

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

Thursday, May 1, 1975

Senate called to order by the President.

Prayer by Rev. James Brosius, Windsor Memorial Baptist Church, Windsor:

Let us Pray. Our Father, as our thoughts are directed this morning to the affairs of this Senate session, we ask your blessing and your guidance. Truly Lord, as a nation we need to look to you for the decisions that would affect the lives of us all. We thank you, Father, for how you have dealt with this land, and especially, Lord, for the Lord Jesus Christ who died on the cross for us. We pray, Lord, that each of us would turn to you now looking for the guidance that only you can bring: Bless us, Father, we pray in Christ's name. Amen.

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 25, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (S-59) and House Amendment "A" (H-193), in concurrence.

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendment "B" (H-227), in non-concurrence.

Thereupon, on motion by Mr. Danton of York, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Relating to Hunting Bear with Dogs." (S. P. 311) (L. D. 1059)

In the Senate April 29, 1975, the Minority report Read and Accepted and the Bill Passed to be Engrossed.

Comes from the House, the Majority Ought Not to Pass report Read and Accepted, in non-concurrence.

Thereupon, on motion by Mr. Corson of Somerset, the Senate voted to Insist.

**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 accomplishments of Esther M. Kennard of Gray recognized for her volunteer services by the 1975 Bronze award of the Maine Division of the American Cancer Society

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. 1553)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Communications

ANSWER OF THE JUSTICES

To the Honorable Senate of the State of Maine:

In compliance with the provisions of Section 3 of Article VI of the Constitution of Maine, we, the undersigned Justices of the

Supreme Judicial Court, have the honor to submit our answer to the question propounded on April 10, 1975.

QUESTION: Would the provisions of the Legislative Document No. 1389 (Exhibit A) an Act now pending before the Senate of the 107th Legislature, if enacted into law, unconstitutionally deprive a person of life, liberty or property without due process of law in violation of the Constitution of the State of Maine?

ANSWER: We answer in the affirmative.

The predominant, and critical, feature of the proposed legislation is that, while explicitly disavowing applicability of the criminal law and its procedures and sanctions, the bill would authorize law enforcement officials to assert and maintain custodial control of a person "without his consent" potentially for as long as twelve hours in a police facility or forty-eight hours in an "approved public treatment facility."

Yoder v. County of Cumberland, Me., 278 A.2d 379 (1971) emphasized that the freedom of one's person is a "most sacred", "most precious possession." (p. 386) *Yoder* decided, therefore, that the right of a person to be free of governmental custodial restraint is so "fundamental" that consistently with the "due process of laws" clause of Article I, Section 6-A of the Constitution of Maine, its impairment is valid only in circumstances in which (1) an important governmental interest compels it, and (2) the restraint authorized is no greater than is strictly necessary to the fulfillment of such governmental interest.

In *Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973)* the Supreme Court of the United States held that federal constitutional "due process" demands that governmental "regulation" abridging "fundamental rights" must be assessed by essentially the same criterion: — that a "compelling state interest" necessitates the limitation and "legislative enactments must be narrowly drawn to express only the legitimate state interests at stake." (p. 155)

Thus measured, the instant bill violates constitutional "due process of law" because various of its provisions "cast" a "net" of "overbreadth" (*Yoder v. County of Cumberland, supra, at p. 385*) which unduly curtails personal liberty.

The core of the bill is found in the three alternative categories of circumstances in which a person "without his consent"

"... may be taken into protective custody by a law enforcement officer and assisted, . . . to a public or private treatment facility, an emergency medical service customarily used by incapacitated persons or a police facility. . . ." to be further detained for as long as twelve hours if detention continues at a police facility or forty-eight hours if at an "approved public treatment facility."

These alternative classes of circumstances are that:

(1) a person "appears to be incapacitated by alcohol" — i.e. it appears that the use of alcohol has caused the person to be

"unconscious or . . . (to have) . . . judgment otherwise so impaired that . . . (the person) is incapable of realizing and making a rational decision with respect to his need for treatment" 22 M.R.S.A. § 1362-9;

or

(2) a person, "as the result of the use of

alcohol, . . . is likely to cause or incur physical harm to himself or another, . . ."

