

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

Friday, April 25, 1975

Senate called to order by the President.
Prayer by The Honorable Minnette H. Cummings of Newport:

God has his plan and program for today, the day that he has made, the master plan conceived majestically, the smallest detail specified and every detail good. At first we may not see the workings plain, the distant purpose that he sets entrained to bless us in its season, but we know God is at work. And this we know also, that love, intelligence and power combine to bring all things precisely into line.

The PRESIDENT: The Chair would like to call the Senate's attention to the fact that this is National Secretary's week, in case it has escaped anyone's attention. At the Holiday Inn we do have cards on the dining room tables which calls this to our attention. It says "Put a sparkle in her eyes. Take your secretary to lunch." Well, since there are so many of us that it would be impossible for us all to take our good Secretary to lunch, we thought it would be fitting if we presented him with a flower as a token of our esteem, and we hope it will put a sparkle in his eyes. (Applause)

Mr. Hichens of York was granted unanimous consent to address the Senate.

Mr. HICHENS: Mr. President, this is probably the quickest poem that I ever wrote on a very short notice. I was asked about three minutes ago if I would compose something appropriate for the day, and here it goes for what it is worth:

This is Secretary's Week as you must surely know —
When to our Secretaries — our pleasures we doth show.

Some give flowers — some give sweets —
— whate'er the case may be

And today we as a Senate — do honor our Harry.

Along with tangibles galore — as presented to him now

I'd share with you a little verse I penned some time ago

When Harry had a confrontation with his little dog

When he did tease Diana and his memory I'll jog

By sharing with you one and all — the little rhyme I wrote

For an occasion such as this — and now the verse I'll quote.

"There is a little dachshund — though not large — very able

To protect his mistress when she's chased around the kitchen table

His bark is sharp and so's his bite when a crisis is affected

And thank God for good old Harry — the bite was not infected.

(Applause)

Reading of the Journal of yesterday.

Papers from the House

Non-concurrent Matter

Bill, "An Act Relating to Special Agency Stores." (S. P. 290) (L. D. 1015)

In the Senate April 18, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (S-59).

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendment "A" (H-193), in non-concurrence.

Thereupon, on motion by Mr. Berry of Cumberland, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act to Restrict Armed Forces Preferences in State Employment to Veterans Who Were Not Career Officers or Career Enlisted Personnel and to Remove a Barrier to Affirmative Action Programs." (H. P. 1491) (L. D. 1739)

In the House April 15, 1975, Passed to be Engrossed.

In the Senate April 22, 1975, Passed to be Engrossed as Amended by Senate Amendment "A" (S-74), in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference with the following conferees appointed on its part:

COONEY of Sabattus

QUINN of Gorham

SNOWE of Auburn

Thereupon, on motion by Mr. Katz of Kennebec, the Senate voted to Insist and Join in a Committee of Conference.

Non-concurrent Matter

Bill, "An Act Granting a Property Tax Exemption for Property Leased by Community Mental Health Centers." (H. P. 480) (L. D. 599)

In the House April 15, 1975, Passed to be Engrossed.

In the Senate April 23, 1975, Bill and accompanying papers, Indefinitely Postponed, in non-concurrence.

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

Mr. Wyman of Washington then moved that the Senate Insist and Join in a Committee of Conference.

On motion by Mr. Graham of Cumberland, a division was had, 18 having voted in the affirmative, and 11 having voted in the negative, the motion prevailed.

Communications

STATE OF MAINE

Senate Chamber

President's Office

Augusta, Maine 04330

April 25, 1975

Mr. Harry N. Starbranch

Secretary of the Senate

Augusta, Maine

Dear Mr. Starbranch:

The Committee on Reference of Bills has met and decided to extend the date by which all bills must be reported out of committee.

All bills and resolves must be reported from all committees by 5:00 p.m. on May 23, 1975.

Respectfully submitted,

Signed:

JOSEPH SEWALL

Chairman

Committee on Reference of Bills

(S. P. 502)

Which was Read and Ordered Placed on File.

Sent down forthwith for concurrence.

Orders

On motion by Mr. Collins of Knox,

WHEREAS, it appears to the Senate of the 107th Legislature that the following is an important question of law and that the occasion is a solemn one; and

WHEREAS, there is pending before the 107th Legislature in its Committee on Judiciary, a bill entitled, "An Act Creating the Maine Criminal Code," Senate Paper 113, Legislative Document 314 (Exhibit A) which in pertinent part the Committee has

voted to amend via Committee Amendment "A" (Exhibit B); and

WHEREAS, the bill, as amended by Committee Amendment "A," proposes, among other things to repeal the Revised Statutes, Title 15, sections 451 and 1703; to make clear that Class A through Class C crimes and homicides in the first and 2nd degree are to be viewed and treated as "infamous" within the meaning of the Constitution, Article I, section 7 (i.e., requiring prosecution by indictment unless waived) while Class D and E crimes are to be viewed and treated as noninfamous (i.e., allowing for prosecution by indictment, information or complaint) and to provide that a sentence to the State Prison is possible for sentencing Classes D and E as well as for Classes A, B and C and homicides in the first and 2nd degree; and

WHEREAS, the constitutionality of sections 9 and 1252 of section 1 of the bill, as amended by Committee Amendment "A," has been questioned as it relates to the Constitution, Article I, section 7 and it is important that the Senate be informed as to the constitutionality of these proposed provisions; now, therefore, be it

ORDERED, that the Justices of the Supreme Judicial Court are hereby respectfully requested to give to the Senate, according to the provisions of the Constitution, on its behalf, their opinion upon the following questions, to wit:

QUESTION NO. 1:

Would sections 9 and 1252 of section 1 of Legislative Document 314, as amended by Committee Amendment "A" if enacted into law, violate the Constitution, Article I, section 7?

QUESTION NO. 2:

Would a crime be "infamous" within the meaning of the Constitution, Article I, section 7, if, irrespective of the length of possible imprisonment, a conviction for that crime could potentially result in a sentence of imprisonment at the State Prison even though the maximum length of that sentence is less than one year?

STATE OF MAINE

SENATE

107TH LEGISLATURE

Committee Amendment "A" to S. P. 113, L. D. 314, Bill, "An Act Creating the Maine Criminal Code."

Amend said Bill by striking out all of that part designated "§9." of section 1 and by striking out all of the comment under section 9 and inserting in place thereof the following:

'§9. Indictment and jurisdiction

Notwithstanding any other provision of law:

1. All proceedings for class A, B and C crimes shall be prosecuted by indictment, unless indictment is waived, in which case prosecution may be by information; and

2. All proceedings for criminal homicide in the first degree and in the 2nd degree shall be prosecuted by indictment; and

3. The District Courts shall have jurisdiction to try class D and E crimes and to bind over for the grand jury all other crimes.

Comment*

This section declares it to be the Legislature's judgment that the crimes it defines in the 3 most serious classes, plus the 2 most serious criminal homicides, are "infamous" within the meaning of the State Constitution's requirement that infamous crimes must be prosecuted by indictment. Subsection 3 provides the District Courts with the authority to try D and E crimes and to find probable cause

and bind over for indictment criminal homicide in the first and 2nd degrees as well as class A, B and C crimes.

Further amend said Bill in that part designated "\$1252." of section 1 by striking out all of paragraph D of subsection 2 and inserting in place thereof the following:

'D. In the case of a Class D crime, the court shall set a definite period of less than one year; or'

Further amend said Bill by striking out all of section 2 and inserting in place thereof the following:

'Sec. 2. 15 MRSA §§2, 102, 341, 342, 451, 452, 751, 1701-A, 1703, 1741 to 1743 and 1842 are repealed.'

Statement of Fact

The purposes of this amendment are reflected in the comment which is included with the new section 9 contained in the amendment and to repeal section 1703 of Title 15 of the Revised Statutes and to reduce the maximum definite sentence for conviction of a Class D crime from one year to less than one year.

