect that he is going to ask for some explanation of this particular bill. I am only too happy to provide it.

This is, you probably all have suspected, another one of the reorganization bills that have come before the Committee on State Government. And very basically, what it does is combine the Department of Health and Welfare and the Department of Mental Health and Corrections. My first reaction upon looking at this bill probably is the same as the first reaction of everyone upon looking at this bill that we are combining two mammoth departments in state government into an even larger department, and can this make sense? Well, I mentioned that that way my first reaction and, upon looking at this bill and thinking about it even more seriously over a number of months, I gradually came to realize, came to believe, that this particular bill probably makes more sense. Mr. President, makes more sense than any other reorganization bill that has been presented to the legislature in either this or the last session of the legislature.

Now, we have put together departments such as Parks and Recreation and Forestry into a new Department of Conservation. These two departments as they presently exist, Forestry and Parks and Recreation, of course, deal with similar aspects; they both deal with the out-of-doors. But really, in the present instance, there is very little overlay and very little duplication of services that are being provided by those two departments. Yet we have put those together for the purpose of administration, more efficient and effective administration.

We have before us in this particular bill, combining the Departments of Health and Welfare and Mental Health and Corrections, not only a combination for the purposes of administration, hopefully to get more efficient

administration of both of those two departments, but we have a very real opportunity which is quite rare in state government, to eliminate duplication, to eliminate inefficiency in the providing of human services to the people of this state.

There are any number of instances at the present time where services are being duplicated by the Departments of Health and Welfare and Mental Health and Corrections. There are a great number of instances where an individual municipality may be able to make an application for a grant to the Department of Health and Welfare and can make an application for a grant to the Department of Mental Health and Corrections for the same purposes, and they can be granted two grants for the same purposes. This money is generally coming down through from the federal government, the state government is putting some of the money into both of the departments, and under two grants, instead of one, that money is going into a particular municipality for the same purpose. I feel that if we combine these two departments, we can get a far better handle on the actual programs that are being administered by both of them.

I don't feel that size per se should be shied away from. Size is not the problem. The problem is in getting a handle on the administration of the various programs that are being administered. It is not the size that creates the problem in getting a handle on them; it is the proliferation and the diversity of the existing programs that is the great problem. If we put these two departments together and reorganize it, the new department, to the point where we are providing services on a straight line basis, then I feel that we will go a far way towards gaining a handle on the proliferation of social services that are now in existence. I feel that far from placing these services and this department even further away from the legislative control and from the control of the people, we will be going a far way

towards bringing it closer to our control, bringing it closer to the understanding of the people of this state, and creating an efficient administration of these programs.

You will notice that there is a committee amendment attached to the bill, and this committee amendment is to direct the commissioner of the new department to report to the next legislature as to his further recommendations as to what has been accomplished in the reorganization in the department up to that present time, and report further recommendations for further reorganization under that department that may need to be done by statutory change. Mr. President, I move the acceptance of the Ought to Pass as Amended Report, the Majority Report of the Committee.

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: I thank the Senator from Kennebec, Senator Speers, for accurately determining the purpose of my rising before, and I certainly shall not oppose the motion he just made. But I would like to share with the Senate a traumatic experience I had while sitting in the Committee on Business Legislation a few weeks ago.

There were three bills, heard one after another, and the bills involved three different departments of state government. Again and again in the course of hearing the three bills, people got up to tell us that these three bills would avoid duplication, streamline state government, save money and only increase the personnel in the three departments by two and a half spaces. In other words, all this efficiency, all this removal of duplication, is going to expand state government.

In the last session of the legislature, we passed what I think were some good governmental reorganization measures and I

suspect this may very well be a good governmental reorganization measure, but I think it is high time that the legislature request a specific report from the proper people in state government indicating to us what is the nature of the efficiencies within their department which have been accomplished through the government reorganization we enacted last time, what has been the impact on the level of employment of people, what has been the impact on the reduction or increase in the cost of their expenses as a result of our government reorganization.

We did some exciting things last session but I, for one, don't have any notion at all, after all the merchandizing was done, all the beautiful implications of saving and increased efficiency were accomplished, of actually what has been done in those areas. I would urge the Chairman of the Committee on State Government, through his committee, to give some thought to bringing before this body a request for a specific report on those questions that I raised.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would thank the good Senator from Kennebec, Senator Katz, and simply assure him that the members of this body that the Committee on State Government has given considerable thought to just his request and, hopefully, this will be the kind of thing that all of the joint standing committees can be looking into and can concern themselves with should the legislative reform package go through and create the continuing existence of the joint standing committees.