The legitimate governmental interest conceived to justify the invasion of personal liberty is either (or both):

(1) a concern of government as "parens patriae" to provide protective care, or treatment, (or both) to persons emergently in need of it because alcohol has impaired the proper functioning of their bodies or faculties; or

(2) a "police power" interest to protect against the dangers to the public safety posed by persons so impaired.

As to the first category, (any person who "appears to be incapacitated by alcohol"), the class is drawn so broadly that it plainly encompasses situations, reasonably foreseeable as frequently occurring, in which neither the "parens patriae" nor "police power" interest of government necessitates the governmental infringement of personal liberty purportedly authorized.

Since the class is not confined to incapacitation by alcohol which occurs in public, the "protective custody" procedures are subject to being invoked as to persons who are "incapacitated by alcohol" in their own homes or in other types of private surroundings and who, precisely for this reason that they are in private, may have no need that government intervene to provide for their care, temporary or otherwise. Here, then, the "parens patriae" rationale of justification is without relevance, and since a person's incapacitation by alcohol, without the presence of other factors, does not per se threaten the safety of other persons, governmental police power concern to protect the public safety is also without legitimate bearing.1

1 Because of such glaring overinclusiveness delineated by the concept "incapacitated by alcohol", we find it unnecessary to consider the additional, and serious, question whether once government has seen fit to invade the personal liberty of some of its citizens by assuming "parens patriae" responsibilities toward them, such particular means as are here utilized would qualify as a sufficiently substantial governmental effort toward realization of the "parens patriae" objectives involved to withstand the rigid scrutiny required by due process in relation to governmental restraints of personal liberty. As to this problem, cf: *Shelton v. Tucker, 364 U.S. 479, 81 S.Ct. 247, 5 L.Ed.2d 231 (1960)*; *Donaldson v. O'Connor, 493 F.2d 507 (1974)*; *Lynch v. Baxley, 386 F. Supp. 378 (1974) (3-judge Court)*.

The overbreadth arising from the failure to differentiate private from public situations also inheres in the second and third categories. Further, it is there compounded by the additional factor that the second and third categories rely upon indices of the impairment of bodily functions and faculties much less stringent than "incapacitation", these other criteria being: (1) "as the result of the use of alcohol, is disorderly" and (2) "as the result of the use of alcohol, . . . is likely to cause or incur physical harm to himself or another."

The standard, "as the result of the use of alcohol", by itself connotes impairments of bodily functions and faculties much less severe than the criterion, "incapacitated by alcohol" or being "intoxicated" (i.e. — "substantially impaired as the result of the use of alcohol" 22 M.R.S.A. § 1362-11).

Thus, to the extent that the second and third categories include persons neither "incapacitated by" nor "substantially impaired as the result of the use of" alcohol, but under its influence only to a minor degree and who, therefore, can take care of themselves, "protective custody" is authorized in situations which can reasonably be expected to arise with frequency in which there is no compelling urgency for government to intervene by virtue of its "parens patriae" interest to provide protective care or treatment — temporarily or otherwise.

Furthermore, in such situations the "police power" interests of government, as purportedly brought to bear in the instant bill by the factors: (1) "is disorderly" or (2) "is likely to cause or incur physical harm to himself or another", cannot, consistently with "due process of law", justify the "protective custody" procedures here permitted.

Absent (1) full impairment of a person's ability to control or regulate his behavior (as would be signified by the concept "incapacitated by alcohol") or (2) such impairment to a substantial degree (as would be connoted by "intoxicated"), the fundamental premise of our legal system is that government may validly assert and maintain custodial control of an adult person's body (however temporarily), as a method of protecting the public safety, only within the framework of the State's penological interests — as concretely expressed in the criminal law's delineation of offenses against the State and as embodying constitutional safeguards for those subjected to criminal processes. See: *Donaldson v. O'Connor*, 493 F. 2 507, 522 (1974).

