

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, March 25, 1975

Senate called to order by the President.

Prayer by Rev. Wesley Woodman of Warren:

Let us turn out hearts and thoughts to Him who governs over all of us.

Dear Heavenly Father, we remember the words of the apostle Paul when he warned us that sometimes the intelligence of men is foolishness in Thy sight. We pray, O Father, that none of us may be so vain in our thinking that we presume to be the greatest authority that there is. We would pray that each man and woman here might remember never to put their education or their intelligence before their humility. We pray that every man and woman here might never put their sense of wealth before their sense of compassion. We pray, O Lord, that no man or woman here might ever put their position of authority before their sense of forgiveness. May no man or woman come here this morning with any hatred in their hearts. May they remember that before they come here they must forgive if they are to be forgiven. We pray that no man or woman here may place first their important contacts before the down to earth contacts with the needy of this state. We pray, O Lord, that no man or woman here will put their personal desire before the greatest desire of all mankind, and that is love for each other.

Have mercy we pray upon them, O God, according to Thy loving kindness. Create in them a clean heart, O God, and renew a right spirit within them. Cast them not away from Thy presence and take not Thy Holy Spirit from them. Amen.

Reading of the Journal of yesterday.

The PRESIDENT: The Chair is pleased this morning to appoint as President pro tem the Senator from Penobscot, Senator Curtis, and would ask the Sergeant-at-Arms to escort Senator Curtis to the rostrum where he may preside.

Thereupon, the Sergeant-at-Arms escorted Mr. Curtis of Penobscot to the rostrum where he assumed the duties of President pro tem, and the President retired from the Senate Chambers.

Papers from the House
Non-concurrent Matter

Bill "An Act Relating to Dog Licenses and Dog License Fees." (S. P. 337) (L. D. 1125)

In the Senate March 19, 1975, referred to the Committee on Legal Affairs and Ordered Printed.

Comes from the House, referred to the Committee on Agriculture and Ordered Printed, in non-concurrence.

Thereupon the Senate voted to Recede and Concur.

Joint Order
STATE OF MAINE

In The Year Of Our Lord One Thousand Nine Hundred And Seventy-five.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of

LOUIS GAGNON
SECOND PLACE TITLEHOLDER IN
THE UNLIMITED CLASS
STATE WRESTLING TOURNAMENT
FOR THE ACADEMIC YEAR 1975

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and

acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 1111)

Comes from the House, Read and Passed. Which was Read and Passed in concurrence.

Joint Order
STATE OF MAINE

In The Year Of Our Lord One Thousand Nine Hundred And Seventy-five.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of
THE FRYEBURG ACADEMY RAIDERS
WESTERN CLASS "C" RUNNER-UP
BASKETBALL CHAMPIONS
FOR THE ACADEMIC YEAR 1975

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 1112)

Comes from the House, Read and Passed

Which was Read and Passed in concurrence.

Joint Order
STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-five.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of the Fryeburg Academy Ski Team Maine Prep School Champions for the Academic Year 1975

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 1113)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

House Papers

Bills today received from the House requiring Reference to Committees were acted upon in concurrence, except for the following:

Bill, "An Act Placing Nonprofit Hospital of Medical Service Organizations under the Maine Insurance Code." (H. P. 902) (L. D. 1159)

Comes from the House referred to the Committee on Business Legislation and Ordered Printed.

On motion by Mr. Thomas of Kennebec, referred to the Committee on Taxation and Ordered Printed in non-concurrence.

Sent down for concurrence.

Senate Papers

Appropriations and Financial Affairs

Mr. Cyr of Aroostook presented, Bill, "An Act to Provide Reimbursement to Municipalities for Labor Costs of General Assistance Recipients Employed by the Municipalities." (S. P. 394)

The same Senator presented, Bill, "An Act to Provide for Reimbursement of General Assistance Costs for Nonresidents of Municipalities." (S. P. 395)

Which were referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

Business Legislation

Mr. Katz of Kennebec presented, Bill, "An Act Relating to Student Loans under the Maine Consumer Credit Code." (S. P. 403)

Mr. Reeves of Kennebec presented, Bill, "An Act Concerning the Fee for a First-time Real Estate Broker's License." (S. P. 404)

Which were referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Natural Resources

Mr. Reeves of Kennebec presented, Bill, "An Act to Clarify the Maine Mining Law to Reform Procedures for Handling of Licenses and Lease Negotiations and to Increase Income from Mineral Operations." (S. P. 405)

The Committee on Reference of Bills suggested that this Bill be referred to the Committee on Business Legislation and Ordered Printed.

On motion by Mr. Trotzky of Penobscot, referred to the Committee on Natural Resources and Ordered Printed.

Sent down for concurrence.

Election Laws

Mr. Curtis of Penobscot presented, Bill, "An Act Prohibiting Candidates and Their Immediate Families from Notarizing Absentee Ballots." (S. P. 399)

Which was referred to the Committee on Election Laws and Ordered Printed.

Sent down for concurrence.

Judiciary

Mr. Cyr of Aroostook presented, Bill, "An Act Relating to Car Purchases by Individuals Receiving General Assistance." (S. P. 396)

Mr. Collins of Knox presented, Bill, "An Act Insuring Due Process of Law to Consumers in the Foreclosure of Real Estate Mortgages and to Require Accounting for Surplus Therefrom." (S. P. 397)

Which were referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Legal Affairs

Mr. McNally of Hancock presented, Bill, "An Act Relating to Definition of Automobile Graveyard." (S. P. 401)

Which was referred to the Committee on Legal Affairs and Ordered Printed.

Sent down for concurrence.

Local and County Government

Mr. Carbonneau of Androscoggin (Cosponsor: Mr. Cyr of Aroostook) presented, Bill, "An Act Relating to County Home Rule Powers of the County Delegation" (S. P. 398)

Which was referred to the Committee on Local and County Government and Ordered Printed.

Sent down for concurrence.

Public Utilities

Mr. Cyr of Aroostook presented, Bill, "An Act Certifying Persons to Evaluate Private Sewage Disposal Systems." (S. P. 392)

Which was referred to the Committee on Public Utilities and Ordered Printed.

Sent down for concurrence.

Taxation

Mr. Reeves of Kennebec presented, Bill, "An Act to Provide a Maine Homestead Property Tax Credit." (S. P. 406)

Which was referred to the Committee on Taxation and Ordered Printed.

Sent down for concurrence.

Judiciary

Mr. Curtis of Penobscot presented, Bill, "An Act to Require the Profits Realized from the Seizure of Real Estate for Delinquent Taxes to be returned to the Owner of the Real Estate." (S. P. 400)

The Committee on Reference of Bills suggested that this Bill be referred to the Committee on Taxation and Ordered Printed.

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

Mr. WYMAN: Mr. President, inasmuch as Item 3-12, An Act to Require the Profits Realized from the Seizure of Real Estate for Delinquent Taxes to be Returned to the Owner of the Real Estate, is very closely allied with Senate Paper 397, An Act Insuring Due Process of Law to Consumers in the Foreclosure of Real Estate Mortgages and to Require Accounting for Surplus Therefrom, I move that this be referred to the Committee on Judiciary.

The PRESIDENT pro tem: Is it the pleasure of the Senate that this bill be referred to the Committee on Judiciary?