Which was Read and Passed.

Committee Reports House

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

Bill, "An Act Relating to Municipal Participation in Civil Emergency Preparedness Agencies." (H. P. 691) (L. D. 853)

Bill, "An Act to Establish Fish and Game Stations for Registration of Skins and Furs." (H. P. 979) (L. D. 1226)

Leave to Withdraw

The Committee on Election Laws on, Bill, "An Act Changing the Date of Primary Election to the First Wednesday after Labor Day." (H. P. 4) (L. D. 9)

Reported that the same be granted Leave to Withdraw.

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

Which Leave to Withdraw Report of the Committee was Read and Accepted in non-concurrence.

Sent down for concurrence.

Ought to Pass

The Committee on Election Laws on, Bill, "An Act to Repeal Certain Unconstitutional Provisions of the Election Laws." (H. P. 248) (L. D. 300)

Reported that the same Ought to Pass.

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

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

Ought to Pass — As Amended

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Making a Supplemental Appropriation for the Supplemental Security Income Programs for the Purpose of Increasing the Base Rate for Boarding Home Care." (H. P. 477) (L. D. 597)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-192).

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

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

as Amended, Tomorrow Assigned for Second Reading.

Divided Report

Seven members of the Committee on Judiciary on, Bill, "An Act Regulating Handguns." (H. P. 18) (L. D. 26)

Reported in Report "A" that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Knox
MERRILL of Cumberland

Representatives:

MISKAVAGE of Augusta
HEWES of Cape Elizabeth
GAUTHIER of Sanford
BENNETT of Caribou
SPENCER of Standish

Four members of the same Committee on the same subject matter reported in Report "B" that the same Ought to Pass in New Draft under New Title: "An Act Regulating the Sale of Handguns" (H. P. 1511) (L. D. 1828)

Signed:

Senator:

CLIFFORD of Androscoggin

Representative:

HENDERSON of Bangor
HOBBINS of Saco
HUGHES of Auburn

Two members of the same Committee on the same subject matter reported in Report "C" that the same Ought to Pass in New Draft under New Title: "An Act Regulating the Sale of Handguns" (H. P. 1512) (L. D. 1829)

Signed:

Representatives:

McMAHON of Kennebunk
PERKINS of South Portland

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

Which reports were Read.

Mr. Clifford of Androscoggin then moved that the Senate Accept the Ought to Pass in New Draft under New Title Report "B" of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. CLIFFORD: Mr. President and Members of the Senate: This is a bill which I think is misunderstood by many persons. It is not a registration of handguns or other guns bill. It is a bill which is limited in its application only to handguns, and it merely requires that there be a 72 hour waiting period for people to purchase guns to allow the police to check the records to ascertain whether or not the person who wishes to purchase a handgun is a convicted felon or under indictment for a felony.

It has a very liberal exemption provision in it; people who deal in guns are exempted. And I think that the intent is to prevent the crime of passion, the person going out and rushing into a secondhand store and purchasing a gun in a moment of passion. I think I am pretty sure what the result on this bill is going to be, but I just wanted to indicate that it is really not that kind of a radical proposal. Many of the communities in the state have similar legislation, so I hope we would accept Report "B", and if it would have to be amended then we could amend it later on down the line. And I would request a division, Mr. President. Thank you.

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

Mr. O'Leary of Oxford then moved that the Bill and all accompanying papers be Indefinitely Postponed.

Thereupon, a division was had. 19 having voted in the affirmative, and nine having voted in the negative, the Bill and accompanying papers were Indefinitely Postponed in concurrence.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Provide Low Cost Financing through the Maine State Housing Authority for nursing Homes and Similar Facilities for Persons of Low Income." (H. P. 756) (L. D. 926)

Reported that the same Ought Not to Pass.

Signed:

Senators:

CURTIS of Penobscot
WYMAN of Washington
GRAHAM of Cumberland

Representatives:

SNOWE of Auburn
FARNHAM of Hampden
QUINN of Gorham
LEWIN of Augusta
COONEY of Sabattus
CARPENTER of Houlton
STUBBS of Hallowell

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-183).

Signed:

Representatives:

PELOSI of Portland
KANY of Waterville

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

Which reports were Read.

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

Sent down for concurrence.

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 Concerning the Definition of Wrecker under the Motor Vehicle Statutes." (S. P. 372) (L. D. 1199)

Leave to Withdraw

Mr. Collins for the Committee on Veterans and Retirement on, Resolve, Providing a Minimum Service Retirement Allowance under the State Retirement Law for Edward G. Miller of Portland. (S. P. 433) (L. D. 1419)

Reported that the same be granted Leave to Withdraw.

Which report was Read and Accepted.

Sent down for concurrence.

Ought to Pass

Mrs. Cummings for the Committee on Public Utilities on, Bill, "An Act to Amend the Charter of the Winthrop Water District." (S. P. 328) (L. D. 1114)

Reported that the same Ought to Pass.

Mr. Cyr for the Committee on Public Utilities on, Bill, "An Act Declaring the Lewiston-Auburn Water Pollution Control Authority to be a Quasi-municipal Corporation." (S. P. 316) (L. D. 1093)

Reported that the same Ought to Pass.

Which reports were Read and Accepted the Bills Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

Mr. Corson for the Committee on Legal Affairs on, Bill, "An Act to Amend the

Portland Renewal Authority Law." (S. P. 389) (L. D. 1249)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S. 33).

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. McNally for the Committee on Labor on, Bill, "An Act to Permit Minors under 16 to be Employed by Hotels." (S. P. 182) (L. D. 583).

Reported that the same Ought to Pass in New Draft under New Title: "An Act Relating to Employment of Minors" (S. P. 501) (L. D. 1852)

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

Second Readers

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

House

Bill, "An Act to Transfer Authority for Truth-in-Lending Examinations and Enforcement from the Bureau of Banks and Banking to the Bureau of Consumer Protection." (H. P. 323) (L. D. 454).

(On motion by Mr. Speers of Kennebec, Tabled, pending Passage to be Engrossed.)

Bill, "An Act Concerning the Size of Municipal Populations in the Statute Requiring or Authorizing the Appointment of Boards of Registratoin." (H. P. 752) (L. D. 927)

Resolve, to Reimburse Richard Luffin of Thorndike for Property Damage Caused by Water Runoff from State Highway. (H. P. 804) (L. D. 980)

Bill, "An Act Relating to Throwing Objects at Emergency Vehicles under the Malicious Mischiefs Law." (H. P. 969) (L. D. 1220)

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

Resolution, Proposing an Amendment to the Constitution to Provide for Annual Sessions of the Legislature and to Change the Date of Convening of the Legislature. (H. P. 1510) (L. D. 1827)

Which was Read a Second Time.

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

Mr. CLIFFORD: Mr. President, I have an amendment, which I am not going to offer now because it is not reproduced, to L. D. 1827, which 1827 provides for annual sessions of the legislature. I wanted to let the Senate know what the amendment was concerned with so they could think about it over the weekend, I hope after I am through that someone could table this.

The purpose of the amendment is to limit the legislative sessions to 100 legislative days in the regular session and to 50 legislative days in the second annual session. I would hope that we could discuss this when it is proposed, and that someone could table this for one or two legislative days. Thank you, Mr. President.

