

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

1st Special Session

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

1974

Kennebec Journal
Augusta, Maine

SENATE

Tuesday, February 26, 1974

Called to order by the President.

Prayer by the Rev. Paul Pare of Augusta:

Let us pray. We come before you, Holy Spirit of God, conscious of our weakness and frailties. Come and abide with us, penetrate our hearts and guide our every action. Indicate the path we should take, show us what we must do, so that with your help our work may be in all things pleasing to you and beneficial to the people we serve. Let not ignorance induce us to evil, let not flattery sway us, let not personal cares dominate our attention, let not material interests corrupt us. May you be our only inspiration and the overseer of our intentions. Unite our hearts to you alone and do it strongly so that with the gift of your grace we may be one in you and may in nothing depart from the truth, through Christ our Lord. Amen.

Reading of the Journal of yesterday.

Communications

State of Maine
House of Representatives
Augusta, Maine 04330

February 25, 1974

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

Dear Mr. Secretary:

Today the House voted to adhere to its action on S. P. 711, L. D. 2123, AN ACT to Require District Attorneys to Prosecute all Criminal Cases before the District Courts.

Respectfully,
E. LOUISE LINCOLN, Clerk
House of Representatives

Which was Read and Ordered Placed on File.

**Committee Reports
House**

The following Ought Not to Pass reports shall be placed in the legislative

files without further action pursuant to Rule 17-A of the Joint Rules:

Resolve, Providing Retirement Benefits for Seraphine Stevens of Pleasant Point. (H. P. 1837) (L. D. 2328)

Bill, "An Act Authorizing Director of Public Improvements to Convey Land of the Department of Mental Health and Corrections." (H. P. 1931) (L. D. 2469)

Leave to Withdraw

The Committee on Transportation on, Bill, "An Act to Standardize Letter Size and Color of Motor Vehicle License Plates." (H. P. 1913) (L. D. 2449)

Reported that the same be granted Leave to Withdraw.

The Committee on State Government on, Bill, "An Act to Eliminate Unnecessary Qualifications for Administrative Positions." (H. P. 1912) (L. D. 2448)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

Refer to 107th Legislature

The Committee on Veterans and Retirement on, Bill, "An Act Relating to Disability Retirement and to Benefits for Survivors of Disability Retired Employees under the State Retirement System." (H. P. 1792) (L. D. 2270)

Reported that the same be referred to the 107th Legislature.

The Committee on Labor on, Bill, "An Act to Create the Interstate Compact for Workmen's Compensation." (H. P. 1770) (L. D. 2242)

Reported that the same be referred to the 107th Legislature.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

Ought to Pass

The Committee on Legal Affairs on, Resolve, to Reimburse A. D. Soucy Co., of Fort Kent for Redemption of Cigarette Stamps. (H. P. 1922) (L. D. 2460)

Reported that the same Ought to Pass.

The Committee on Legal Affairs on, Resolve, to Reimburse Reid's Confectionery Company of Houlton for

Redemption of Cigarette Stamps. (H. P. 1923) (L. D. 2461)

Reported that the same Ought to Pass.

The Committee on Legal Affairs on, Resolve, Designating a Certain Man-made Lake in Berwick as "Lake Hatfield." (H. P. 1924) (L. D. 2457)

Reported that the same Ought to Pass.

The Committee on Legal Affairs on, Resolve, Reimbursing the Town of Wade for Welfare Expenditures in Behalf of a Nonsettled State Case. (H. P. 1932) (L. D. 2465)

Reported that the same Ought to Pass.

Come from the House, the Resolves Passed to be Engrossed.

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

Ought to Pass - As Amended

The Committee on State Government on, Bill, "An Act to Provide Financial Assistance to Nonprofit Nursing Homes." (H. P. 1766) (L. D. 2234)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-701).

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

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

Ought to Pass in New Draft

The Committee on Natural Resources on, Bill, "An Act to Establish a State Register of Critical Areas." (H. P. 1817) (L. D. 2311)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Establishing a State Register of Critical Areas" (H. P. 1977) (L. D. 2518).

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.

Senate

Leave to Withdraw

Mr. Clifford for the Committee on State Government on, Bill, "An Act to Create the Bureau of Telecommunications within the Department of Finance and Administration." (S. P. 875) (L. D. 2438)

Reported that the same be granted Leave to Withdraw.

Which report was Read and Accepted. Sent down for concurrence.

Ought to Pass-As Amended

Mr. Clifford for the Committee on State Government on, Bill, "An Act Amending the Responsibility of the State Planning Office." (S. P. 856) (L. D. 2425)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-362).