I would like to point out to the members of this body that the reorganization that has been effected was done in the last session, this is true, but it was done in the special session of the 105th, and it has only been a little over a year since the reorganization actually took place. Something of this magnitude in State Government is

something that is a continuing process. You can't have state government existing in one format one day and in another format another day. It takes a little bit of time for it to be shaken out, to work it down, to find out where the problems lie, where the bugs are, and try and iron them out.

I certainly don't wish to indicate that we have no interest in finding out how this is working; we have an extreme interest in finding out how this is working; we have an extreme interest in finding out how reorganization is working and has been working, but I would like to perhaps beg for a little patience on the part of the members of the body in that we are not going to be able to delineate specifically in an immediate fashion how this is presently working.

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

Mr. HICHENS: I would ask for a division on the motion.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: This bill was defeated at the last session of the legislature, and I think that we have to look at it very carefully and determine what has changed since then.

It is always unfortunate that we have to deal in personalities when we talk about government reorganization, but I suppose that is one of the practical facts of political life. I am certainly going to support this bill today. I would hope before we enact the bill, however, that some of our questions will be answered and assurances given.

It has been quite evident from the several investigations and inquiries made into the Department of Health and Welfare that it has suffered from a lack of business administration, and I have looked in vain in the present legislation for any assurance that some semblance of efficiency and organization is going to be brought to the Department by the passage of this legislation. I think this is

the cornerstone to the whole problem here.

We are going to compound the problem, of course, by increasing the immensity of the department. And if we have had problems in the several departments before, we are certainly going to at least multiply them by two when we come to this new gigantic department as has been mentioned.

The amendment does what Senator Katz wants to do, and it will have the new commissioner come back and tell the State Government Committee, after it has all been accomplished, why it is more efficient than it was before. It is rather interesting that he won't tell us that it isn't as efficient as it was before.

I think these are real practical points that I am bringing up; they are not done in any spirit of levity at all. I am going to oppose the legislation in the ultimate enactment state unless we are assured that we are going to get a more effective Department resulting from this legislation. I think we have got to face the fact that this is why it didn't pass the last time. I think we have got to face the same facts again this time, and I am sure we will.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Kennebec, Senator Speers, that the Senate accept the Majority Ought to Pass as Amended Report of the Committee on Bill, "An Act to Reorganize the Departments of Health and Welfare and Mental Health and Corrections." A division has been requested. As many Senators as are in favor of the motion to accept the Majority Ought to Pass Report will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 26 Senators having voted in the affirmative, and three Senators having voted in the negative, 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.

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

Mr. KATZ: Mr. President and Members of the Senate: I notice that the next item on our calendar, Item 6-18, is the public power issue. I just wanted to recall to the Senate's attention the fact that when we debated this last time the Senate did not cover itself with any glory, in my book. It is a touchy issue that we are going to be facing here today, and I hope in the heat of debate that the Senate remembers that we are all men of good faith, and no one in debate impugns the motives or integrity of any member of this body.

#### Divided Report

The Majority of the Committee on Public Utilities on, Bill, "An Act Creating the Power Authority of Maine." (S. P. 550) (L. D. 1760)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-168)

Signed:

Sensors:

CUMMINGS of Penobscot  
CYR of Aroostook

Representatives:

LITTLEFIELD

of Hermon

CONLEY of So. Portland

GENEST of Waterville

KELLEHER of Bangor

MURRAY of Bangor

MULKERN of Portland

CHICK of Sanford

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

Signed:

Sensor:

ANDERSON of Hancock

Representatives:

TRASK of Milo

MADDOX of Vinalhaven

Which reports were Read.

On motion by Mrs. Cummings of Penobscot, 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:

#### House

Bill, "An Act Raising the Age of Persons Who May Purchase Alcoholic Beverages or Sell as Licensees." (H. P. 799) (L. D. 1069)

(On motion by Mr. Tanous of Penobscot Tabled until later in Today's session, pending passage to be Engrossed.)