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

Thereupon, on motion by Mr. Curtis of Penobscot, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

House — As Amended

Bill, "An Act Relating to School Buses." (H. P. 481) (L. D. 600)

Bill, "An Act to Increase the Bonded Debt Limitation of the Maine State Housing Authority's Mortgage Purchase Program." (H. P. 584) (L. D. 723)

Bill, "An Act Relating to the Release of Mentally Disordered Persons." (H. P. 719) (L. D. 895)

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

Senate

Resolve, Permitting Norman W. Frost, Jr., of Fryeburg to Practice as a Public Accountant. (S. P. 456) (L. D. 1504)

Bill, "An Act Concerning Listing of Tax Exempt Real Property for Town Reports." (S. P. 496) (L. D. 1843)

Bill, "An Act Prohibiting County Commissioners, Municipal Officers and School Directors from Appointing themselves to Certain Offices." (S. P. 497) (L. D. 1844)

Bill, "An Act Concerning the Power of the Lewiston Parking District to Mortgage Certain Properties and Permitting the Taxation of Real Property of the District Which is Not Used for Parking." (S. P. 498) (L. D. 1845)

Bill, "An Act to Facilitate the Incorporation of New Towns." (S. P. 500) (L. D. 1846)

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Relating to Cruelty to Animals." (S. P. 261) (L. D. 858)

Resolve, Authorizing Edward S. Crockett and Dorothy P. Crockett, or their Legal Representatives, to Bring Civil Action Against the State of Maine. (S. P. 324) (L. D. 1101)

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

Sent down for concurrence.

Enactors

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

An Act to Increase the Amount of Employee Life Insurance. (S. P. 377) (L. D. 1228)

An Act to Increase the Amount of Defendant's Coverage for Group Life Insurance. (S. P. 378) (L. D. 1229)

An Act Establishing the Civil Rights of Hemophiliacs. (H. P. 840) (L. D. 986)

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

Resolve, Authorizing Priscilla Blodgett of Augusta or her Legal Representatives to Bring an Action against the State of Maine. (H. P. 553) (L. D. 681)

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

Emergency

An Act to Allocate Money from the Federal Revenue Sharing Fund for the Expenditures of State Government for the Fiscal Years Ending June 30, 1976 and June 30, 1977. (S. P. 230) (L. D. 774)

This being an emergency measure and having received the affirmative votes of 29 members of the Senate, was Passed to be

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

Emergency

An Act to Allocate Moneys for the Administrative Expense of the State Lottery Commission for the Fiscal Years Ending June 30, 1976 and June 30, 1977. (H. P. 710) (L. D. 889)

This being an emergency measure and having received the affirmative votes of 28 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.

Reconsidered Matter

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

Mr. SPEERS: Mr. President, in reference to Bill, "An Act Regulating Handguns" (H. P. 18) (L. D. 26), having voted on the prevailing side, I now move that the Senate reconsider its action whereby it indefinitely postponed this bill, and urge the Senate to vote against the motion.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate reconsider its action whereby Item 6-6, L. D. 26, was indefinitely postponed. Will all those in favor of the motion to reconsider please say "Yes"; those opposed, "No".

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

Orders of the Day

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

Senate Report — from the Committee on Local and County Government — Bill, "An Act to Increase the Borrowing Capacity of the Town of Bradley." (S. P. 354) (L. D. 1154) Leave to Withdraw.

Tabled — April 21, 1975 by Senator Speers of Kennebec.

Pending — Acceptance of Report.

Thereupon, the Leave to Withdraw Report of the Committee was Accepted.

Sent down for concurrence.

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

Bill, An Act Raising the Age of Persons who may Purchase Alcoholic Beverages or Sell as Licensees. (S. P. 4) (L. D. 4)

Tabled — April 22, 1975 by Senator Speers of Kennebec.

Pending — Enactment.

(In the House — Indefinitely Postponed)

Mr. Speers of Kennebec moved that the rules be suspended and the Senate reconsider its action whereby the Bill was Passed to be Engrossed.

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

Mr. BERRY: Mr. President, it seems to me that legislative progress would be enhanced a great deal if we were to concur with the other body, and I would request a division on that motion.

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

Mr. KATZ: Mr. President, through the Chair might I request a reason for reconsideration?

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

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, it is my understanding that an additional amendment is being prepared for offering to this body and the other body, and that is the reason to reconsider the engrossment of this bill.

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

Mr. MERRILL: Mr. President, a parliamentary inquiry: Does a vote to reconsider require two-thirds under Rule 29 of the Senate?

The PRESIDENT: The Chair would answer in the affirmative, that the motion to reconsider would require a two-thirds vote from those present and voting.

The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that the Senate reconsider its action whereby the Bill was Passed to be Engrossed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would pose a question to the Chair: Would a motion to recede put the bill before us in an amendable stage?

The PRESIDENT: The Chair would advise that the Senate is not in non-concurrence, therefore, a motion to recede would not be in order.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, would I not be correct in stating that the motion is that the rules be suspended and that the Senate reconsider its action?

The PRESIDENT: The Chair would answer in the affirmative. Thereupon, a division was had: 10 having voted in the affirmative, and 19 having voted in the negative, the motion did not prevail.

Mr. Berry of Cumberland then moved that the Bill be Indefinitely Postponed.

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

Mr. SPEERS: Mr. President and Members of the Senate: This bill obviously is hanging on by a very thin thread at the present time, and I trust that is one of the reasons why the good Senator from Cumberland, Senator Berry, would hope his motion would prevail. However, this body has on numerous occasions evidenced its desire with regard to this particular bill, and whatever may happen in the other branch, it would be my hope that this body would again evidence its desire in regard to this particular bill, and pass it to be enacted and send it back in non-concurrence.

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

Mr. KATZ: Mr. President, can I review the options please in the form of a question? The other body having disposed of it by its failure of enactment, it cannot be sent back to the other body in its present form. Is that correct?

The PRESIDENT: The Chair would advise that it could not in its present form. It could be passed to be enacted in the Senate and sent back to the House in non-concurrence.

Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would request a roll call on the motion to indefinitely postpone, and I would urge the Senate to vote against it.

The PRESIDENT: A roll call has been

requested. In order for the Chair to order a roll call, it must be the expressed desire of more than one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call on the motion to indefinitely postpone this bill please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The Chair will restate the pending question. The motion before the Senate is the motion of the Senator from Cumberland, Senator Berry, that the Senate indefinitely postpone L.D. 4 and all its accompanying papers. 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, E. Berry, R. Berry, Carbonneau, Cianchette, Clifford, Corson, Curtis, Danton, Graham, Huber, Marcotte, Merrill, Pray, Reeves, Thomas, Trotzky.

NAYS: Senators, Collins, Conley, Cummings, Cyr, Gahagan, Greeley, Hichens, Jackson, Johnston, Katz, McNally, O'Leary, Speers, Wyman.

ABSENT: Senators, Graffam, Roberts.

A roll call was had: 16 Senators having voted in the affirmative, and 14 Senators having voted in the negative, with two Senators being absent, the motion prevailed.

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

Mr. BERRY: Mr. President, having voted on the prevailing side, I move reconsideration, and hope you vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Berry, 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, "No".

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

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

Bill, "An Act Relating to Hearing for Provisional motor Vehicle Licensee on Suspension." (H. P. 333) (L. D. 405)

Tabled — April 23, 1975 by Senator Speers of Kennebec.

Pending — Adoption of Senate Amendment "A" (S-58) to House Amendment "B" (H-107).

(In the House — Passed to be Engrossed as amended by House Amendment "B".)

On motion by Mr. Clifford of Androscoggin, Senate Amendment "A" to House Amendment "B" was Indefinitely Postponed.

On further motion by the same Senator, House Amendment "B" was Indefinitely Postponed in non-concurrence.

The same Senator then presented Senate Amendment "B" and moved its Adoption. Senate Amendment "B", Filing No. S-86, was Read and Adopted.

The PRESIDENT: Is it now the pleasure of the Senate that this bill, as amended, be passed to be engrossed in non-concurrence?

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I understand the bill in the present form on which we are being asked to vote removes the requirement that the license be retained by the driver until the hearing. One of my concerns, and I would ask for reassurance through the Chair of the Senator from

Androscoggin, is the burden on the Secretary of State's office for additional hearings of significant numbers that will involve some kind of fiscal consideration.