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

Ought to Pass in New Draft

Mr. Shute for the Committee on Election Laws, Bill, "An Act to Clarify Certain Election Laws." (S. P. 729) (L. D. 2141)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 914) (L. D. 2526)

Mr. Wyman for the Committee on State Government on, Bill, "An Act to Transfer the Chief Medical Examiner to the Department of Public Safety." (S. P. 839) (L. D. 2380)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Transfer the Chief Medical Examiner to the Department of the Attorney General" (S. P. 917) (L. D. 2529)

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

Divided Report

The Majority of the Committee on Public Utilities on, Bill, "An Act Providing for State Supervision of the Construction and Safety of Dams and Reservoirs." (S. P. 745) (L. D. 2157)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Relating to Dams and Reservoirs" (S. P. 916) (L. D. 2527)

Signed:

Senators:

CUMMINGS of Penobscot
CYR of Aroostook

Representatives:

TRASK of Milo
GENEST of Waterville
MURRAY of Bangor
MADDOX of Vinalhaven
SOULAS of Bangor
MULKERN of Portland
LITTLEFIELD of Hermon
CONLEY of So. Portland

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

Signed:

Senator:

ANDERSON of Hancock

Representatives:

KELLEHER of Bangor
CHICK of Sanford

Which reports were Read.

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

Mrs. CUMMINGS: Mr. President, I move we accept the Majority Report and would speak briefly.

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

The Senator has the floor.

Mrs. CUMMINGS: Gentlemen, I regret that in the many redrafts we had on this bill the first paragraph of the statement of fact remains in this third and finally approved redraft. We are not interested in the 1,100 dams that are in Maine and I think that actually the title, as it has come out, the first page, the chapter "Abandoned Dams", if you will take the trouble to read which, if you don't, I would be glad to tell you, but actually that is all this does.

Apparently there are several dams in the state that are in disrepair and they cannot find who the owners are. Now, COLA, which stands for Congress of Lake Association Owners, has pressed us to try to find some method, some legal channel, that could be used by the owners of shore property affected by the maintenance of these dams which would give them permission to get the

ownership of these dams and keep them in repair so that it would protect their shore frontage. At the moment, there is no way for any group to take over abandoned dams.

This doesn't only apply to private landowners but also applies to municipalities. As I understand it, there is one municipality, perhaps another, that also is in the position of feeling that their water supply, in one instance, and in other instances some of their taxpayers, that their property is endangered by not having these dams kept in repair.

So at this particular moment all this bill does, after having gone through many different phases, is allow a group of people, a quasi-minicpality—that gives an over-long legalese, the jargon that covers everybody who might gather together, or even be an individual—to petition, in this particular instance it was the Soil and Water Conservation Commission because they have spent the most time and interest in dams — this group could petition the Soil and Water Conservation Commission and they, in turn, would then advertise and do everything in their power to find the owner of the dam. If the owner is not discovered, does not come forth and claim ownership of this dam, then the steps are set up in this bill to allow interested parties to take over the ownership and the responsibility.

The state never assumes any financial responsibility for these dams, so that we are not putting anything on the books which would eventually come to mean that we would have to pay for the repair of the these dams. On the other hand, we are also not assuming any responsibility for dams that are owned and not in repair. There are several of those, and this is not going to be our responsibility.

Once again, the Congress of Lake Association Owners seems to be the most active and well organized group of people like this. They assure me that there are not more than six, and probably there would not be more than three, groups that would come to the state within the next year asking for permission to take over a dam. In other words, only probably this few number would make use of this document. So I

don't see that we will be asked in the future for the Soil and Water Conservation Commission to come to us and say that they have been overburdened because they will not, as I understand it now, and we can keep a close eye on it. There are not that many abandoned dams that affect enough people who can at this point perhaps get together and make use of this particular bill.

Now, the second half of the bill — and I must say I have referred to it as the "Dam Bill" many times because it has been around so long and I have worked on it so hard — so the second half of this Dam Bill is on Page 3 and has to do with the Department of Civil Defense getting into the act. This was brought to my attention early on this session by Mr. Wilson's Department, who contacted Mr. Boothby, and because of the floods in December, he found that citizens, when their cellars were flooding or that their property was in imminent danger, the first person they thought of to call was the Civil Defense. Well, they actually in some instances did not have the know-how or the background, or any of the things that they needed in order to make quick and knowledgeable decisions. So at their request, we have put in — I must say we have emasculated it quite a bit, but nevertheless there still is in here in the second half of this, starting on Page 3, the ability for the Civil Defense Department to take over in an emergency so that when citizens call and say that their property is in danger the Civil Defense would not have to go through Soil and Water. In other words, it is just supposed to clarify the routes that would be used in order to meet an emergency.

I don't think it is a very powerful bill. We have taken out many of the things that I think would have given perhaps over-responsibility to the Civil Defense Department. This bill will be back before you, and I am available if anybody would like to speak to me about it later. Thank you.

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

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

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act Relating to Making Certain Boards and Commissions Advisory." (S. P. 874) (L. D. 2437)

Reported that the same be referred to the 107th Legislature.