Thereupon the Bill was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

At this point President Sewall entered the chambers and resumed his position at the rostrum. The Sergeant-at-Arms then escorted Senator Curtis to his seat on the floor of the Senate, amid the applause of the Members of the Senate.

The PRESIDENT: The Chair is very pleased to have had the Senator from Penobscot, Senator Curtis, as President pro tem.

Committee Reports

House

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

Bill, "An Act to Lower the Age Requirement for Complimentary Hunting and Fishing Licenses to 65 Years." (H. P. 620) (L. D. 767)

Bill, "An Act to Permit the Advertising of Prescription Prices." (H. P. 149) (L. D. 168)

Bill, "An Act to Remove from the Personnel Law the Position of Director of the Bureau of Corrections." (H. P. 589) (L. D. 729)

Bill, "An Act Repealing the Mandatory Incorporation of Regional Planning Commissions." (H. P. 278) (L. D. 330)

Bill, "An Act to Promote the

Professional Standards of the Unclassified Service." (H. P. 408) (L. D. 497)

Bill, "An Act Increasing Salary of County Treasurer of Aroostook County." (H. P. 111) (L. D. 151)

Bill, "An Act to Provide for the At-Large Election of County Commissioners of Oxford County." (H. P. 190) (L. D. 229)

Bill, "An Act to Increase Salary of Clerk of Courts of Washington County." (H. P. 199) (L. D. 244)

Bill, "An Act to Increase the Salary of the Register of Probate for Washington County." (H. P. 319) (L. D. 392)

Bill, "An Act to Increase Salaries of County Officers for the County of Somerset." (H. P. 377) (L. D. 470)

Bill, "An Act to Increase the Salary of the Register of Probate of Cumberland County." (H. P. 501) (L. D. 617)

Bill, "An Act to Increase the Salary of Sheriff of Washington County." (H. P. 548) (L. D. 676)

Bill, "An Act to Increase the Salary of Sheriff of Washington County." (H. P. 548) (L. D. 676)

Bill, "An Act to Provide for County Commissioner Districts in Cumberland County and to Provide Four-Year Terms for Cumberland County Commissioners." (H. P. 552) (L. D. 680)

Bill, "An Act to Increase the Annual Salaries of Certain County Officials by 20%." (H. P. 784) (L. D. 955)

Bill, "An Act Appropriating Funds to Provide Elected District Attorneys and Assistant District Attorneys with Fringe Benefits." (H. P. 215) (L. D. 270)

Bill, "An Act to Provide Funds for an Additional Assistant District Attorney in Prosecutorial District 6." (H. P. 76) (L. D. 88)

Bill, "An Act to Provide Night Pay Differential for State Employees." (H. P. 485) (L. D. 604)

Leave to Withdraw

The Committee on Election Laws on, Bill, "An Act Providing for a Statutory Warning on Applications for Absentee Ballots." (H. P. 32) (L. D. 40)

Reported that the same be granted Leave to Withdraw.

The Committee on Fisheries and Wildlife on, Bill, "An Act to Commence the Ice Fishing Season on January 15th." (H. P. 797) (L. D. 970)

Reported that the same be granted Leave to Withdraw.

The Committee on Appropriations and Financial Affairs on, Resolve, Appropriating Funds for Little Brothers Association of Greater Portland, Inc. (H. P. 555) (L. D. 683)

Reported that the same be granted Leave to Withdraw.

The Committee on Appropriations and Financial Affairs on, Resolve, Providing Funds for the Lumberman's Museum in Patten, Maine. (H. P. 55) (L. D. 67)

Reported that the same be granted Leave to Withdraw.

The Committee on Business Legislation on, Bill, "An Act Concerning the Powers of the Bureau of Consumer Protection Concerning Fraudulent and Unconscionable Conduct and Unconscionable Agreements." (H. P. 611) (L. D. 754)

Reported that the same be granted Leave to Withdraw.

The Committee on Health and Institutional Services on, Bill, "An Act to Establish a Drug Formulary Commission and to Require the Use of Generic Names in Prescription for Certain Drugs." (H. P. 38) (L. D. 49)

Reported that the same be granted Leave to Withdraw.

The Committee on State Government on, Resolution, Proposing an Amendment to the Constitution to Abolish the Executive Council. (H. P. 34) (L. D. 45)

Resolution Proposing an Amendment to the Constitution to Abolish the Executive Council. (H. P. 48) (L. D. 60)

Resolution, Proposing an Amendment to the Constitution to Abolish the Executive Council and Reassign its Constitutional Powers. (H. P. 184) (L. D. 230)

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 108th Legislature

The Committee on State Government on, Bill, "An Act to Regulate the Removal of Historic and Culturally Significant Structures from within the Boundaries of the State of Maine." (H. P. 591) (L. D. 731)

Reported that the same be referred to the 108th Legislature.

Comes from the House, the report Read and Accepted and the Bill referred to the 108th Legislature.

Which report was Read.

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

Mr. CURTIS: Mr. President, I move that this bill and all accompanying papers be indefinitely postponed, and would speak briefly to my motion.

The PRESIDENT: The Senator has the floor.

Mr. CURTIS: Mr. President and Members of the Senate: The State Government Committee thought that there was some value in this particular bill. We thought the draft that was before us was not sufficient and would require a great deal more work than we wanted to put into it, and in trying to dispense with it, or dispose of it in a nice way, we referred it to the 108th Legislature. We have since been informed that that is not appropriate, under the new rules of the Legislature, so I therefore move indefinite postponement.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now moves that Item 6-27, L. D. 731, and all its accompanying papers be indefinitely postponed. Is this the pleasure of the Senate?

The motion prevailed.

Sent down for concurrence.

Ought to Pass - As Amended

The Committee on Marine Resources on, Bill, "An Act to Exempt Veterans from the Moratorium on Issuance of Lobster and Crab Fishing Licenses." (H. P. 604) (L. D. 747)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-99).

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.

Senate

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

Bill, "An Act Relating to Panel of Mediators." (S. P. 144) (L. D. 508)

Leave to Withdraw

Mr. Roberts for the Committee on Energy on, Bill, "An Act to Protect Tidal Resources as a Source of Power Generation." (S. P. 174) (L. D. 554)

Reported that the same be granted Leave to Withdraw.

Mr. Wyman for the Committee on Taxation on, Bill, "An Act to Exempt Electricity Used for Home Heating Purposes from the Sales Tax." (S. P. 151) (L. D. 514)

Reported that the same be granted Leave to Withdraw.

Which reports were Read and Accepted. Sent down for concurrence.

Ought to Pass - As Amended

Mr. Jackson for the Committee on Taxation on, Bill, "An Act to Repeal the Requirements that Assessors Conduct Annual Inventories of Births, Beekeepers and Dogs." (S. P. 87) (L. D. 258)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-37).

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

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act Exempting Solar or Wind Power Facilities From Sales Tax." (S. P. 56) (L. D. 125)

Reported that the same Ought Not to Pass.