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: This has been discussed with the Secretary of State, and I think that taking off the abatement of the suspension, I believe, will reduce the number of requests for hearing. As you know, under this law, the hearing is not automatic but is only upon request. And the Secretary has indicated that in the case of the emergency, the case that we are concerned with, that a prompt hearing will be given. And I think the Secretary concurs with the feeling of those who have worked on the bill that removal of the abatement of the suspension will substantially reduce the number of requests for hearing, so that any appropriation would really not be needed. Thank you.

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

Mr. COLLINS: Mr. President, I want to say that I think the senior Senator from Androscoggin has handled this very well. I think that this compromise, which has been thoroughly discussed by myself as well as Senator Clifford with the Bureau of Motor Vehicles, is an entirely acceptable compromise.

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

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

Sent down for concurrence.

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

Bill, "An Act Relating to Liability of Natural Gas Distributors." (S. P. 419) (L. D. 1267)

Tabled — April 23, 1975 by Senator Johnston of Aroostook.

Pending — Motion of Senator Cianchette of Somerset to Indefinitely Postpone.

(In the House — Passed to be Enacted.)

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

Mr. CARBONNEAU: Mr. President and Members of the Senate: Before we vote on the pending motion, I would like to put in my two cents worth regarding this bill.

First, I would like to tell you why this bill was introduced. Shortly before 1970 natural gas in lieu of manufactured gas was introduced in the L and A area, L and A meaning Lewiston and Auburn. I recall that sometime before that period in time, newspaper articles appeared in our local papers stating that if natural gas came to the area much of the underground pipes would have to be either removed or replaced because the old pipes would not stand the pressure of natural gas. I recall making a comment such as "darn it, there goes our roads again." I didn't really say "darn it", I said some else but it means the same thing.

Natural gas came and was distributed, the pipes not being changed or replaced. On February 4, 1970, Dr. Wiseman and his wife, retired and enjoying it, were blown out of their house and killed from what

appeared to be a gas explosion. Gas leaked into their home through an abandoned sewer pipe. You see, Mr. Wiseman did not use gas; there was no gas connection of any kind in their home.

Investigations were conducted by the city officials and eventually died because, I think, direct negligence on the part of the gas company could not be proven.

On the 17th of March 1972, in a neighborhood close to where I live a similar accident occurred. This time two ladies shortly after going to bed (10:30 p.m.), were killed. Again the same setting, no gas connections; the gas leaked into the house through the sewer system. Now, I submit to you that gas had to come from somewhere.

As you know, natural gas is fed in the pipes through pressure, and if the pipes cannot take the pressure they break, leaks develop and people get killed.

After the second accident the now Northern Utilities Co., formerly Lewiston Gas Co., dug 3,000 holes in the various roads in the City of Lewiston, still all in evidence throughout the city, I might say, bumpy bump here and there all over. The reason is obvious why they dug those holes. They decided to check the seams and/or joints of their pipes. They repaired or resealed those that needed it and replaced some others. They also replaced big main pipes in downtown Lewiston and to the residential areas. At the end of these large mains they installed valves or gauges to reduce the pressure so that the smaller pipes in the residential areas would not burst at the seams.

You see, this outfit just did not want to spend any money, and they did not until four persons died. And I think, better than that, the best reason why they decided to transfer their general manager out of town and spend some money was that many people with gas services had them disconnected; financial loss. Further, their employees wherever they went were called murderers. One such employee, a real good friend of mine, told me as much.

There are now four suits pending court action in the Lewiston area, I understand. The negotiations are proceeding very slowly, and you can imagine who is dragging their feet.

Here I would like to quote, the "Heath and Associates" investigational report regarding this problem. These people were hired by the P.U.C., and this final report is dated June 28, 1974. The investigation started sometime in January 1973. At what cost to the state, I don't know. I will just quote a couple of paragraphs here:

"In summary, Northern Utilities' situation in the State of Maine has improved remarkably over the past two years. Whereas recent incidents allegedly involving natural gas have focused public attention on the hazard of leaking gas and put Northern Utilities relations with the general public and city officials at a very low ebb. Leakage has been reduced," which indicates there is still some, "and the physical condition of the gas system is much less hazardous.

"Channels of communications are now open between N.U. and city officials. Unaccounted for gas, which was substantially above industry standards of acceptability and on the increase, has been reduced and is now approaching an industry acceptable level." Now approaching, underlined. Another little piece over here: "The rate at which new natural gas leaks develop has stabilized and is diminishing", again indicating

there are still some leaks in the system, and possibly more people can be killed.

Now, why am I so hot and bothered about this bill? When this bill appeared on this floor, it had a first reading and zipped right through, no problem. It came back and had a second reading and again zip, no problem. It came back for third reading, whoops, somebody put the brakes on, none other than my good friend Senator Cianchette. He did a wonderful job, because when he applies the brakes, he applies the brakes. I realize that he is a very effective legislator, but after the vote I was shocked. Then after we adjourned that day this was still in the back of my mind. Incidentally, the vote was fifteen to fifteen that day. So I did some thinking. Yes, I admitted to myself that Senator Cianchette is a very fine person, very likable, terrific personality, and has all the qualities of a very effective legislator. But while thinking some more I recalled that on Friday preceding the fifteen — fifteen vote, a lobbyist, here I must say a powerful one also, did contact me in the hall about this bill. I told him I was committed and walked away. On the following Monday, as I was leaving home to come up here, the phone rang. A very good and dear friend of mine is on the other end asking me how I felt about the gas bill and was I committed. I told him how I felt and that I was committed. Then I proceeded to ask him why. Well, he said, I do business with the gas company and if you had not been committed I would have asked you to vote the other way. But if you feel strongly about it, do it your way.

After the vote was taken, I realized then that other people had had the same experience. You know, here at this time I must say that I enjoyed talking with lobbyists, and up to that point in time it was good, as long as they use their talents to convince me one way or another. But when they go out and find out who my best and closest friends are, and use them to exercise pressure on me, I say this is not right. I got hot and bothered, and I still am.

Now I ask you, how many more people must die before we legislate a bill that will make this gas company spend a few dollars in order to have a safe, dependable gas service. How much money can you put on life? Before you vote today, please, by everything that is holy, isn't life worth more than dollars. Thank you.

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

Mr. BERRY: Mr. President, just so I won't reiterate what the good Senator from Androscoggin, Senator Carbonneau, has said, I would like to express my own feelings to the members of the Senate and to the President.

I think you really have to live through a terror such as the municipalities of Lewiston and Auburn have gone through concerning natural gas. We have actually seen nursing homes, and we have many times seen our schools emptied because of high gas content.

I was fortunate to have an insight into the gas situation, in having been appointed to a committee that worked closely with Heath Associates which were brought in on the gas situation when it was at its most critical point. We became quite knowledgeable in the field of natural gas and we found with the lines that existed, and as they existed, in the Lewiston-Auburn area, and other areas in the State of Maine, there was needed a constant application of a chemical called

Carboseal. Now, the reason for this was that the Carboseal flows into the joints, into the lines, and through an expansion stops the leakage in the lines, which we thought was going to work quite well, and it did for sometime.

But even today we are at a point where we have our own fire inspectors. Our fire department is going out on a daily basis checking manholes, checking schools, checking nursing homes, to make sure of the gas content from leakage that might take place in the lines; and they are checking buildings that do not have gas in them, because the problem with the gas is that explosions have not occurred, as Senator Carbonneau said, in buildings with gas, but in buildings as far away as two or three blocks from the nearest gas line. It follows along sewerage lines, water pipes, etc. But I think the main thing here — and I have heard this bill referred to as a liability bill, but I think it goes much deeper than that — I think it is an insurance bill, with liability, or whatever you want to call it, hanging over a gas company such as this. It will put a responsibility onto the gas company where they will take more precautions, whereas we are handicapped as municipalities to force these precautions upon them. I think they will take it upon themselves to see that these gas lines are much safer for the people in these communities.