Signed:

Senators:

SPEERS of Kennebec

CLIFFORD of Androscoggin

Representatives:

STILLINGS of Berwick

COONEY of Sabattus

FARNHAM of Hampden

CROMMETT of Millinocket

NAJARIAN of Portland

GOODWIN of Bath

CURTIS of Orono

GAHAGAN of Caribou

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

Signed:

Representatives:

SILVERMAN of Calais

BUSTIN of Augusta

Which reports were Read and the Majority Report Accepted that the Bill be Referred to the 107th Legislature.

Sent down for concurrence.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act Establishing the Office of Energy Resources." (S. P. 832) (L. D. 2875)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-361).

Signed:

Senators:

SPEERS of Kennebec

WYMAN of Washington

CLIFFORD of Androscoggin

Representatives:

CROMMETT of Millinocket

CURTIS of Orono

STILLINGS of Berwick

GAHAGAN of Caribou

GOODWIN of Bath
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 Not to Pass.

Signed:

Representatives:

BUSTIN of Augusta
COONEY of Sabattus

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

Second Readers

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

House - As Amended

Bill, "An Act Relating to Fees Administered by the Department of Environmental Protection." (H. P. 1862) (L. D. 2356)

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

Bill, "An Act to Correct an Error in the Effective Date of the Law Exempting "Trade-in" Property from the Stock in Trade Tax." (H. P. 1718) (L. D. 2111)

Which was Read a Second Time.

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

Senate Amendment "A", Filing No. S-363, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

Enactors

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

An Act to Repeal Certain Due Process of Law Provisions by Governmental Agencies. (S. P. 717) (L. D. 2129)

An Act to Prevent Physical Handicap Discrimination under Human Rights Act. (H. P. 1665) (L. D. 2058)

An Act Relating to the Expunging of Certain Records of Arrest. (H. P. 1957) (L. D. 2492)

An Act to Amend the Charter of Augusta Sanitary District. (H. P. 1967) (L. D. 2506)

Which 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 Increasing Indebtedness of Stonington Water Company. (H. P. 1910) (L. D. 2446)

An Act Increasing Borrowing Capacity of School Administrative Districts No. 25 and 42. (H. P. 1974) (L. D. 2515)

These being emergency measures and having received the affirmative votes of 28 members of the Senate, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Orders of the Day

On motion by Mr. Sewall of Penobscot, Senate in recess, pending the sound of the bell.

After Recess

Called to order by the President.

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

Bill, "An Act to Regulate Procedures for Obtaining Short-term Permits for Motor Trucks." (H. P. 1970) (L. D. 2510)

Tabled — February 21, 1974 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

Mr. Cianchette of Somerset then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-364, was Read.

The PRESIDENT: The Senator has the floor.

Mr. CIANCHETTE: Mr. President and Members of the Senate: Under the sharp eyes of the Majority Floor Leader, the original bill underwent a little quick scrutiny and he saw some language in that particular bill that maybe could be misunderstood. I believe, on his suggestion, some of the wording was changed. There really isn't any change other than added to the amendment was

"The appointment of such agents to sell these short-term permits shall be limited to either municipal tax collectors or town or city managers." That kind of pins down who the Secretary of State may appoint as agents. Actually the bill has not been really changed.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The motion prevailed.

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

Sent down for concurrence.

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

Bill, "An Act to Establish Better Interlocal Cooperation in Preparedness for Civil Disasters and Emergencies." (S. P. 828) (L. D. 2362)

Tabled—February 21, 1974 by Senator Speers of Kennebec.

Pending—Adoption of Committee Amendment "A" (S-355)

On motion by Mr. Speers of Kennebec, retabled and specially assigned for February 28, 1974, pending Adoption of Committee Amendment "A".

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

Bill, "An Act to Correct Errors and Inconsistencies in the Education Laws." (S. P. 895) (L. D. 2488)

Tabled—February 21, 1974 by Senator Berry of Cumberland.

Pending—Consideration.

(In Senate—Passed to be Engrossed.)

(In House—Passed to be Engrossed as amended by House Amendment "A" (H-682) in non-concurrence.)

On motion by Mr. Katz of Kennebec, retabled and specially assigned for February 28, 1974, pending Further Consideration.

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

Bill, "An Act Relating to School Buses." (S. P. 722) (L. D. 2134)

Tabled—February 21, 1974 by Senator Berry of Cumberland.

Pending—Passage to be Engrossed.

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

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

HOUSE REPORTS — from the Committee on Health and Institutional Services—Bill, "An Act Relating to Price Information on Prescription Drugs and Permitting Advertising of Prescription Drug Prices." (H. P. 1793) (L. D. 2271) Majority Report Ought Not to Pass; Minority Report Ought to Pass in New Draft. (H. P. 1964) (L. D. 2503)

Tabled—February 25, 1974 by Senator Brennan of Cumberland.