Signed:

Senators:

MERRILL of Cumberland

Representatives:

DRIGOTAS of Auburn

DAM of Skowhegan

MULKERN of Portland

TWITCHELL of Norway

FINEMORE of Bridgewater

IMMONEN of West Paris

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under Same Title (S. P. 402) (L. D. 1171)

Signed:

Senators:

WYMAN of Washington

JACKSON of Cumberland

Representatives:

SUSI of Pittsfield

MORTON of Farmington

COX of Brewer

MAXWELL of Jay

Which reports were Read.

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

Mr. WYMAN: Mr. President and Members of the Senate: I move we accept the Minority Ought to Pass Report on this bill.

Obviously, this is a new project, trying to develop energy from wind power, and I question whether there is any price tag on it at all because I don't think this is done to any extent. I think in these times, when we are worrying so much about energy and have so many problems, I think we should encourage this new industry, hoping that it will develop and we will have some practical means to develop energy from wind power. When that time comes I think

it will be time enough to tax it, so I move acceptance of the Ought to Pass Report.

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

Mr. MERRILL: Mr. President and Members of the Senate: It is with some trepidation that I speak against the Chairman of the Taxation Committee on this matter, and I admit to not having strong feelings but I do want to explain why there is a split report.

It seemed to us that the idea of encouraging the use of wind and the sun to produce energy is certainly a good idea. However, whether or not it is a good idea in terms of tax policy, or in terms of actually producing the result that we intend, to use the taxing powers of the state to do that, I think, is another matter.

The problem with using a tax to encourage anything is, first of all, it often gets you away from equity in your tax system, which ought to be the first desire of a tax system. You will notice, if you will look right above on your calendar today, that we just had a "Leave to Withdraw" from the committee for a bill which would exempt the electricity that every citizen in Maine has to buy to use in their house. So if we accepted the minority report, and this went on to pass, we would have the situation where somebody could put a windmill on their roof, which would certainly not be the typical person, and probably it would be some person who had a second home and had it out in the country or something, or some hunting camp or something, and that person would get his electricity, in essence, without having paid a tax on it. And the person who buys electricity to come into his home, like most everybody who buys electricity to come into his home, like most everybody that votes for you, be they rich or poor, that person would end up having to pay a tax on his. I think that sort of violates equity in our tax system, and that ought to be the first goal of the taxing system. That is my first objection to using a tax for the purpose of encouraging a business.

The second problem that I have with using a tax in this way is that if we make an appropriation to encourage the use of solar energy in this state, if we have it go through the Taxation Committee and go through the whole process, every two years, at least, we take a look at that appropriation. Every two years we ask ourselves is this still something we want to encourage, and is this doing what we want to do in terms of encouraging this industry. If we pass a tax, you have no such protection. Taxes go on until they are stopped, and usually that means that they go on and on. The same can be said with exemptions, I am afraid. There is very little pressure on our committee to do away with exemptions.

So I think that philosophically I have these two objections to this, and there is one more technical objection. How are we going to be sure that we can do what we are trying to do with this bill? Now, if somebody goes out and buys a pre-made windmill, there is no problem I guess with exempting that windmill from the sales tax. What if somebody decides to build one for themselves? Or even more difficult, what if somebody decides to build some sort of solar heat producing device for himself and goes down to the store and buys a few hundred yards of copper tubing in order to solve that purpose, is there any way the state is going to be able to be sure whether that copper tubing is used for

that purpose? In fact, is what we are going to have to do just to allow tax exemptions for these pre-built devices, which is one more thing which will make this something that will be enjoyed more by the wealthy, more by the out-of-state people who just have summer homes here, and less by our own people who are trying to eke out an existence in poverty stricken rural Maine?

I think the intention of this bill is good. I think the result of it isn't necessarily so, and if anybody wants to encourage this sort thing, I suggest they put it in an appropriation and send it to the Appropriations Committee.

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

Mr. HUBER: Mr. President and Members of the Senate: First of all, I would like to point out that this bill does not deal solely with windmills. I would like to get away from the Don Quixote image of the bill.

I think our solar power is more reasonable and is not quite as far out as wind power. Unfortunately, wind doesn't have a great deal of energy in it. This is simply a measure to help an infant industry during its period of infancy. I think perhaps it could be amended, as it has been in several other states, to give this tax exemption for a finite period of five or ten years. This is one of the low or no cost measures that we can take to recognize the serious energy problem that we are going to recognize inevitably, and we are facing right now.

I think really, in our decrepit financial condition, this is one of the few actions that we can take to at least recognize our duty to act responsibly in the face of this inevitable and continuing energy problem that we are going to face. I agree with the motion to accept the Ought to Pass Report.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate: I think that this is a bill that is going to be recognized in many states as being an indication of the way Maine feels towards their energy problems and that we are willing to put our money where our mouths are. And it is not that much, as Senator Wyman said. The amount of money that we would be keeping from the state from the sales tax is really minute.

There are two new industries in Maine that are starting up to make windmills, and I assume that there are others I haven't heard of that will be promoting the sale of devices to create energy from the sun, and it would be my strong hope that this bill would pass.

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

Mr. BERRY: Mr. President and Members of the Senate: I could find it very easy to go along with this bill, as far as the Ought to Pass Report, but I think the bill has omitted one important phase of solar energy and wind energy, and that is in the area of research. I think the major amount of money that is spent in these areas is in research, and that once the research is done, as the bill indicates, it goes onto the market and it is a productive and profit-producing situation.

I would hope that someone would move to table this for one legislative day so that an amendment may be offered to include research and study in the bill.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Minority Ought to Pass Report of the Committee?

The motion prevailed.

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

Second Readers

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

Senate

Bill, "An Act to Remove Certain Provisions in the Motor Vehicle Statutes Concerning Unnecessary Tire and Brake Noises." (S. P. 100) (L. D. 378)

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

Sent down for concurrence.

Enactors

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

An Act Concerning Graves of Revolutionary War Veterans. (H. P. 64) (L. D. 76)

(On motion by Mr. Gahagan of Aroostook, placed on the Special Appropriations Table.)

An Act to Clarify the Short-Form Deeds Act. (H. P. 172) (L. D. 203)

An Act Providing Funds for a Fishway at Sherman Lake Outlet in Newcastle. (H. P. 221) (L. D. 277)

(On motion by Mr. Gahagan of Aroostook, placed on the Special Appropriations Table.)

An Act Relating to Guardianship of Incapacitated Adults in Need of Protective Services. (H. P. 256) (L. D. 304)

An Act to Repeal the Bounty on Bobcats. (H. P. 287) (L. D. 339)

An Act to Eliminate Certain Sales Taxes to Patients in Hospitals. (H. P. 378) (L. D. 471)

(On motion by Mr. Gahagan of Aroostook, placed on the Special Appropriations Table.)

An Act Making Supplemental Appropriations for Child Welfare Services. (H. P. 442) (L. D. 540)

(On motion by Mr. Gahagan of Aroostook, placed on the Special Appropriations Table.)

An Act to Repeal Provisions for Assistant Chief of the Division of Inspection for Sardines. (H. P. 486) (L. D. 605)

An Act Relating to Issuance of Motor Vehicle Registrations by Municipal Officials. (H. P. 834) (L. D. 961)

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

Resolve, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified Under the Maine Tree Growth Tax Law. (H. P. 436) (L. D. 538)

Which was Finally Passed and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergencies

An Act to Provide for Reciprocity in Permits and Fees Issued on Motor Vehicles for Hire under the Public Utilities Law. (S. P. 271) (L. D. 856)

An Act to Authorize the Plantation of Matinicus to Establish an Electric Power Generating Facility. (H. P. 414) (L. D. 501)

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution to Provide for a Four-year Term of Office for Sheriffs. (H. P. 42) (L. D. 54)

Comes from the House, having Failed of Final Passage.