I would ask the Senate to support Senator Clifford on this bill.

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

Mr. SPEERS: Mr. President, I ask leave to pair my vote with the Senator from York, Senator Roberts, who if he were here would vote "Yes" on the pending motion, and I would vote "No".

The PRESIDENT: The Senator from Kennebec, Senator Speers, now asks leave to pair his vote with that of the Senator from York, Senator Roberts, who if he were here would be voting "Yes", and the Senator from Kennebec, Senator Speers, would be voting "No". Is it the pleasure of the Senate to grant this leave?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would pose a question through the Chair: In order to pair one's vote, would a roll call have to be requested? If so, I would request a roll call, Mr. President.

The PRESIDENT: A roll call has been requested. Is it the pleasure of the Senate that the Senator from Kennebec be allowed to pair his vote with the Senator from York, Senator Roberts?

It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I would be very brief because I know that to many of you who are not affected by this it is not as important as it is to some of us who are, but it is said that this is a unique bill and a radical bill, and I rise to dispel that notion.

It does set out a limited strict liability situation and a limited presumption situation, but if the natural gas does not escape from the system under the control of the gas company there is no liability. Even if the natural gas escapes from the system, but the escape is caused by a third party, there is no liability. And even if the natural gas does escape, and the fire or

explosion is caused by a third person, there is no liability.

It has been said that this is unique and that this would make Maine the only state with a strict liability doctrine. This is not true. Many states have court imposed strict liability doctrines for natural gas.

It has been said that this is the only area where there would be liability without negligence. This is not true even in the State of Maine. The 106th Legislature passed the Products Liability Bill, which imposes liability on manufacturers of products, even though they exercise due care and are not negligent. So there is no uniqueness in that area.

They say it is unique because it would create a presumption and that the law never creates presumptions. As I recall, this Senate this week passed a bill relating to the firefighters, a presumption that it was caused by his firefighting duties. The firefighters, I think, convinced the Senate that under those circumstances the shift of the presumption was justified. So that the situation as far as what the bill does is not unique and it is not radical.

What is unique, Mr. President and Members of the Senate is that natural gas running through an old system not designed for natural gas is uniquely dangerous and uniquely lethal, and I think we have a unique opportunity before us here to change the law in a nonradical manner so that we can protect the citizens who are affected. And I hope you would vote against the motion to indefinitely postpone and vote for enactment of the bill. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President and Members of the Senate: I would first like to thank the Senator from Androscoggin, Senator Carbonneau, for all the fine compliments he paid me. I appreciate that.

You know, I am sure that the whole State of Maine, and more, are really disturbed and feel sad over the tragedies that happened down in the Lewiston-Auburn area regarding the gas. Certainly none of us support the idea that we want any public utility around killing people.

I have the Heath Report that we have heard mention of several times, and I would like to read a few statements out of that Heath Report too. This is the report to the Chairman of the Maine Public Utilities Commission, the final report, the same one that we have heard from before, and I quote from it: "In our opinion, Northern Utilities is dedicated to seeking a good safety record, providing reliable service and meeting its obligations to its customers and the public in general." It is a long report and there are many things in it.

On page 4, there is another quote: "Liaison with the city officials has been established regarding gas operations. The gist of some remarks remembered from conversations during our on-site inspection went like this: 'Our relationship with the gas company has never been this good. On a scale of 1 to 100, the relationship with the gas company has improved 100 percent.' Another quote: 'Now Northern Utilities cooperates with us beautifully.'"

There was a problem, and there may still be some problem, but the problem down there I don't think is the issue in this Senate. I think the issue is do we want to pass a law? There may have been court decrees or some court action in other states but, as I understand it, there is no

other state that has a law that makes and industry or a person guilty until they prove themselves innocent. This is what this bill would do, this is why I object to the bill, and I hope you will support me in indefinite postponement.

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

Mr. BERRY: Mr. President, on the Heath Report and from the quotations taken by my good friend, the Senator from Somerset, Senator Cianchette, it is very true the Heath Report does say that they were seeking a very good safety record by the gas company, and it is true they were, and they still are trying to apply a safety record, although at times they get very lax.

The second comment he made was that the liaison with the city officials had never been this good and had improved 100 percent, which is a very good recommendation, until you consider the fact that it was approximately 400 percent down.

I think also the Senate should be aware of the fact that this report was written in June of 1975 and covered an area from the fall of 1972. As we all know, workers work much better when the boss is on the job.

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

Mr. MERRILL: Mr. President and Members of the Senate: I promise to be brief in this matter, but I do want to rise to address a couple of problems and to make it clear to the Senate that this isn't just a battle between one municipality or one municipal area and this one company.

I think that there are two questions really that are raised by the Senator from Somerset, Senator Cianchette, that would trouble a Senator thinking of voting against this motion and voting for the bill. The first one is that there is still a problem. And we have related to this Senate here today and in the past the argument that there have been great efforts to improve the situation, and I think that is true.

But just a few days ago I was in my city, the City of Portland, and I took a walk down the street that I live on and I stopped in to see some people that I know, have gotten to know as I ran for office, and I was sitting in their house and there was some excavation going on outside. And a little boy came into the house, a 3-year old or maybe 4-year old boy came in as I was sitting there talking to his parents, and he said "It could have blown the whole house up." And his father inquired as to what he was talking about, and he said "It could have blown the whole house up." And he said, "What do you mean?" And the boy said "Well, that is what that man said out there." So we went out and took a look at the excavation, and it was the gas company and their workers who had just dug up a pipe that had been causing a leak, and that pipe looked more like a strainer than it did a container. It was just completely rotted out and full of holes. Now, the house that it would have blown up, if it had followed the sewer line through, was the house of the people that had that little boy, and nobody in that house used natural gas. So I think there is still a problem, and it is a problem of some concern to the people that have that sort of a situation.

Secondly, I guess, is the question as to whether this is a proper means to go about doing something about the problem. And we hear talk about people being guilty

until proven innocent. Well, of course, there exists in our law in criminal matters a presumption; the presumption being a presumption of innocence in criminal matters, and that is a good presumption. But this isn't a criminal matter. What we are talking about here is simply a matter of civil liability and who has to prove the points that are the hardest to prove, the defendant or the plaintiff, and what they are going to have to prove, negligence, or whether we are going to hold them strictly liable. Well, the fact of the matter is that most of the states in the union hold people who deal with dangerous instrumentalities, such as dynamite or natural gas, as it exists in our state at the present time, hold people who deal in those to be strictly liable, on the idea that this is a dangerous activity and that if you are going to carry it on you carry it on at your own peril. If something happens, you should take care of it.

It seems to me only fair to ask the gas companies, and ultimately the gas users, to bear the burden, to bear the economic burden for the damage that that instrumentality, gas, can do; not for the person who doesn't use gas for him and his family, not for him to have to carry that burden through his insurance, but the burden should be carried by the people who use this, by the people who cause this dangerous instrumentality to be brought into the neighborhood. So I think this is a fair bill, I think that there still is a problem, and I would urge the Senate to defeat the motion to indefinitely postpone and to pass this bill into law.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Somerset, Senator Cianchette, that this bill be indefinitely postponed. A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of more than one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The Chair will restate the question. The pending question is the motion by the Senator from Somerset, Senator Cianchette, that L.D. 1267 and all 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 R.N.; Cianchette, Corson, Cummings, Greeley, Hichens, Huber, Jackson, Marcotte, McNally, Thomas and Wyman.

NAYS: Senators Berry, E.F. Jr.; Carbonneau, Clifford, Collins, Conley, Curtis, Cyr, Gahagan, Graham, Johnston, Katz, Merrill, O'Leary, Pray, Reeves and Trotzky.