Pending—Acceptance of Either Report.

Mr. Hichens of York then moved that the Senate 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: I would rise in opposition to that motion and when the vote is taken I would ask for a roll call.

Now, what this bill does is that it would permit the advertising of prescription drug prices. It is something that was debated at some length during the regular session. It is merely enabling legislation. No pharmacist or druggist would be compelled to advertise.

It is rather strange that right now they do advertise their pharmacies; they say "Come to Mill Creek Pharmacy and get your prescriptions", but they don't advertise the price. This regulation of the Board of Pharmacies that prohibits advertising is sheer economic protection, to the disadvantage of the consumers of the State of Maine.

I would like to read about some of the discrepancies that exist in this state in regard to prices. This is based on something that was done by the Attorney General's office, so it should be reasonably objective when it is put forth by me because I don't have the best relationship with that office. I would like to read a letter. It says:

"State of Maine, Department of the Attorney General, Augusta, Maine, August 29, 1973. Mrs. Jozef Tara, Sebago Lake Road, RFD 2, Gorham, Maine.

"Dear Annie: As indicated to you during our telephone conversation yesterday, this office called twelve pharmacies in this area to obtain information concerning the price of thirty capsules of polycillin, 250 milligrams. This survey included one chain store. The prices quoted to us over the phone were as follows: Four pharmacies charged \$7.50. Each of the other pharmacies quoted prices as follows: \$7.60, \$12.00, \$6.25, \$6.60, \$8.40, \$4.75, \$8.70, and \$8.00. This survey was taken on March 26th, 1973.

"I would appreciate any information which you may obtain as a result of your research and investigation into the prices charged for prescription drugs.

"Very truly yours, Rae Ann French, Assistant Attorney General, Consumer Fraud Division."

Now, that survey indicates a variance of \$4.75 to \$12.00, and that is pretty substantial. In this state we have many elderly people and we have many people who require long-term maintenance drugs. Really there have been no good arguments put forward to maintain or retain this regulation, except economic protection for a special interest. And I am not against the druggists; I used to have many friends that were druggists.

At the hearing there was some discrepancy in the testimony as to the positions that both sides took. Now, a year or so ago we hired legislative staff—I am not talking about the staff that goes along with the leadership that are the so-called partisan staff; this is legislative staff, and this is a summary of discrepancies that was written by Mr. Robert Clark, the objective staff:

"1. Testimony - that no states presently permit prescription drug price advertising.

Fact - half of the states permit advertising. (Source: Anti-Trust Division of the Justice Department)

"2. Testimony - that F.D.A. opposed prescription drug price advertising.

Fact - F.D.A. has no position. It regulates such advertising where it is

permitted. (Source: F.D.A.)"—and there is a separate memo here that I would make available.

"3. Testimony—that Federal Trade Commission opposed prescription drug price advertising.

Fact - Federal Trade Commission strongly favors such advertising and is against the economic protection for the special interests. (Source: Federal Trade Commission)

"4. Testimony - the National Council of Churches study showed a correlation between drug advertising and drug abuse.

Fact - no such study was ever done or is contemplated by the National Council of Churches. (Source: the National Council of Churches)"—and there is a separate memo available for that.

"5. Testimony - that Federal Government was preparing new guidelines for the posting of prescription drugs.

Fact - no such guidelines exist or are contemplated."

Again, this prescription drug advertising is sheer economic protection. I think today we have a chance to act again in the public interest. As we know, government is held in very low esteem. The President is held in low esteem, the Congress is held in even lower esteem, and as I go around the state I find that we are not held in such high esteem. I think some of the reasons are that we really don't protect the public interest. I think on this bill we have a chance to do something for the public interest, so I would urge you to vote against the motion of the good Senator from York, Senator Hichens. Again, I ask for a roll call when the vote is taken.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: I am not going to get up and argue against the good Senator from Cumberland. This was debated very thoroughly during the regular session. The bill and a companion bill were defeated, and then a study order was passed and turned over to the Legislative Council to give

the study to some committee during the interim. For some reason the Legislative Council did not feel the study was that necessary, apparently, because it was never assigned; it was put on the table. Then suddenly both the same sponsors presented bills to the Reference of Bills Committee for the special session and they are back before us again. There was no study whatsoever.

We did not come up with any new information during the hearing, to my knowledge, and so I feel we should come out with an ought not to pass report; that if the Legislative Council feels it is that important then they can give it to a committee to study, and we can come back to the 107th Legislature and deal with it properly. So I would reaffirm my motion to have the Ought Not to Pass Report accepted.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I cannot reiterate too strongly the sentiments expressed by Senator Hichens of York that we did hold a very, very comprehensive hearing on this particular bill, and I believe everything pro and con had been really screened and analyzed closely.