The PRESIDENT: This resolution, having had its two several readings in the House, its two several readings in the Senate, having been passed to be engrossed, having been reported by the Committee on Engrossed Bills as truly and strictly engrossed, having been finally passed in the House and signed by the Speaker, is it now the pleasure of the Senate that this resolution be finally passed?

This is a constitutional amendment and requires the affirmative vote of two-thirds of those present for passage.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I would like to speak briefly to the issue before us. I note from the calendar that it failed of passage in the other body.

The PRESIDENT: The Chair would call to the Senator's attention that action in the other body is not germane to action in this body.

Mr. CURTIS: Thank you, Mr. President. I understood you had indicated that it had been passed in the other body.

The PRESIDENT: The Senator is correct.

Mr. CURTIS: Mr. President and Members of the Senate: To the particular issue, this is a bill — there were two of them actually which were very similar which were heard by the State Government Committee — and at the hearings, as you might expect, we heard from a number of sheriffs from Androscoggin, Knox, Hancock, Washington, Penobscot, Oxford and Piscataquis Counties, and their deputies, and a couple of things kind of struck me as being important about the situation that is involved here.

One is that some of these people run for re-election every two years unopposed. Therefore, there is a requirement imposed by the Constitution that there be an election every two years, regardless of whether or not the people in that county desire to put forth two candidates or more representing different political parties. That seems to be an unnecessary expense in these counties where the people are running unopposed.

It would seem also that there is a certain amount of professionalism that we desire in law enforcement, and I would hope that if a person was elected for four years, and had the opportunity to appoint his deputies and get his house fully in order, and make the contacts with the surrounding counties and with the state, that it would enable that sheriff to do a good job in four years, and then at the end of that there would be sufficient time, if the person was not following the desires of the people of the county, to elect somebody new.

So, for these several reasons, I hope that we will vote to finally pass this constitutional amendment.

The PRESIDENT: The Chair would

apologize to the Senator from Penobscot. The Chair was in error when he stated that it was finally passed in the house.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I think I took at least a mental oath and resolve when I assumed office as a member of this body to stand up and deal with issues like this and not just sit down, as I did the other day, and let an important issue go by default because I didn't want to speak on the subject.

I kind of hope that one of the marks of the 107th Legislature would be the total demise of county government, and I frankly am quite optimistic. I see the dismemberment of county government proceeding apace finally.

I find it extremely difficult to lend support to making more permanent the office of some of our sheriffs that we have in Maine. It has historically been a reasonably political office. We have a state of a million people with fragmented law enforcement procedures which, quite happily, the legislature of recent sessions has been devoting attention to as consolidating in a very effective way. Our Law Enforcement Academy is doing an outstanding job, we have beefed up our state police, and we have now very, very effective law enforcement forces.

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

Mr. BERRY: Mr. President, I request to pose a question through the Chair, that question being: If a four-year term for sheriffs was enacted, and the 107th or 108th Legislature did disband county government, would the counties be obligated to pay for the remainder of these terms of the people involved?

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

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President and Members of the Senate: I would like to try to answer that question. I believe the answer is no, because if we do effectively abolish county government, or revise it substantially, it will require some changes both in the statutory laws and also in the constitutional law, so we would probably just go back and revise any enactment that might occur on this proposal.

The PRESIDENT: Is the Senate ready for the question? The pending question is the enactment of Resolution, Proposing an Amendment to the Constitution to Provide for a Four-year Term of Office for Sheriffs. Will all those in favor of the passage of this resolution please rise and remain in their places until counted. All those opposed will please rise in their places until counted.

A division was had, 15 having voted in the affirmative, and 17 having voted in the negative, the Resolution failed of Final Passage.

Orders of the Day

The President laid before the Senate the first tabled and Specially Assigned matter:

Bill, "An Act to Revise Certain Statutory Provisions for the Licensing of Boarding Homes and Day Care Facilities." (H. P. 864) (L. D. 1073)

Tabled — March 20, 1975 by Senator Speers of Kennebec.

Pending — Reference.

(Committee on Reference of Bills

suggests this Bill be referred to the Committee on Health and Institutional Services).

(In the House — Referred to the Committee on Human Resources)

On motion by Mr. Speers of Kennebec, referred to the Committee on Health and Institutional Services in non-concurrence.
Sent down for concurrence.

The President laid before the Senate the second tabled and Specially Assigned matter:

House Reports — from the Committee on Legal Affairs — Bill, "An Act to Deem the Municipality of Jay to Be Part of the Northern Androscoggin District of the District Court." (H. P. 60) (L. D. 72) — Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — March 24, 1975 by Senator Speers of Kennebec.

Pending — Acceptance of Minority Report.

(In the House — Passed to be Engrossed.)

(In the Senate — Motion to Accept Majority Report lost.)

Mr. O'Leary of Oxford moved that the Senate Accept the Minority Ought to Pass Report of the Committee.

Mr. Corson of Somerset then requested a division.

Mr. CORSON: Mr. President and Members of the Senate: I received several letters from various people which I shall not read here, except for one from Judge Edward Merrill of the District Court. I would like to quote briefly from that letter.

"I do feel", the Judge says, "that it never had occurred to anyone that the divisions of the district court should cross county lines. Holding criminal trials at Livermore Falls would certainly be convenient to the police officers of the Town of Jay. There are several legal complications arising from the fact that no provision had been made for the crossing of county lines. Under the district criminal rules, all criminal appeals and all transfers of criminal cases would be to the Androscoggin Superior Court in Auburn. All defendants would then have to appear in Auburn. However, in all cases where the defendant requests trial, the case would have to be transferred from Auburn to Franklin County Superior Court for trial. Superior Court Criminal Rule 18 requires that all trials in Superior Court must be in the county where the offense was committed. Rule 5 of the Superior Court Rules requires that felony hearings in the Livermore Falls Court involving offenses committed in Jay would be bound over to the Superior Court in Farmington.

"In civil matters, all appeals and removals in the Livermore Falls Court, which would include matters involving parties from the Jay area, would go to the Superior Court in Auburn under District Court Rule 73."

The judge goes on, "Including Jay in the Livermore Falls division would be a great disservice to residents of Jay seeking a divorce. The Maine Revised Statutes Annotated, Title 19, section 691, requires that divorces may be granted in the county where either party resides. If both husband and wife reside in Jay, a divorce granted in the Livermore Falls District Court is void. Jay residents can only obtain a divorce in the Franklin County Superior Court."

Judge Merrill's analysis is confirmed by other legal sources.

Passage of this bill would result in

higher costs for the Franklin County Sheriff's Department and for the Androscoggin and Franklin Superior Courts. By the way, there is no provision for reimbursing Androscoggin County for Superior Court costs incurred trying Jay residents.