ABSENT: Senators Danton and Graffam. A roll call was had. 12 Senators having voted in the affirmative, and 16 Senators having voted in the negative, with Senator Speers of Kennebec pairing his vote with that of Senator Roberts of York, and two Senators being absent, the motion did not prevail.

Thereupon, the Bill 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 Conley.

Mr. CONLEY: Mr. President, having

voted on the prevailing side, I now move we reconsider enactment of this bill, and I hope everyone will vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby L.D. 1267 was passed to be enacted. Will all those Senators in favor of reconsideration please say "Yes"; those opposed "No".

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

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

Bill, "An Act Relating to the Shipment of Dogs and Cats and Prohibiting the Use of Dogs or Cats in Commercial Promotions." (H. P. 238) (L. D. 294)

Tabled — April 24, 1975 by Senator Corson of Somerset.

Pending — Motion of Senator Hichens of York to Indefinitely Postpone House Amendment "A" (H-187) to Committee Amendment "A" (H-176).

(In the House — Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto)

Thereupon, House Amendment "A" to Committee Amendment "A" was Indefinitely Postponed in non-concurrence. Subsequently, Committee Amendment "A" was Adopted in non-concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

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

Senate Reports — from the Committee on Legal Affairs — Bill, "An Act Providing for the Observance of Memorial Day on May 30th." (S. P. 371) (L. D. 1198) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass.

Tabled — April 24, 1975 by Senator Corson of Somerset.

Pending — Acceptance of Either Report.

Mr. Corson of Somerset moved that the Senate Accept the Majority Ought to Pass Report of the Committee.

Mr. Katz of Kennebec then requested a division.

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

Mr. BERRY: Mr. President, if I may address the Senate briefly, I would only like to remind the Senate, and it probably is not necessary, but to stop and think that May 30th was first proclaimed Memorial Day in the year of 1868, and remained that way for 104 years until the legislature decided to go to the last Monday in May.

The dedication and the purpose of Memorial Day was for decorating the graves of veterans who had offered their lives to protect the country in wars since that time. It was also to band together the sailors, soldiers, marines, and the people of this country to defend the country against its foes.

It is my belief that as the world is changing the important thing is for us to cherish days such as this and to leave them in their original state so that we might remind others of the perils that face a country such as ours and so that none of us or any man forgets the cost of freedom.

I believe if the Senate would take the time to look, for those of us who haven't, in the hall of the rotunda of this capitol there is a plaque of approximately two by three

feet in bronze, which has hung there since 1936, dedicating May 30th as Memorial Day in the State of Maine. So I would ask the Senate that we return Memorial Day to May 30th, and leave it there henceforth as it was dedicated by our forefathers.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, I wonder if the Secretary would read the Committee Report.

The PRESIDENT: The Secretary will read the report.

The SECRETARY: The Majority of the Committee on Legal Affairs on Bill, "An Act Providing for the Observance of Memorial Day on May 30th" (S. P. 371) (L. D. 1198) reports that the same Ought to Pass.

Signed:
Senator:

CORSON of Somerset
Representatives:
DUDLEY of Enfield
FAUCHER of Solon
SHUTE of Stockton Springs
HUNTER of Benton
JOYCE of Portland
GOULD of Old Town
CAREY of Waterville
BURNS of North Anson

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

Signed:

Senators:
CIANCHETTE of Somerset
DANTON of York
Representatives:
COTE of Lewiston
PERKINS of Blue Hill.

Mr. CIANCHETTE: Thank you, Mr. President. I wouldn't want the members of the body to think that I am against our heritage and against our forefathers and that I am against veterans. I am a member of the VFW, I am a member of the American Legion, and I do respect Memorial Day, without any question or reservation whatsoever.

There are many people working in this state that are not able to make it home every night; they work away from home in many different occupations. When the holiday falls on a Tuesday or a Wednesday, what does that person do when he is away from home? Does he take the long drive back? If he does, at what expense? Or does he just stay there? If he just stays there, how can he respectfully honor the Memorial Day holiday? There are a lot of people in Maine who are affected by it that way. Turn it around, and if we honor Memorial Day on the last Monday of May, as we do now, it gives a longer weekend, it gives family togetherness, and it gives an opportunity for people to appreciate the holiday without it costing them extra dollars and extra inconvenience.

For those reasons, I oppose the motion to accept the Ought to Pass Report and I would move indefinite postponement of the bill.

The PRESIDENT: The Senator from Somerset, Senator Cianchette, now moves that the bill be indefinitely postponed.

The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: I would like to pose a question through the Chair. I would like to know how our surrounding states stand on this and if we would be completely out of step. It would be very difficult if our

holiday was celebrated at a different time than that of our neighbors.

The PRESIDENT: The Senator from Penobscot, Senator Cummings, has posed a question through the Chair to any Senator who may answer if he so desires.

The Chair recognizes the Senator from Androscoggin, Senator Berry.

Mr. BERRY: Mr. President, I stand to be corrected if I am wrong, but it is my understanding that Maine and Massachusetts are the two out of the surrounding states that do celebrate on the last Monday in May. The others celebrate on May 30th.

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

Mr. HICHENS: Mr. President and Members of the Senate: I think it is very significant that we are debating this item today. It was my privilege last night, along with maybe some of the others in the Senate, to attend the performance by the Bicentennial Band up at the Civic Center. There I, along with some 5,700 people, as reported in today's paper, was stirred by the renditions of songs which have come down through the years since the Revolutionary War, and brought us to mind of our national heritage and stirred us to the marches of John Philip Sousa, the marches which were played back through the Civil War days and up through Memorial Day as we now recognize it.

As I thought of our debate this morning, I delved into the legislative record of 1969 when the law was changed and Maine had a three day week-end Memorial Day proclaimed, and I would like to share with you the same arguments that I used for the one-day holiday on May 30th, and then go on with further remarks.

It has been many years since my childhood, but many memories of that childhood are still vivid to me. Among those memories was Memorial Day. That was a holiday set apart from all other holidays because of its difference and its significance.

I can very well remember Memorial Day going down to the Commons in Lynn, Massachusetts, where I was raised, and watching the parade, watching these veterans, the men in blue, who were still living in those days, many of them marching along and with some riding in automobiles, and following that parade to the cemetery where the veterans' graves were all decorated and where services were held.

These men in blue got up and told of the significance of that day and of the battle for the freedom of our United States of America, to keep it as one union. Part of the ceremonies was the reading of Lincoln's Gettysburg Address and the recitation of "In Flanders Fields", which was recited for us the other day here in the House. As I grew older, I became a member of the high school band and marched in the parades on Memorial Day, and as I moved into the State of Maine my children grew up and they, from Cub Scouts and Girl Scouts up, looked forward to marching in the Memorial Day parade in the Town of Elliot.

A letter that I received from my oldest son while in the service brought this fact of the significance of the day very clear to my mind. He wrote from his base in California, "I cannot help but relive with you on Memorial Day just what we would be doing if I were home. It means so much more to me now that I am away and cannot participate in these activities than it did

when I was home and did march in that parade."

I feel, and I know from experience, that weekend observances of that holiday made a tremendous difference in the attendance in those parades. People went off for the holiday or the weekend, Saturday Sunday; and when the holiday was on a Monday many of them did not return because they were having too good a time at their vacation spots, and on many occasions there was a very sparse attendance at those activities. But to have the same activities take place in the middle of the week and almost the whole town would turn out, both for the parade and for the services at the cemetery.

Back to this day on which we are debating this bill, since Memorial Day was changed for a three-day holiday weekend, what I and others predicted became a reality. Some towns have even done away with Memorial Day activities because people have just vacated the area. Others have changed the times of the parades and ceremonies to take in the day hoping the weekend vacationers would return home in time to participate. Families have been separated for the day or weekend so that some members could enjoy the days at the lake, while fathers, students, and others feeling duty-bound stayed behind to parade. To me this spoils the whole concept of a time of remembrance. Participating solely because of duty destroys the whole significance of the occasion.