We had people, or I should say an old-time country doctor, I think, was one person there who took issue with the allegations made that each physician in the State of Maine or throughout the United States got a kickback of about \$5,000 each session from the big drug manufacturers. He disputed this, and justifiably so, and said the only thing he ever got was sample drugs, and he was really concerned about the wellbeing of his patients, primarily the senior citizens and the indigent. He realized these were the best quality drugs he could get, they were not generic brands, they had been truly tested and were not made in somebody's workshop, and he felt that this type of approach was wrong.

The consensus of opinion among some of the members of the Committee was that when we are approaching this matter we are approaching it from the wrong viewpoint. We are approaching it

from the viewpoint of hampering the retailer, that is, the druggist in the State of Maine. The real culprit behind the entire item is not the druggist in the State of Maine but the pharmaceutical firms that manufacture these drugs either by brand name or by generic brands.

I would like to read a few excerpts into the record of some of the testimony that was projected to us, and you can form your own conclusions from what I mention here.

There was reference made that now the Federal Government says it is illegal for people to advertise, that is, the large cigarette manufacturers, on television or radio and in the newspaper about the fact that cigarettes can be hazardous to your health. Yet this type of legislation here would advertise the price of drugs, the various brands on the market, and possibly could change the course of action insofar as drug abuses in the State of Maine.

The second item that was brought up was that it doesn't make sense to, on one hand, put prescription drugs under the control of the Bureau of Narcotics and Dangerous Drugs, to virtually take methadone off the market, to take extreme measures to control and curb amphetamines and methamphetamines, and then to create a carnival atmosphere in the advertising and promotion of these dangerous prescription drugs in the same breath as Ex-Lax and Geritol.

Another point that was stressed is that there are many generic manufacturers producing low-priced drugs today at a savings of 50% or better over nationally advertised brands of the ethical drug companies. Still, how many of us want to purchase from this generic manufacturer, not knowing his background or reliability? The very same condition could occur in retail pharmacy advertising of prescription prices if that is permitted. Do we want the people of Maine to get their prescriptions filled in a garage?

Another point that was stressed was — and I am not talking about the large druggist in the State of Maine; I am talking about the independent pharmacist in your own home towns — that eventually, with his fixed operating

expenses — and the cost of hiring a pharmacist today, like any other professional man, is quite high — that eventually you are going to drive these people right out of business. Then you will rely upon the Federal Government to dispense drugs, very definitely, and these people who are having problems at the present time will have to drive several miles and wait several hours to get their prescriptions filled at a federal agency dispensing drugs.

I think really we are not looking at this too logically. You are infringing upon a very ethical and a very old profession here in the State of Maine, and not from a good ethical point of view.

Another point that was expressed, Mr. President and Members of the Senate, was a reference to the 150 selected drugs that we have advertised or are projected to be advertised. The selection of 150 prescription drugs for posting is arbitrary, irrational and a dangerous practice. What of the thousands of "unposted" prescription drugs, and there are several thousand other unposted prescription drugs? If the posting of those 150 actual cases cause the prices to be reduced, the economics would cause the eventual increase of the unposted drugs. How about the consumer whose medication did not make the list? Are we leaving him to the mercy of some unscrupulous pharmacist?

I think really, if any of us really have any faith, trust and confidence in the free enterprise system in America today, or in this state, we better analyze this very, very closely before we start hampering these people and causing them to have severe hardships. On the 150 drugs that they spoke about, nobody has brought into the picture here today the fact that this represents a cost of maybe \$200 or \$300 for them to post one of these large signs in their pharmacy. And these prices will fluctuate and change maybe every six months or a year, depending upon which are the most popular 150 drug items, and I don't believe, from the findings of our legislative assistant, that the Federal Government really has sanctioned this particular move. And if the Federal Government has not really felt that this is a proper way of doing things, I don't

think that we in the State of Maine should be leading them by posting this type of format before the public in the state.

I think the concluding thing that impressed me a great deal was that since one must make a profit to stay in business, the costs of advertising would eventually drive the prescription prices up, especially on those items that are not advertised.

Now, there have been several other articles that have come out in newspapers, and really I just wonder sometimes if people have really researched this thing properly. An article that recently appeared on my desk from a member of the Committee that appeared in the Kennebec Journal — I don't know exactly when — referred to twelve different pharmacies that fill identical prescriptions in ten different ways in Augusta. But they were really not talking of a prescription per se; they were talking really of common iron tablets, which is a patent medicine. Yet they had fluctuations of several hundred percent between what the doctor would prescribe and what could be purchased under a patent medicine title. I don't think this type of advertising by the KJ, for example, is really in the best interests of the people of this area or the people of the State of Maine.

I really sincerely hope that the Senate accepts the Majority Ought Not to Pass Report on this particular bill. We are all concerned with the well being of our senior citizens in the State of Maine, especially since I have quite a few hundred in my particular area, and we are very concerned about the indigent and the low income people, but this, gentlemen, is not the right vehicle to use at the present time. We are hampering and injuring the wrong party. The parties that should be brought to task in this particular matter are the generic manufacturers and many of the brand names, but they are playing politics on the federal level, and so I don't think we should be leading the State of Maine by injuring the pharmaceutical profession in this area.