It is for these reasons that I oppose the motion of the good Senator from Oxford, Senator O'Leary.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President and Members of the Senate: Yesterday perhaps I was a little naive and perhaps even misled. I should have gone along with the request for a division on the tabling motion, however, there is an old Chinese proverb that says "Fool me once, shame on you. Fool me twice, shame on me." But, Mr. President, if you look at Legislative Document No. 72, it is very simple, and it would just bring it back to where it was in 1969, 1970 and 1973.

This bill has been kicked back and forth. It has been part of the law in and out, and there has been some hassle, I suppose, amongst the courts. However, there is a provision in Maine law, under Maine Revised Statutes, Title 4, section 153, subsection 9, which takes in northern Cumberland County. Now, northern Cumberland County is not a part of Oxford County, however, these towns are: Fryeburg, Porter, Stowe, Denmark, Hiram, Lovell, Brownfield and Sweden. These are part of Oxford County, and these cases are heard in the District Court in Bridgton, which is in Cumberland County.

So all this statute will do is allow these people the same privileges that the people down in southern Oxford County have. The District Court cases in southern Oxford County are heard in District Court in Cumberland County, but when they appeal to Superior Court the Superior Court is held in Oxford County. And under this section of the law that would allow Jay to become part of Northern Androscoggin District Court, the same would apply when it comes to going to Superior Court again.

There would be no cost involved whatsoever. I have here a record of how many boundovers there were in the last two terms of Franklin County Court from the Town of Jay: in the month of April none; in October six. However, these people were all bailed, so there was no need of being transported by the Franklin County Sheriff's Department."

There can be no excuse or no reasoning that I can see that we couldn't allow this, and I have an amendment to be proposed after the second reading of this bill, if you will go along with me, that will take care of the divorce cases in Franklin County. Thank you.

The PRESIDENT: Is the Senate ready for the question? The pending question is the motion by the Senator from Oxford, Senator O'Leary, that the Senate accept the Minority Ought to Pass Report of the Committee. A division has been requested. Will all those in favor of acceptance of the Minority Ought to Pass Report of the Committee please rise in their places until counted. Will those opposed to the pending motion please rise in their places until counted.

A division was had. Nine having voted in the affirmative, and 23 having voted in the negative, the motion did not prevail.

Thereupon, the Bill and accompanying

papers were Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the third tabled and Specially Assigned matter:

Bill, "An Act Relating to Irreconcilable Marital Differences as a Ground for Divorce and Mental Illness as an Impediment to Divorce" (H. P. 911) (L. D. 1032)

Tabled — March 24, 1975 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed as amended by House Amendment "A" (H-94).)

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

Mr. DANTON: Mr. President and Members of the Senate: Since the other day when this L. D. was debated I have taken time to further look at this bill. Frankly, I was motivated because of the close vote; I thought that maybe I should reconsider.

After reading the bill and looking at past legislative records, it occurred to me that this bill has not been artistically drafted, that there were loose ends hanging from all sides. But worse than that, it lacks being fair.

For the past twenty years, at least, if not thirty years, a bill has been considered by each legislature which would allow mental illness as a ground for divorce. These various bills would allow a spouse to petition for divorce when his or her spouse would be mentally ill and confined in an institution for ten years, seven years or five years. The time period varied in each of these bills, but it was never less than five years. They were honest bills in that they stated exactly what they proposed to accomplish, and they were always defeated. I call your attention to the title, "An Act Relating to Irreconcilable Marital Differences as a Ground for Divorce and Mental Illness as an Impediment to Divorce." I repeat the last few words, "as an Impediment to Divorce", and suggest that from the very beginning this L. D. is less than candid. It could easily have read, like all previous similar bills, "mental illness as a ground for divorce."

During the last session, the legislature enacted a law which allowed a so-called no-fault divorce; specifically, irreconcilable marital differences, which allowed spouses to obtain a divorce after both had received counseling by a counselor. This was a further extension of divorce grounds in this state, and with this added ground we surpassed Nevada.

Now, before us is this little gem which, in effect, adds two more grounds: one, when the parties have lived separate and apart from each other continuously for a period of two years at least. Out goes the marriage counselor provision if one wishes to take this route. Two, mental illness shall not be an impediment to the granting of a divorce on the ground of irreconcilable marital differences. And this comes in through the back door because the real objective and purpose of this bill is another ground for divorce.

The thought, the cunning of this bill is quite interesting. Using the irreconcilable marital differences ground as a coattail to the mental illness ground comes slamming through, with a shorter period than its unsuccessful predecessors. The time period is not ten years, not seven years, not five years, but two years.

We all know that husbands and wives in many cases have property and money, and there is no provision there.

The bill also says a guardian appointed by the court. Usually the guardian is another attorney selected by the attorney representing the healthy spouse. The equities are unbalanced. One who is mentally ill is completely disregarded by this proposal.

I am not going to remark on fidelity and loyalty to you. I know that you are aware of their supreme virtues. That loyalty and fidelity must not take second place to emotionalism which usually is presented to justify this bill. You will hear tearjerking stories about the poor healthy spouse, the lonesome soul. And usually he is at the hearing room with his girlfriend and they are urging the passage of this bill. One more talented than I could write a story that would bring tears to your eyes about the poor soul that was in a mental institution and was discharged to find her spouse married to another, her children not in the house that she loved but in another, and which has caused her to return to the mental institution.

Is there any real need for this legislation? I know of no one in my district who is in this predicament. I do know some people whose bodies have become mutilated by accident or by war who will be invalids or bedridden until death. Should we allow the spouse to use this as a ground for divorce? If the answer is yes, then let us amend this bill and include blindness, paralysis, iron lung victims, paraplegics and quadruplegics. And if this is not liberal enough, let us include halitosis and severe dandruff cases. Let's do what is decent and right and fair today and let's clear this bill from our calendar.

I now move the indefinite postponement of this bill and all of its accompanying papers. When the vote is taken, I request a roll call.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

MR. MERRILL: Mr. President and Members of the Senate: It is strange how these things become an issue and it is strange how you get involved in them. The members of this Senate who followed the beginning days probably will recall that I did not even make any great request to be on the Committee on Judiciary, let alone have to deal with the question of divorce. I am glad to be there and feel that I am in good company, but it is a strange set of circumstances indeed today that has me before the Senate arguing for a bill which is characterized as something that "liberalizes divorce". But the issue has been brought before this chamber, and I have to compliment the Senator from York, Senator Danton, because I think that it is a tribute to his ability and to his prestige in the Senate that, when all the members of this Senate who serve on the Judiciary Committee gave this an Ought to Pass Report, he has brought it to the place where it is today, where probably the best chance is that this bill will be defeated, that his motion will be accepted, although I urge that not be.

I am going to have to take a little bit of a minute, and I apologize for that, in going through this. The Judiciary Committee spent many hours on this bill. There was no attempt at all to make a cunning bill, a bill that was devious, and I think as you go through it you can see that maybe just the opposite is true. And because we spent a lot of time and looked into it a great deal, and

because the issue has been brought full-blown before the Senate, I would like at least to share the considerations that went on in dealing with this bill.

We had two bills before us. One bill was introduced by Representative LaPointe, and that would waive the counseling provisions completely. Most members of the committee immediately rejected that concept because we thought that counseling was an important part of our irreconcilable differences divorce ground. The other bill was a standard bill, one that has been presented many times in the past, and that would have created a new ground for divorce in Maine; new to Maine, but not new to most of the rest of the states because most states in fact have a ground for divorce if your spouse is mentally ill for a period of time. But most of the members of the committee again rejected that because they thought that it could be unfair and because they were concerned with the very things that the Senator from York, Senator Danton, has brought up.