We have returned to the observance of Veterans Day on November 11, as we rightfully should, and during this 107th Legislative session we can make it complete and observe Memorial Day on May 30th where it rightfully belongs.

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

Mr. O'LEARY: Mr. President, I request a roll call on this issue.

The PRESIDENT: A roll call has been requested. The pending motion before the Senate is the motion by the Senator from Somerset, Senator Cianchette, that this bill be indefinitely postponed.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I was in the 106th Legislature when we debated the difficult and emotional issue of Veterans Day, and we changed Veterans Day back to November 11th., but it seems to me there is a substantial difference between Veterans Day and Memorial Day. November 11 was the actual day that the armistice came about or was signed at the end of World War I. I don't think that Memorial Day has the same kind of significance, and I think the remarks of the good Senator from Somerset, Senator Cianchette, are on point.

If there is really no reason to go back to a particular date, if it has no particular significance, it seems to me we ought to celebrate a holiday when the most people can participate and that would not disrupt businesses. I think a three-day weekend, especially for Maine, is a good idea, and especially in the first part of the summer because I think it is the beginning of our tourist industry. I think it is significant and important to Maine to have Memorial Day on a Monday to get that three-day weekend which brings a lot of tourists into the state. I think if it were significant we would go back to May 30th, but I don't think it is. I don't think it is a situation like November 11th and I, therefore, would hope that we

could keep it on the three-day weekend. Thank you, Mr. President.

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

Mr. KATZ: Mr. President, I suspect the lines have pretty well been drawn, but I don't want any of the proponents to feel that it is a very easy situation, that there is a right way and a wrong way, because there isn't.

May I tell you my personal situation. First, my personal life. I grew up in Massachusetts. My family is in Massachusetts. The visiting of all our graves takes place in Massachusetts. This weekend has been a blessing for my family and people like me, many of whom are transplanted from other areas, and we do use this not for fishing but for visiting graves.

Second, I am in the retail business. The people in the retail business — and I am talking about employees — are a pretty hard-working bunch of people. The long weekend which is taken so much for granted by professional people is a blessing for people who serve you behind counters in the state.

So even if you vote for the change, don't feel that there is a right answer and there is a wrong answer, because there is going to be a dislocation either way. And overall, I agree completely with the sentiments just expressed by the Senator from Androscoggin, Senator Clifford, that this has become far, far more than just a day of remembering our honored war dead.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Somerset, Senator Cianchette, that this bill be indefinitely postponed. A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of more than one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The Chair will restate the question. The pending motion is the motion of the Senator from Somerset, Senator Cianchette, that L. D. 1198 and all 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 Cianchette, Clifford, Collins, Conley, Cummings, Danton, Gahagan, Johnston, Katz, Marcotte, Merrill, Pray, Speers, Trotzky.

NAYS: Senators Berry, E.; Berry, R.; Carbonneau, Corson, Curtis, Cyr, Graham, Greeley, Hichens, Jackson, McNally, O'Leary, Reeves, Thomas, Wyman.

ABSENT: Senators Graffam, Huber, Roberts.

A roll call was had. 14 Senators having voted in the affirmative, and 15 Senators having voted in the negative, with three Senators being absent, the motion did not prevail.

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

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

Bill, "An Act Relating to the Lease or Acquisition of Certain Railroad Lines by

the Department of Transportation." (H. P. 1514) (L. D. 1831)

Tabled — April 24, 1975 by Senator Cyr of Aroostook.

Pending — Motion of Senator Reeves of Kennebec to Indefinitely Postpone Bill and Accompanying Papers.

(In the House — Passed to be Engrossed)

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President and Members of the Senate: I want to oppose the motion of the Senator from Kennebec, Senator Reeves.

This bill came before the Transportation Committee, and came out of Committee with a unanimous Ought to Pass Report. The federal government is showing a greater interest in subsidizing railroads, especially in the northeastern part of the United States. This bill is permissive legislation to give the Department of Transportation a chance to use some of that money, if that money is ever available. As far as using state funds is concerned, the Transportation Committee comes out with an allocation bill at the end of the session and that bill has to be approved by the legislature. So the way conditions are financially, both in the Department of Transportation and at the general fund level, I don't think there is any worry about using state funds for railroads in the near future. I hope you oppose the motion of the Senator from Kennebec, Senator Reeves.

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

Mr. REEVES: Mr. President and Members of the Senate: At the suggestion of the good Senator from Waldo, Senator Greeley, I spoke with a colleague of mine from the Sagadahoc delegation, and he promptly introduced me to a lobbyist from the Maine Central Railroad. This man told me that state matching funds would be necessary to make any of these purchases and that the split would be 70-30. So I think money would be necessary from the state.

At the same time, I would like to read a paragraph from a newspaper article which I mentioned in the debate yesterday regarding the Maine Central Railroad Annual Meeting, in which the President, Mr. E. Spencer Miller, reported, "We won't have a good year in 1975. This may be a break-even year for us. Last year Maine Central had a total net income of \$6,091,000 after taxes, highest in its history." Obviously we all know that this isn't going to be a break-even year for the State of Maine, and I think that we are getting ourselves into something that we may not have money for. I say on this bill to wait, and let's not give permission to spend funds to the Department of Transportation until we decide if we want to spend this money.

As far as the argument that money won't be spent until we appropriate it, I would like to call attention to a matter which I brought to the attention of the Senate some time ago regarding a computer contract which was left by the Bureau of Public Improvements for \$39,000. The actual cost of this contract before it runs out is \$200,000, which is about what it would cost for the state's share to buy one of these lines, as far as I can figure.

I hope the Senate will support me and indefinitely postpone this, and when the time comes that we decide that we want to buy these railroads and participate with

the federal government, I think there will be plenty of time.

The Maine Central Railroad asked in 1973 to abandon a line in New Hampshire and Vermont, between Stratford, New Hampshire and Beechers Falls, Vermont. That was 1973 and they still haven't decided that. So we will have plenty of time when the time comes, but let's not give permission to spend money until we decide we want to spend it.

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

Mr. McNALLY: Mr. President and Members of the Senate: I think the good Senator from Kennebec, Senator Reeves, perhaps doesn't as yet understand what this bill is. This is only a permissive bill whereby when the federal government decides to take a certain sum of money out of what is known as the highway trust fund, for this sole purpose of buying up some railroad line that is now no longer in use, then at that time if this bill has been passed, it will be possible for the Department of Transportation to obtain some of that money. If this bill is not passed, then you will have to have a Special Session, in case it wasn't the time for us to be in the regular session, in order for the Department of Transportation to be able to get any of this money.

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

Mr. MERRILL: Mr. President and Members of the Senate: I think this is a very important bill and it points to a direction that is very important. We all have a lot of programs that we think are very important here in the State of Maine, and I think most of us come up here with some things that we would like to see be done for the people. And then we all come to the realization, particularly in years like this, that this is a very poor state. This is the 45th poorest state in the United States, and we have geographic problems in terms of promoting industry in this state because we are so remote.

We depend, I think, on a healthy railroad system. We depend on a railroad system that can go into these small towns, and you know even if the railroad spur isn't quite making money in going into one of these small towns that the state may end up the loser if they close down the spur and the businesses that depend on that spur in that small town to close down.

What this does is that it starts letting us look at the problem we are going to face with railroad transportation that the whole country is beginning to face — and Maine can't afford to let its railroads go — and all this does is set up some permissive legislation. It isn't a final decision, but it starts getting us to look at a problem that is very important to us here in Maine, and that is the problem of transportation. It is a problem of railroad transportation that is going to become more acute for us, as it has for the rest of the nation, as time goes on. I think it points in a direction that we ultimately are going to have to go, and I think it would be just a bad step and a bad indicator for this Senate to turn down this piece of permissive legislation, and it wouldn't bode well, I think, for the economic future of some of these small rural towns.