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

Mr. SPEERS: Mr. President and Members of the Senate: In listening to my very good friend, Senator Minkowsky of Androscoggin, I am somewhat confused. I think many of the points that he was making were rather irrelevant to the particular bill before us. It seems to me a number of the points that were made had to do with a bill that is not before us at the present time, and that is allowing the substitution of other pharmaceutical concoctions for the generic name of a particular drug. That is not the bill that is before us here today.

The bill that is here before us today, it seems to me, is a simple statement of policy which would allow pharmacists to advertise the prices that they are charging for specific drugs, and they could use brand names for those particular drugs. If they want to say 100 tablets of XYZ Aspirin, they could advertise that amount they are going to charge for that particular drug.

It seems to me if we are talking about free enterprise and free and open competition, as far as our capitalistic system is concerned, that this goes to the very basis of that. It seems to me that the very foundation of free enterprise is that you can have that kind of competition, that you can advertise to the people that you are going to offer them a particular service or a particular product at a particular price. If you can offer that at a lower price than someone else, or if you desire to offer it at a lower price than someone else, then it seems to me that that is what our free enterprise system is all about.

I think that this item would help bring down the prices and help people in a very great need. I am not only talking of low income or those on welfare or the elderly; I am talking about every segment of society. I am talking about all of us here in this Senate as well. It offers us the opportunity to find out where we can purchase certain products at the lowest price available to us. I certainly would urge the Senate to reject the motion of the good Senator from York, Senator Hichens, and go along with passage of this bill.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Very briefly, I think the good Senator from Kennebec, Senator Speers, covered a lot of things I would have covered, but there was a remark in reference to some \$300 for a sign in regard to posting. That is absolute nonsense. You may be talking about a few pennies. If you look at the bill, it says, "Copies of the list in a form suitable for display with type sufficiently large to be easily readable when on display and with appropriate space left for a price for each drug listed shall be sent to each licensed pharmacy in the state annually upon publication." We are talking about a dollar; not three or four hundred dollars. That same argument was presented to the committee but it really makes no sense whatsoever.

And again, this is merely enabling legislation. No druggist that has any ethical problem with advertising has to advertise. He is not required to advertise one bit in the paper, on radio or the TV. He would be required to post. Again, it is just a situation do we want to continue the economic protection for a special interest group or are we going to be concerned with the public interest.

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

Mr. CONLEY: Mr. President and Members of the Senate: My thinking concurs very much with the good Senator from Portland, Senator Brennan, and also the good Senator from Kennebec, Senator Katz. The point raised in this debate that is sort of surprising to me is that when we are talking about drugs, I think we are talking about primarily about prescription drugs, and I can't for the love of me understand how drug pushers or drug users are going to all of a sudden increase. It is my understanding that most of these people sort of get their drugs by breaking into a pharmacy and picking them up when there is no one else around.

It just makes clear logic to me to be able to have pharmacists advertise drugs so that people can find out just what they are paying for things and make it more easy for people.

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

Mr. HICHENS: Mr. President and Members of the Senate: I previously stated that I wasn't going to get into the aspects of the bill but I feel that some of the arguments that have been made make it compulsory that I do so. Nothing has been said much about the competition which will arise between druggists, and it was brought out in the hearing that some of the smaller druggists are going to get forced out of business because their larger competitors can afford advertising and, because of their overhead, these small places can't. I would read from a paper that was printed and has been circulated:

"In the name of consumerism, prescription drugs could go to the mail order route—large companies advertising to build up additional volume to the detriment of the home-town druggist who can't go this route because of fixed overhead.

"A town which now has three drug stores could conceivably be reduced to a one drug store town. Local competition would be eliminated, which wouldn't be good. There would be two less businesses to pay taxes and employ people. The service that the people now get from their druggists could well suffer and when it came down to pure dollars and cents, the saving they thought they were getting from the discount drug stores would be very little.

"This newspaper has been published weekly for more than a century without price advertising of prescription drugs, and if a law is passed permitting it, we still don't look for any of our drug stores to use their advertising space for that kind of merchandise.

"On the other hand, if price advertising is permitted and we would lose a business or two because of it, the whole community would feel the loss."

The Senator from Cumberland, Senator Conley, said something about the drug addicts would break in and get drugs but, on the other hand, if they were freely advertised it would be brought to their attention as to the drugs which would be available.

Stores can now post their prices. There

is one large discount store in York County which has a billboard with all of their prices listed. People can go in and check them. But in case of a serious illness, I don't think people are going to start scrounging around to find a newspaper to find where they can get the cheapest prices. Their health comes first, regardless of the cost. I think that is the thing that we have got to consider this morning.