Now, it would have been very easy for us at that point to simply report both bills out Ought Not to Pass and to have set back and not had to worry about this problem that nobody wants to really get involved in. Speaking for divorce is, I suppose, the equivalent of speaking against motherhood, and it is not something a politician likes to do. However, there were some problems that remained and were nagging, and although we didn't like the vehicles that were before us, we were concerned about the problems and so we went on and brought this problem up many times.

Now, the first problem is the problem of what has happened with the irreconcilable differences clause. Let me explain to you what the situation is that our committee was posed with, and it is the situation that this Senate faces today. It can decide to ignore it if it wants to. How did this whole irreconcilable differences thing come about and how have we got a problem? The problem is what happened in the 1960's when the great liberal organization of the Archbishop of Canterbury drew together a bunch of churchmen and lawyers and looked at the divorce laws in England at that time. They looked at all the grounds — and England was pretty similar to the United States — they looked at all those things, and the final conclusion they came to after looking at that was that it was ridiculous to grant a divorce because a person did one thing that constituted grounds for a divorce, even if it was probably the more serious thing, adultery; that a marriage shouldn't be brought to an end just for that reason alone. And they came to the conclusion in their report, which was entitled "Putting Asunder", the conclusion that what the court should really do in divorce cases is that they should look at the marriage. They should, in essence, have a case and they should look at the marriage and they should ask the question is the marriage alive or dead. Now, if there are grounds that the marriage is still alive, if there is still something there that makes that a vital marriage, then the court shouldn't set it aside, in spite of those grounds. On the other hand, if the marriage is dead, if there is nothing left there, if there is nothing left of spirit that brought that marriage together, then the court should set it aside. So out of this came all our irreconcilable differences statutes, and many states have adopted them since this

report came out in 1966. But the problem with that is that we all know the courts are busy and the courts don't always take a deep look into these situations, and so the result that the Archbishop's Committee wanted wasn't coming about. So the wiser states put in a provision that the people would have to go to counseling before they got a divorce for these grounds and, in a sense, inject the counselor as the person to probe with those people whether or not the marriage was alive or dead. In Maine, the last legislature, in its wisdom, did just that. It is a good idea. We didn't want to pass the LaPointe bill because we didn't want to defeat that idea. The problem is that a real problem has come about in how this actually works.

If you are a lawyer concerned with just getting the best property settlement for your client that you can, and a person comes to you and suggests that they are thinking about divorce and that maybe they will want to go to counseling, you very well might, and many lawyers do, advise that they not go to marriage counseling; the reason being that if you want to negotiate over property settlement — and this is important if you are going to understand what the effect of this bill is and its non passage is — if you want to have a good property settlement, you would like to be able to defeat the divorce.

Today everybody thinks it is easy to get a divorce in Maine, and it is if it is not contested. If it is contested, then you have to look to one of the grounds that exist. The grounds that is usually used is cruel and abusive treatment. If that is contested, you usually won't succeed. That puts the lawyer for the non-moving party in a very good position because he can, in essence, defeat the divorce until he gets a property settlement that he wants.

Now, if the people go to counseling, that creates the completion of the grounds, if we call them grounds, of irreconcilable differences. If his client submits to counseling, counseling that may bring the marriage back together again, the legal result of that is that the grounds are complete and the attorneys negotiating position isn't as good. What in fact has happened then, and what we have tried to do with the first section of this bill, or we have tried to prevent with the first section of this bill, is what in fact has happened, that the attorneys have told their people not to go to counseling. The desire of the Maine Legislature to have counseling and to put marriages back together again, if they are still alive, is being defeated.

So what we, in essence, did with the first section of the bill is that we sort of put a steam valve in this whole process. If two years of separation go by and there has been no counseling, then the judge has the power to waive it. And we didn't say "shall waive," we said "may waive", I think in the hopes of many of us that the judge could call them in, if it still had gone on to that point, and say, "If you don't go to counseling, I am going to waive this provision." The intent then, I think, of the first section was to carry out the intent of the 106th Legislature and to get people who are in this situation to go to counseling, and if the marriage is still alive, regardless of whether there is some ground, if the marriage is still alive, if there is something to be salvaged, to have them go to counseling and to have that marriage saved. That was the intent of the committee in passing this out, and I think that to vote against this bill will be to do just the opposite. It will be to continue this

situation where lawyers say, "don't go to counseling because it will complete the grounds", and the result of this will be that marriages that could be saved won't be saved.

Now, let's get to the second part of this bill, the part of the bill that has been called, "cunning", and I think the suggestion was "deceptive". Let's ask ourselves one question when we look at this part of the bill: what does it say? It says that it shall not constitute an impediment. Now, what does that mean? What is the effect of this? Isn't it interesting that nobody has pointed out what part of Maine law is changed by the second part of this bill. What statute is changed? The fact of the matter is that no statute is changed. Not one thing that is written in your Maine laws, not one thing that this legislature has passed, is changed by the second section. Now what is changed? Why is it there? Let me explain what has happened.

In the past, as I said before, the only way you could get a divorce was to prove fault. Now, we had several grounds for divorce that are all based on fault before we had this new ground of irreconcilable differences: adultery, extreme cruelty, utter desertion, cruel and confirmed habits of intoxication, cruel and abusive treatment, and non-support. Those grounds are based on fault. So when the courts had a case before them where somebody brought a case for divorce, and the person who the action was being brought against claimed or it became obvious to the court that they were insane, the court asked itself the question that because this is culpability, because we are looking at a person doing something with a certain intent, a wrongful intent, should the insanity defense be available in those cases. The court decided yes, that is the case. And in point of interest, the standard that is held up is the same standard that the state had — 1949 is the last case on point in this — the same standard that the state had in criminal cases. It all grew out of the idea of fault. If insanity could be injected to negate intent in criminal cases, then why shouldn't it be the same when we are talking about fault in a divorce case. That is what the court said. Now, let's consider the claim that was made by the Senator from York again when he said that this was cunning. In point of fact, if this section had been left out, and if some lawyer were to take the case before the court with just the first section, two years having passed — nothing in here about insanity not being a bar any more — the very logic that imposed insanity as a defense would not work in a case where it was not based on fault. Remove fault in the element of the grounds and you remove any reason for making insanity a defense. This is anything but cunning. In point of fact, we probably could have accomplished this very thing by leaving it out, and the Senator from York and all the people that are so concerned about this would have never known what the effect would be, and somebody would have brought an action for divorce, insanity would have been claimed, it would have been on irreconcilable differences, the court would have looked at its logic as of 1949 and said it doesn't apply to this; that is no defense in this case. This is anything but cunning. This is completely honest in facing the situation and pointing it out to the Senate so they can see what the result would be.