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

Mr. REEVES: Mr. President, I urge

again that we not get involved in give-aways until we find out how much we are giving away. I would ask for a roll call on this.

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

Mr. KATZ: Mr. President, might I inquire through the Chair of the Senator from Waldo, Senator Greeley: I understand that this is permissive legislation to permit the Department of Transportation to accept certain advances from the federal government, if the situation comes up. But who will make the ultimate decision as to whether or not state funds will be permitted to the acquisition of a particular rail spur? Will the legislature have a voice, or are we delegating that authority down the road to somebody in the Department of Transportation?

The PRESIDENT: The Senator from Kennebec, Senator Katz, now poses a question through the Chair to any Senator who may care to answer.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President, the legislature would have full authority on allocating funding. Another thing I would like to say is that the highway funds are dedicated to highways and not railroads.

The PRESIDENT: Is the Senate ready for the question? A roll call has been requested. 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 a roll call please rise in their places until counted.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, because of the appearance of a conflict of interest, I wish to be excused from voting on this bill.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now requests that he be excused from voting because of an appearance of a conflict of interest. Is this the pleasure of the Senate?

It is a vote.

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

Mr. BERRY: Mr. President, if I might pose a question through the Chair strictly on my own behalf. Being a director on a municipal railroad, I would also pose the same question as Senator Conley, if that would be in direct conflict? Although we have no control over the railroad, we own a railroad and lease it to a major railroad.

The PRESIDENT: The Senator from Androscoggin, Senator Berry now requests that he be excused from voting because of an appearance of a conflict of interest. Is there objection?

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I would rise to object. I see in this body an increasing move to be excused because of conflict. The conflict has to be direct and specific, and I see no conflict in this case. Consequently, I would object.

The PRESIDENT: The Chair will order a division.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, if I may speak for a moment relative to the question, it is not the conflict of interest that disturbs some of us; it is the

appearance of a conflict of interest that is greatly disturbing.

The PRESIDENT: Will all those Senators in favor of granting the request of the Senator from Androscoggin, Senator Berry, that he be excused from voting because of the possible appearance of a conflict of interest please rise in their places until counted. Those opposed will please rise in their places until counted.

A division was had. 23 having voted in the affirmative, and two having voted in the negative, the Senator was excused from voting.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Reeves, that L. D. 1831 together with all 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 Corson, O'Leary, Reeves, Wyman.

NAYS: Senators Berry, R.; Carbonneau, Cianchette, Clifford, Collins, Cummings, Curtis, Cyr, Gahagan, Graham, Greeley, Hichens, Jackson, Johnston, Katz, McNally, Merrill, Pray, Speers, Thomas, Trotzky.

ABSENT: Senators Danton, Graffam, Huber, Marcotte, Roberts.

A roll call has had. Four Senators having voted in the affirmative, and 21 Senators having voted in the negative, with two Senators abstaining and five being absent, the motion did not prevail.

Thereupon, the Bill was Passed to be Engrossed in concurrence.

Papers From The House

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

House Papers

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

Bill, "An Act to Repeal the Act to Incorporate the Parsonsfield Kezar Falls Village Corporation in the town of Parsonsfield." (H. P. 1534) (L. D. 1855)

Comes from the House referred to the Committee on Legal Affairs and Ordered Printed.

On motion by Mr. Speers of Kennebec, referred to the Committee on Local and County Government in non-concurrence and Ordered Printed.

Sent down for concurrence.

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

Mr. CONLEY: Mr. President and Members of the Senate: I would like to express my feelings to you this afternoon as to the relationship between this body and the body at the other end of the hall since January 1st. I can say that in the number of terms of the legislature I have served here that never at any time have the two bodies worked so cooperatively as in this one. Never has the leadership of both houses met so often and tried to work out the differences, and particularly the problems that are confronting this session of the legislature. I have been very happy to have served with the presiding officer of this body and also the majority and the assistant majority floor leaders of this branch. I can also state that during the sessions that we have had, and they are

generally on a daily business routine of meeting between two and three hours sometimes during any one afternoon, we have been trying to approach the real problems of this session of the legislature and decide how we are going to try to respond to them.

This morning on my arrival at the State House I received a copy of a news release made by the Chief Executive of the State thrashing the Democratic Party Leadership for its irresponsibility in trying to push through this legislature a major tax increase. I feel the assault upon the Democratic Leadership and members of my party by the Chief Executive is unwarranted, unjustified and with malice.

In reading through his press release, one can only come to the very serious conclusion that the Chief Executive is not only trying to divide the members of my party within its leadership, but is also trying to divide the very close working relationship that this party has had with the majority party of this body.

It is my intention to continue to work the way we have since January first with the good Senator from Kennebec, Senator Speers, the good Senator from Penobscot, Senator Cummings, and the Presiding Officer as long as we continue to meet in session. It appears that at any time, any time at all, the leadership, whether divided or unanimously, opposes some of the approaches that the Chief Executive takes toward resolving problems of the state that we are immediately chastised, and I note that it is the Democratic Party that is chastised by the Chief Executive.

It is apparent to me that he is completely and totally paranoid toward the Democratic Leadership. I am sorry that I have to stand on my feet in this chamber this afternoon to express myself in those words, because I can honestly say, and I am sure that those of leadership present here today can agree, that at no time have I or, to my knowledge, any other member of the Democratic Leadership ever assailed the Chief Executive, publicly or otherwise.

It is my hope after getting this off of my chest, Mr. President and Members of the Senate, that we can go about the routine business of the day and once more continue to meet daily to try and resolve the financial problems of the state. Thank you.

Mr. Hichens of York was granted unanimous consent to address the Senate:

Mr. HICHENS: Mr. President and Members of the Senate: When I offered my verse earlier in the session, I didn't realize that I was going to have two verses to offer today. In fact I was hoping I wouldn't have to offer the one that I am going to give at the present time, but I think I sort of had a little ESP and saw the future, and with our debate on Memorial Day today, I think it is very fitting that we close our day and week's activities with this poem that I have entitled: In Remembrance of L. D. 4.

Go to sleep — my baby — L. D. No. 4.

Your day at last hath ended, for you time is no more.

No more the bitter anguish — no more the inner pain,

Your hopes and expectations no longer doth remain,

Born with great hopes of passage that some good might be done;

At times it seemed quite certain the battle would be won.

But oppressors sprang around you and minds about you changed.

The votes taken for granted — were somehow rearranged.

Great words for you were spoken — great hopes in you extolled,

And men and women with a care gave you their vote, when polled.

Your birth aroused the passions of people round the State,

And on the day accounts were read — a throng did congregate.

The jury of thirteen on your survival couldn't agree

E'en so you reached the Senate floor with the majority.

Debate ensued and on your way you went forth down the Hall,

Came back to us bruised up a bit, but on the next roll call,

Went back again where victory seem almost in your grasp;

And then the pressures mounted and as the time did lapse,

The air was inundated with cries — "Please let us drink"

And the din became so loud around that honest minds couldn't think.

And when the vote was taken — now sounding your death knell,

Once more you Senatewise returned here in repose to dwell.

Your time on earth not wasted — your anguish not in vain;

For sometime in the future you'll be reborn again.

Perhaps not with the name you've had — expressed in the same way,

But you'll return and men will talk of you again some day.

Meanwhile, may God protect the youth, that traverse this wide State o'er

And keep alive your principles — My baby L. D. 4.

The PRESIDENT: The Chair thanks the poet laureate of the Senate. (Applause, the members rising.)

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot,

Adjourned until Monday, April 28, 1975 at 10 o'clock in the morning.