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

Mr. KATZ: Mr. President and Members of the Senate: It is very difficult to restrain myself when we start talking about the retail business. I have a small town store in competition with a giant that has at least twenty stores, and we both advertise. Since the giant opened up across the street from me we have prospered. We have prospered through advertising.

In the retail business, no one has mentioned this, there is more than price involved; there is service involved. And the well run business can advertise and prosper in the face of giant competition. As a matter of fact, I find it interesting to see how many small companies in the United States knock the stuffing out of RCA, the giant, because they can do some things better and faster because they are a small business.

I really do not share the feeling of jeopardy for the future of small drug stores in the State of Maine that has been expressed here today, I really don't. I think that in a very real respect what we are talking about is free competition in the marketplace. I do feel that drug prices are too high, and this Maine Legislature can do precious little to affect what happens with the big drug companies. But one thing that we can do is to put competition at the local level which will work its way up and eventually have some impact through dealer concerns with the giant somewhere up at the top.

This isn't a bad bill. It is a very clear and honest bill, and it is not going to put anybody out of business. And I think it will result in a gradual lowering of prescription prices. It will not reduce the efficiency of the drug business. It will not be a challenge to the professionalism of

the druggist, although presently he may feel it. I really do not feel that the bill is as controversial as debate has led us to believe today.

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

Mr. HENLEY: Mr. President and Members of the Senate: I would like to speak briefly on this in agreement with my good friend, the Senator from York, Senator Hichens. I opposed this bill in the other body and I still oppose it, but I do not oppose advertising as such. What I feel is that the accomplishment of lowering of drug prices on prescription drugs is already being done, and I can very well vouch for that.

Monday morning, yesterday morning, I went to a druggist in my area, I presented him with a prescription, and I said, "Now I want 400 of these tablets. I can get them under AARP for \$29.00. What can you supply them for?" He said, "\$28", so I got the 400 tablets. I say that we have bargaining right now with our druggists. All we have to do is ask. We can do the same thing as we can do with my very good friend from Kennebec, Senator Katz, if we want to go to him and say well they are charging such and such for an item across the street; do I buy it there or do you give me the same price. He has every right to give me the same price, and that is bargaining.

Now, I realize that on the use of standard items that people purchase across the face of this land we have got into tremendous area of advertising and it is a very important part of our commerce. But I, like a few others, set aside a few areas where we through customs and practice have more or less kept professionalism, especially where it deals with human life and ailments and illness, out of the field of public advertising where inferior items could very well be camouflaged and posted in advertising prices at a very attractive figure. The average individual who uses drugs doesn't know what it is all about anyway. We don't know the name of one drug from another and so on. So that almost any kind of a drug, inferior, untested or otherwise, except some that might have to pass inspection, could be passed off on us.

We do not allow doctors to advertise their prices. I believe it is unethical for attorneys to put ads in the paper and say I will take your case for two dollars less than the guy across the street. So what are we doing if we encourage prescription drugs advertising price-wise? Are we opening the door to all kinds of professional advertising of our doctors and so on, our nurses that will treat us for less money than someone else?

This bill was defeated soundly in the last regular session, and I feel that it has no place in this emergency session. I know we have wasted a lot of time on it already, but I hope that it is killed now and wait for another regular session and let them take it up again and possibly justify it.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I really think what I was trying to do, in reference to Senator Speers' reply to my relevancy on this particular item, was to show the correlation between the generic advertising of drugs and the brand names and the possible hazards involved in reference to it because when we took this up in committee they were two separate items, and I think the idea behind it was to merge them together to give you a clear understanding of how a generic drug could be manufactured in somebody's backyard or garage versus a brand name. That was my only intent and purpose of bringing out this particular item at that particular point.

Insofar as the nonsense is concerned with Senator Brennan's viewpoint on the large advertising display in the drugstore, I only projected a figure that I had heard at the committee hearing of anywheres from two to three hundred dollars, so I have no verification of that, but also nonsense I think extended beyond to the point where this letter from the Attorney General's office, in checking around the Augusta area or through other areas in the State of Maine as far as discrepancy in prices are concerned, I would like to see the verification of this entire accusation beyond the point of just saying X number of drugs are \$4.75. I would like to make a

comparison whether generic brands or how many different brands are involved and the type of drugstore that they purchased this from.

We are all concerned, very honestly and very ethically concerned, with the price of drugs but again, even from a business viewpoint as projected by Senator Katz, who is in a tangible item like his competitor and he can buy from a different manufacturer and maybe use it as a loss leader, but drugs are not an item you can use as a loss leader; you are dealing with somebody's health and their welfare, and these are specifically designed by the physician to take care of the ailment the person actually has. We are not talking of something you can put on your shelf and look at and adore it. We are talking about a person's wellbeing and their future and their health, and I think this is of supreme importance compared to the statement made by Senator Katz from a retail point of view.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from York, Senator Hichens, that the Senate accept the Majority Ought Not to Pass Report of the Committee in non-concurrence on Bill, "An Act Relating to Price Information on Prescription Drugs and Permitting Advertising of Prescription Drug Prices."