I would like to say a couple more things about this if I can. This has been talked

about as a shot below the belt. That irritates me a little bit because it suggests, I think, that the Judiciary Committee and those of us who signed this report out aren't concerned about people that are in the mental institutions; that somehow we are more concerned about the person with his new mistress sitting in the hearing room. I found it interesting to look at the paper the other day, and I just want to read briefly from it, if I can: The McMahon bill was opposed at its January 14th hearing by Charles Rollins, patient advocate at the Augusta Mental Institute. Patient advocate Rollins told the Telegram last week that he is pleased with the Judiciary Committee redraft. He opposed the original bill. He is pleased with the redraft. Some judges have been reluctant to grant divorces if one spouse is mentally ill, even though there is a law that should keep them from making an issue he said. The law was passed in 1965. He said most doctors feel that it is in the best interest for the patient to have a divorce. With some of the patients up here their spouses are a major part of the problem.

Now, everybody has drawn the image of the spouse that has gone away and is completely mentally ill, and the guy is back home still having a good time. And in that context we are supposed to look at this problem. I would like to pose a different situation. Let's say that I am driving home from the Senate tonight and I am involved in an accident. As a result of the accident there is a mental disorder, there is an organic change made in my brain, and I become convinced that I am Napoleon. It becomes necessary to put me away, and it becomes necessary to put me away for the rest of my life. Now, I stand here today looking at that prospect and I ask, as a husband who loves my wife and as a father who loves my child, would I want for the rest of their lives for my wife not to be able to remarry, for my child not to have a parent in the home? Is that the humane thing? Is that what I want? If we are concerned with what the person wants that is in the mental institution, and let's say that person comes back and has a moment of clear thought every once in a while, is that going to make that person feel better? Is that going to help that person get well, to know what situation his family is in as a result of this whole thing? I think this bill is anything but a cheap shot, and it is anything but cunning and dishonest.

I would just like to say finally that there has been a lot of talk about whether or not this bill was opposed by interests and whether or not it is opposed by the Catholic Church. I have great regard for the Catholic Church's continuing concern about the family unit, and I share it, and for that reason I met with some people from the Diocese in Portland this weekend. Their primary concern with this bill is they think this is a piecemeal chipping away. Well, I would admit it is piecemeal, but I think it is a piecemeal patch on a leaky tire. And I have agreed with the members of the Catholic Church that I spoke with to introduce a resolution later on that will have all of our divorce laws looked at in their entirety so that there can be some overview. But I don't think passage of this bill in any way affects that, and we share that idea.

Ultimately, you know, all I ask is that this Senate do the same thing that the Judiciary Committee did; that it look at a difficult problem; that it ask itself honestly

what is the effect of this legislation going to be, and then that it vote in the best interest of having an equitable system, a system that we can be proud of and a system that does justice. That is all I ask the Senate to do today, and I think that if they do that they will defeat this motion for indefinite postponement.

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

Mr. CARBONNEAU: Mr. President and Members of the Senate: I don't wish to get into a war of words with my good friend, Senator Merrill, because he is much more able to do that than I am. However, I would like to quote a letter that was sent to me by the Diocesan Human Relations Services concerning this bill. I will just read a couple of paragraphs.

"We would like to go on record in encouraging the distinguished members of the Judiciary Committee to recommend this as Ought Not to Pass to the legislative body."

Then it goes on, "Maine has already reached a questionable reputation of having laws which can easily terminate marriages and dissolve the family unit. We believe equal if not greater effort should be applied in preserving and strengthening the family. The intent of the board of directors of our agency is not to prevent couples from seeking a divorce, but to guarantee that they have made maximum use of professional resources available to assist them in effecting a reconciliation. Certainly society owes the couple that much at a time when both parties are generally under emotional duress. Our six district offices have had at least twenty such cases in the past year. A third of these have succeeded in moving toward a wholesome marriage. A third are still straddling the fence but are investing themselves in evaluating their situation. The other third have gone through with divorce proceedings.

"In view of the fact that our Maine courts are dissolving close to 3,000 bonds of marriage each year, it seems to us that the legislative body of our government would want to consider what Maine can do to bring assistance to couples experiencing marital discord. Even if one family a year is able to work out their situation on a positive basis, is not the required part of the present law worthwhile? All evidence points to the fact that many couples can be reunited if society requires that they seek professional guidance.

"We strongly believe to adopt a change now would be premature and, therefore, respectfully request that L.D. 1032 not be enacted."

I strongly support Senator Danton.

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

Mr. MARCOTTE: Mr. President and Members of the Senate: Just one further point that bears mentioning. In this bill there is no provision whatsoever for disposition of marital property. In this bill the unfortunate individual afflicted mentally is not only deprived of freedom of choice relative to divorce, but he is also deprived of the opportunity to be heard as to disposition of marital property. There is no assurance whatsoever that after the two-year period this individual could be totally restored mentally, and he could come back home and find that his house is gone and his property, and he has no choice whatsoever.

Quite frankly, members of the Senate, I find this bill to be perhaps one of the most

inhuman to come before this body in my four years up here, and I would hope that you would join us in the indefinite postponement.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: I think that both Senators from York are under misapprehension about how our courts would treat the problems of property and money and guardianship ad litem. Whenever a court knows that a person is in a mental institution, or outside a mental institution but under disability, mental or physical — and this in this day and age will be known because the people in the institutions get the protection of seeing that the people in charge there notify either attorneys or at the home town level, or advocates for the poor and disabled — but when this comes into the court, the judge appoints what we called a guardian ad litem. Senator Danton indicated that person may not take responsibilities of that position very heavily. But I have served in that position before, as have many other attorneys, and I can assure you that that is not a position that is taken lightly. In fact, the position which the guardian ad litem must most always take is that he opposes the action that is presented to the court, and especially he must look after the financial needs of the person under disability.

Now, this particular bill does not need to say anything about the property settlement or the support problems because there are other sections of our divorce laws that care for those problems. That part of the law is not being changed at all. It will still be the responsibility of the court to look at the situation of the marriage, the needs of the parties, and decide what is fair to those parties according to their needs and their abilities. So that the argument with respect to the property and money, and the roll of the guardian ad litem, I think is misconceived.

Ten years ago probably I would not have voted for this bill because at that time we did not know nearly as much about the treatment of mental illness. Today we know that people are being treated for mental illness and released into society, and in fact treated in society much more than they are being treated in institutions, and today I can look at this problem as we have in our committee and try to be fair to all concerned and say to you that this is a good way to deal with the problem.

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

Mr. BERRY: Mr. President and Members of the Senate: I have been torn between two sides on this bill, and I am led to believe that the fact may be true that if a spouse is guilty of misconduct the divorce may come about on the grounds of misconduct, although one spouse or the other may be in a mental institution, and that the court may grant a divorce on this basis and has granted such divorce. The problem that really bothers me is the fact that we see no documentation, we have heard no experts speak to this body, we have seen nobody guarantee that a person who is confined to a mental institution, whether it be for one month, six months, two years or four years, that there is not a complete chance for recovery and discharge. And for that reason, I would have to oppose the bill.

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

Mr. HICHENS: Mr. President and Members of the Senate: I am sorry that I wasn't here last week, because I was out of the State on other legislative business, and I want to thank the Senators for tabling this until today, not that I can add too much verbally to it but I can add my vote.

I am tempted this morning to give about a twenty minute discourse, but I am not going to do that either because I think the matter has been handled quite carefully both for and against indefinite postponement. But I find it hard to rationalize or understand this way of thinking expressed by this bill. If a person were physically handicapped the spouse would take care, but here we have a person in one section of the proposed legislation who is mentally ill with no recourse whatsoever.