Bill, "An Act to Amend the Municipal Official Conflict of Interest Law." (H. P. 620) (L. D. 818)

Bill, "An Act Relating to Student Rates for Ferry Service for North Haven, Vinalhaven, Islesboro, Swan's Island and Long Island Plantation." (H. P. 1520) (L. D. 1950)

Bill, "An Act Relating to Discontinuance of Town Ways." (H. P. 1522) (L. D. 1952)

Bill, "An Act to Clarify the Industrialized Housing Act as it Relates to Mobile Homes." (H. P. 1521) (L. D. 1951)

Bill, "An Act Relating to Location of Certain Facilities in Public Ways." (H. P. 1524) (L. D. 1954)

Bill, "An Act Providing that Public Utility Construction Contracts be Awarded by Competitive Bidding." (H. P. 1525) (L. D. 1955)

(On motion by Mrs. Cummings of Penobscot, temporarily set aside.)

Bill, "An Act Relating to Schools Teaching Real Estate Subjects." (H. P. 1517) (L. D. 1944)

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

The President laid before the Senate the matter temporarily set aside at the request of Mrs. Cummings of Penobscot:

Bill, "An Act Providing that Public Utility Construction Contracts be Awarded by Competitive Bidding". (H. P. 1525) (L. D. 1955)

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

Senate Amendment "A". Filing No. S-172, was Read and Adopted and the Bill, as Amended, Passed

to be Engrossed in non-concurrence.

Sent down for concurrence.

#### House - As Amended

Bill, "An Act to Create a Maine Agricultural Bargaining Board". (H. P. 1511) (L. D. 1941)

Which was Read a Second Time.

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

Bill, "An Act to Amend the Snowmobile Laws". (H. P. 787) (L. D. 1039)

Which was Read a Second Time.

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

Bill, "An Act Relating to the Registration of Farm Motor Trucks having 2 or 3 Axles". (H. P. 950) (L. D. 1247)

Which was Read a Second Time.

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

Bill, "An Act Relating to Mirrors on Certain Vehicles." (H. P. 1071) (L. D. 1396)

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

#### Senate

Bill, "An Act Appropriating Funds for Medical Care Development, Incorporated." (S. P. 468) (L. D. 1496)

Bill, "An Act Relating to Liability for Physical Harm to Users, Consumers or Bystanders from Defective Goods or Products." (S. P. 631) (L. D. 1963)

Bill, "An Act to Revise the Laws Relating to the Practice of Optometry." (S. P. 632) (L. D. 1964)

Bill, "An Act to Authorize Issuance of Warrants for Administrative Searches." (S. P. 344) (L. D. 1043)

(On motion by Mr. Minkowsky of Androscoggin, 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.

Sent down for concurrence.

#### Senate - As Amended

Bill, "An Act Relating to Books for Recording in Office of Register of Deeds." (S. P. 63) (L. D. 166)

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

Sent down for concurrence.

#### Enactors

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

An Act Relating to the Public Employees Labor Relations Board. (S. P. 520) (L. D. 1651)

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

An Act Relating to the Appointment of Active Retired Judges of the District Court. (H. P. 566) (L. D. 745)

An Act Relating to Minimum Wages. (H. P. 706) (L. D. 911)

(On motion by Mr. Wyman of Washington, Tabled and Tomorrow Assigned, pending Enactment.)

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

An Act Relating to Duration of Teachers' Contracts. (H. P. 834) (L. D. 1093) (On motion by Mr. Berry of Cumberland, tabled pending Enactment.)

An Act Relating to Reports of Bureau of Labor and Industry. (H. P. 1156) (L. D. 1489)

An Act Relating to Valuation of Shares of Joint Owners of Property and to the Disposition of Joint Property on Death of a Joint Owner. (H. P. 1277) (L. D. 1664)

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

An Act to Authorize the Investment by Savings Banks in Real Estate for Purposes of Historic Preservation. (H. P. 1408) (L. D. 1848)

An Act to Make the Maine Human Rights Act Substantially



Equivalent to Federal Statutes. (H. P. 1506) (L. D. 1937)

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.