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

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from York, Senator Hichens, that the Senate accept the Majority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to Price Information on Prescription Drugs and Permitting Advertising of Prescription Drug Prices". A "Yes" vote will be in favor of accepting the Majority Ought Not to Pass Report of the Committee; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, Cianchette, Clifford, Cox, Fortier, Graffam, Greeley, Haskell, Henley, Hichens, Huber, Marcotte, Minkowsky, Morrell, Olfene, Shute, Tanous, Wyman.

NAYS: Senators Anderson, Brennan, Conlev, Cummings, Cyr, Danton, Katz, Kelley, Roberts, Sewall, Speers MacLeod.

ABSENT: Senators Joly, Richardson, Schulten.

Mr. Katz of Kennebec was granted leave of the Senate to change his vote from "Nay" to "Yea".

A roll call was had. 19 Senators having voted in the affirmative, and 11 Senators having voted in the negative, with three Senators being absent, the Majority Ought Not to Pass Report of the Committee was Accepted.

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

Mr. HICHENS: Mr. President and Members of the Senate: I now move that we reconsider our action and hope that you vote against my motion.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that the Senate reconsider its action whereby the Senate accepted the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: I would oppose that. There is a possibility that maybe something can be done in reference to this bill as far as amending it to make it more tolerable or palatable to more members of this Senate. So I would hope that someone would table this motion pending reconsideration.

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

Mr. KATZ of Kennebec then moved that the Bill be tabled and Tomorrow Assigned, pending Reconsideration.

On motion by Mr. Hichens of York, a division was had. 13 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion did not prevail.

The PRESIDENT: The Chair

recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: Before we dispose of this bill, I would like to clarify in my mind some of what I consider to be a completely misleading debate, some of the implications that were made here today.

It seems to me that the debate has been confused by bringing visions of small drug stores going out of business all over the state, and I really don't see the relationship between businesses folding up because of the passage of this legislation. We have had visions of prescription drugs being manufactured in somebody's cellar. And of all the non-relevant images that have been conjured, I just don't understand the relationship between the proposal that we are going to jeopardize people's health by passage of this bill.

As I see this bill — and I certainly would wish that somebody would straighten me out because I am confident that it is an important vote — as I see this bill, it is a question of somebody walking into a drug store with a doctor's prescription written in his hand to present to a pharmacist who will then fill the doctors prescription, and that is all I see. I don't see any nefarious substituting of inferior products. And it is a fact that when somebody walks into a drugstore with a prescription in his hand he is deeply concerned about his health and he is in an emotional state of mind, and he is in no mood to start interrogating the clerk as to whether or not he can buy it more advantageously in any other way. I think that it is a good deal like somebody who is going to get a funeral, and the cost of funerals certainly is a little high. It seems to me that this legislation will take this person who walks up to the counter and give him at least some information that he can use to minimize the cost of his purchase, and the pity of it is that very frequently it is a repetitive purchase and a substantial sum of money.

I just feel deeply down inside that much of the information that has been given to us through the mail and through the debate this morning is an awful lot more smoke than substance. I would ask as you reconsider that you

consider the fact that we are talking about one bill that does one thing, and its implications are not nearly as broad as have been presented.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from York, Senator Hichens, that the Senate reconsider its action whereby the Majority Ought Not to Pass Report of the Committee was accepted. The Chair will order a division. As many Senators as are in favor of the motion to reconsider will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 11 Senators having voted in the affirmative, and nine Senators having voted in the negative, the motion did not prevail.

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

Bill, "An Act Providing Emergency Funds for Staffing a Fuel Allocation Office Within the Bureau of Civil Defense for the Fiscal Year Ending June 30, 1974." (S. P. 834) (L. D. 2366)

Tabled—February 20, 1974 by Senator Berry of Cumberland.

Pending—Motion by the same Senator to reconsider action whereby Bill Failed of Enactment.

Thereupon, a viva voce vote being taken, the motion to Reconsider prevailed.

This being an emergency measure and having received the affirmative votes of 23 members of the Senate, with seven Senators voting in the negative, and 23 being more than two-thirds of the entire elected membership 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.

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

Mr. BERRY: Mr. President, I move reconsideration and hope my motion fails.

The PRESIDENT: The Senator from Cumberland, Senator Berry, now moves that the Senate reconsider its action

whereby this bill was passed to be enacted. As many Senators as are in favor of reconsideration will please say "Yes"; those opposed "No",

A viva voce vote being taken, the

motion did not prevail.

On motion by Mr. Sewall of Penobscot,
Adjourned until 10 o'clock tomorrow

morning.