Naturally, I am opposed to divorce except for conditions outlined in the Holy Bible. In addition, I took a vow, and I believe that every married member of this Senate repeated the same words as I did when I took that vow, "In sickness or in health, for better for worse, for richer and poorer", and so forth. If vows mean anything at all, and there is a strong indication in today's society that they don't, we cannot conscientiously pass any law such as the one that we have before us this morning. We don't have to look very far to see what is happening around as a result of the leniency regarding our divorce laws. Responsibility is almost a forgotten word these days. Today I feel that we can apply the brakes, and I urgently ask you to support the Ought Not to Pass motion.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would just like to respond to a couple of points that were made, just from the standpoint of clarification.

In a moment of forgivable hyperbole, the good Senator from York called this the most inhuman bill that he had seen in his four years here. I am afraid he must have been asleep during those four years.

I would simply say that if you look at the property situation, in all honesty, and you think about the change that it would make, to call this inhumane is ridiculous at best.

Is this Senate aware of the fact now that the marriage can be dissolved if you can prove that the person was insane at the time you married them? A person comes before the court in the same situation as the people under this bill would come before the court. Is the Senate aware now, and is the Senator from York aware, that if the person were not insane at the time the coupling took place, but is insane at the time of the hearing for divorce, that a person can be divorced for any one of these grounds? So again people who are insane can be coming before the court for divorce. And I think the Senate should be aware that if the person was insane at the time that the act at fault took place, on all the old standard grounds for divorce, then a divorce can't be granted for any reason. This bill doesn't change that. As a matter of fact, I think section 2 maybe doesn't change much of anything, but it is a question that should be faced openly by this Senate at least. I would ask for defeat of the motion.

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

Mr. TROTZKY: Mr. President and

Members of the Senate: I was moved by the eloquent speech of the distinguished bachelor Senator from York, however, I think that I disagree with him, and I would just like to go over something here.

L. D. 1019, which was introduced, made legal confinement because of mental illness for three consecutive years grounds for a divorce. I would vote against such a bill. However, L.D. 132, the one we are discussing today, says that mental illness shall not constitute an impediment to the granting of a divorce.

I received a letter also from the Diocesan Human Relations Services Committee in Portland, and they make this statement: "As a responsible representative for the common good, the legislature must not in the name of expediency respond to the needs of a few exceptional cases while it foregoes viewing the lasting impact of the legislation on the majority". Again, it states "The legislature must not in the name of expediency respond to the needs of a few exceptional cases." I disagree with that statement and I believe that each case must be handled in individual basis. I believe the courts will protect the mentally disabled, and I believe that this in reality is a humane bill, and I would therefore urge the Senate to reject the motion made by the Senator from York.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from York, Senator Danton, that Bill, "An Act Relating to Irreconcilable Marital Differences as a Ground for Divorce and Mental Illness as an Impediment to Divorce", L.D. 1032, and all its accompanying papers be indefinitely postponed.

A roll call has been requested. In order for the Chair to order a roll call, it must have the expressed desire of one-fifth of those members present and voting. Will all those Senators in favor of ordering a roll call please stand in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion of the Senator from York, Senator Danton, that L.D. 1032, and all of its accompanying papers be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.F., Jr.; Carbonneau, Conley, Cyr, Danton, Gahagan, Graffam, Greeley, Hichens, Jackson, Johnston, Katz, Marcotte, McNally, O'Leary, Pray, Thomas and Wyman.

NAYS: Senators Berry, R.N.; Cianchette, Clifford, Collins, Corson, Cummings, Curtis, Graham, Huber, Merrill, Reeves, Roberts, Speers and Trotsky.

A roll call was had, 18 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

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

Mr. CONLEY: Mr. President, having voted on the prevailing side, I now move reconsideration of the bill and hope the Senate will vote against me.

The PRESIDENT: The Senator from

Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby this Bill was indefinitely postponed. Will all those in favor of reconsideration please say "Yes", those opposed say "No".

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

Papers From The House

Out of order and under suspension of the rules, the Senate voted to take up the following:

Enactors

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

Emergency

An Act Making Additional Appropriations from the General Fund for the Expenditures of State Government for the Current Fiscal Year Ending June 30, 1975. (S. P. 390) (L. D. 1138)

This being an emergency measure and having received the affirmative votes of 31 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.

Senate Papers

Out of order and under suspension of the rules, the Senate voted to take up the following:

Joint Resolution

Mr. Speers of Kennebec presented the following Joint Resolution and moved its adoption:

STATE OF MAINE

In the Year Of Our Lord One Thousand Nine Hundred and Seventy-Five

Joint Resolution Memorializing The U.S. Secretary of Labor to Deny Prime Sponsorship To Maine Counties

We, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Seventh Legislative Session now assembled, most respectfully present and petition the Honorable Secretary of the United States Department of Labor as follows:

WHEREAS, the State of Maine is presently the prime sponsor under the Comprehensive Employment and Training Act of 1973, as amended, an Act which provides and encourages employment training and jobs for the unemployed and for the underemployed; and

Whereas, seven of Maine's counties have applied to the Department of Labor to become sponsors in their own right under the Comprehensive Employment and Training Act; and

WHEREAS, if any one of these counties were to become prime sponsors the result would be a wasteful duplication of administration under the Act and would result in a reduction of moneys available to the citizens of the counties under the Act; now, therefore, be it

Resolved: That We, your Memorialists, hereby respectfully recommend and urge that the Department of Labor deny prime sponsorship to any Maine county making application in its own right and urge them to cooperate with the State to conserve needed funds and effort to help Maine's unemployed and underemployed; and be it further

Resolved: That a copy of this Memorial, duly authenticated by the Secretary of State, be transmitted forthwith by the

Secretary of State to the Honorable Secretary of the United States Department of Labor and to the Members of the United States Congress from the State of Maine. (S. P. 407)

Which was Read and Adopted.

Sent down for concurrence.

Mr. Katz of Kennebec presents, Bill, "An Act Concerning the Purchase of School Buses." (S. P. 408)

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

Mr. KATZ: Mr. President and Members of the Senate: I call the Senate's attention to the fact that this bill has certainly not been printed nor has a copy been distributed. It is a result of a concern amongst the joint leadership and the executive department that there are pending some significant purchase of school buses which might further put us into financial jeopardy.

What it does, as an interim measure, is to give the Commissioner of Education the responsibility of approving or disapproving bus purchases and leasing. Subsequently, the Education Committee will be coming and with a definitive statement on it, but it was the strong desire of leadership and the Executive Department to dispose of this in an interim basis to make sure that we don't get further in difficulty.

Mr. President, I would ask that, under suspension of the rules, not only this bill be given its first reading without reference to committee, but be passed to be engrossed and sent down to the other house. Might I reassure the members of the Senate that there will be ample opportunity to discuss the merits of the bill when it is finally printed and before you.

The PRESIDENT: Is it now the pleasure of the Senate, under suspension of the rules, that this bill be given its first reading at this time?

Thereupon, under suspension of the rules, the Bill was given its First and Second Readings and Passed to be Engrossed.

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

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot,
Adjourned until 10 o'clock tomorrow morning.