### **Emergency**

An Act Relating to Deposit of State Funds. (H. P. 1503) (L. D. 1932)

This being an emergency measure and having received the affirmative votes of 29 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

### **Bond Issue**

An Act to Authorize the Creation of the Maine Inland Fisheries and Game Acquisition Fund and the Issuance of Not Exceeding \$4,000,000 for the Financing Thereof. (H. P. 288) (L. D. 362)

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

### **Constitutional Amendment**

RESOLUTION, Proposing an Amendment to the Constitution Providing for Early Inauguration of the Governor. (H. P. 1001) (L. D. 1326)

Comes from the House, Fails of Final Passage.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would just like to point out the fact that this not only provides for the early inauguration of the Governor, but also for the early convening of the legislature, and that the whole idea of this particular Constitutional Amendment is to begin the legislative process early in December, to recess for a number of weeks for Christmas and New Years, and then come back in again very shortly after New Years, at the beginning of January, having already gone through our organization of the legislature, inauguration

of the Governor, election of the constitutional officers and, hopefully, ready to do some hard work early in January. I would move the final passage of this Constitutional Amendment.

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

Mr. BRENNAN: Mr. President and Members of the Senate: In the last few days I have had an opportunity to talk to some people that are rather close to this situation, that have had some experience in this field, and what I can glean from that conversation, in essence, is that whoever is elected Governor next time would be better off spending the month of December some place away from the Capitol where he can take some time giving some serious consideration as to what appointments he is going to make and, secondly, take the time that he will need to go over the preparation of his budget. If this were to pass, chances are he would be downstairs and he would be pretty much involved in a lot of ceremonial activities. So the people that I have talked to, that are fairly close to it and have some experience, seem to feel that it would not be a good thing. On that basis, I would move we recede and concur.

The PRESIDENT: The Chair would inform the Senator the motion is out of order. It failed of final passage in the House. I assume the Senator means he would urge everyone to vote against final passage.

Mr. BRENNAN: I would so urge the Senate to vote against final passage.

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

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

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

An Act Relating to Venue of Personal and Transitory Actions Involving the Residents of Bruns-

wick and Harpswell. (H. P. 1169) (L. D. 1508)

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

Pending — Enactment.

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

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

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

Tabled — May 23, 1973 by Senator Sewall of Penobscot.

Pending — Enactment.

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

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

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

Tabled — May 24, 1973 by Senator Brennan of Cumberland.

Pending — Consideration.

(In the Senate May 22, 1973, Passed to be Engrossed as amended by Committee Amendment "A" (S-104).

(In the House May 23, 1973, the Majority Ought Not to Pass report Accepted, in non-concurrence.)

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

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

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

Tabled — May 24, 1973 by Senator Danton of York.

Pending — Passage to be Engrossed.

Committee Amendment "A" (H-416)

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

Mr. BRENNAN: Mr. President and Members of the Senate: An amendment is presently being pre-

pared in the Legislative Research Office, so I hope someone would table it.

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

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

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

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

Tabled — May 24, 1973 by Senator Tanous of Penobscot.

Pending — Passage to be Engrossed.

Committee Amendment "A" (H-318)

Mr. Tanous of Penobscot then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-159, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

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

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

Tabled — May 24, 1973 by Senator Shute of Franklin.

Pending — Enactment.

On motion by Mr. Shute of Franklin, retabled and Specially Assigned for May 30, 1973, pending Enactment.

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

Bill, "An Act Raising the Age of Persons Who May Purchase Alcoholic Beverages or Sell as Licensees." (H. P. 799) (L. D. 1069)

Pending - Passage to be Engrossed.

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

On motion by Mr. Berry of Cumberland, the Senate voted to take from the table the sixth tabled and unassigned matter:

Bill, "An Act Regulating the Interception of Wire and Oral Communications."

Tabled — May 24, 1973 by Senator Berry of Cumberland.

Pending — Adoption of Senate Amendment "A" (S-161).

Mr. Katz of Kennebec was then granted Leave to Withdraw Senate Amendment "A".

The same Senator then presented Senate Amendment "B" and moved its adoption.

Senate Amendment "B". Filing No. S-171, was Read.

The PRESIDENT: The Senator has the floor.

Mr. KATZ: Mr. President and Members of the Senate: This accomplishes exactly what Senate

Amendment "A" did yesterday, but in the intervening time we rewrote it to include an exception. The exception is for the telephone company in the normal procedures of its every day business. So what this amendment does is outlaw bugging and wiretapping, period.

The PRESIDENT: Is the Senate ready for the question?

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

Sent down for concurrence.

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The Adjournment Order having been returned from the House, Read and Passed in concurrence, on motion by Mr. Sewall of Penobscot, adjourned until Tuesday, May 29, 1973, at ten o'clock in the morning.