Insofar, then, as the second and third categories encompass situations in which persons will be only mildly under the influence of alcohol, and therefore will be capable of caring for themselves, (1) the "parens patriae" interest of government is without legitimate bearing, and (2) a "police power" concern to protect the public safety may properly be invoked, consistently with constitutional due process, not by disavowal of, but only by reliance upon, the criminal law and criminal procedures and observance of the constitutional safeguards afforded to persons subjected to criminal processes.

Even if we assume, without affirming, that it can be consistent with constitutional "due process" that without invoking the criminal law and criminal proceedings, government may take temporary custodial control of the body of a person who, while able to care for himself, is yet sufficiently under the influence of alcohol to be potentially dangerous to others, the second and third categories violate "due process of law."

As to a person thus impaired the compelling urgency mandated by "due process" to justify governmental infringement of personal liberty can exist only if such person has committed specific overt acts of a type having objective tendency to mark him as an immediate, substantial and continuing menace to the public safety. See: *Lynch v. Baxley*, 386 F. Supp. 378 (1974) (3-judge Court). In the present bill the standard that a person "is disorderly" or "is likely to cause or incur physical harm to himself or another" is, therefore, too broad to withstand the rigid scrutiny mandated by "due process" as to restraints of personal liberty since it would authorize the assertion of "protective

custody" over a person merely because he is affected by alcohol to some degree, even if only mildly, and notwithstanding that he has failed to commit the kind of specific overt act which, objectively, would indicate him to be an immediate, substantial and continuing menace to the public safety.

Dated at Portland, Maine, this thirtieth day of April, 1975.

Respectfully submitted:

Signed:

ARMAND A. DUFRESNE, JR.
RANDOLPH A. WEATHERBEE
CHARLES A. POMEROY
SIDNEY W. WERNICK
JAMES P. ARCHIBALD
THOMAS E. DELAHANTY

Which was Read and Ordered Placed on File.

Orders

On motion by Mr. Huber of Cumberland, ORDERED, the House concurring, that the Joint Rules be amended by adding a new Rule 7E to read as follows:

7E. Limitation. During any regular session of the Legislature, no Member shall be the primary sponsor of more than 10 bills or resolves, excluding those sponsored on behalf of the Governor, without the specific approval of a majority of the Committee on Reference of Bills. (S. P. 508)

Which was Read.

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

Mr. HUBER: Mr. President and Members of the Senate: What I am trying to do with this joint order is to find some way to discourage the proliferation of trivial legislation and encourage consolidation of similar legislation into single bills.

Various ways have been suggested that this might be accomplished, either through time limitation on the duration of the legislative sessions, screening of bills by the Reference of Bills Committee, but this joint order would let each legislator establish his own priorities. This amendment to the joint rules would not affect this legislative session but would be in the joint rules for consideration by future legislatures.

As I say, this would allow each legislator to establish his own priorities. I think screening by a Reference of Bills Committee or other body essentially concentrates power unduly, and this perhaps would exclude politically unpopular bills. I think limitation of the duration of legislative sessions, as it does in some other states that have such limitations, would lead to hurried enactment at the end of the session, rushed and perhaps irresponsible legislation. This order does provide that the Reference of Bills Committee could allow bills over the limitation of ten, but these would be screened over that limit. Committee bills would not be affected by this joint rule nor would co-sponsored bills. I feel that this amendment would encourage consolidation of bills on similar subjects and would discourage the introduction of trivial legislation.

In this session there were 101 legislators that presented ten bills or less, 28 legislators that have presented between 11 and 15 bills each, 21 legislators have introduced between 16 and 20 bills, and 17 have introduced more than 20. These figures do include governor's bills, they also include committee redrafts, and include some double counting.

I think this is, in my opinion, really the only way to limit the number of bills that are introduced. I think it would get people to carefully consider what they were introducing and establish their own priorities. I hope the Senate will act favorably on this proposal.

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

Thereupon, on motion by Mr. Conley of Cumberland, tabled pending Passage.

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 Repealing the Refunding of Excise Taxes on Malt Liquor." (H. P. 908) (L. D. 1107)

Bill, "An Act Concerning the Furnishing of Registration Lists to Certain Candidates." (H. P. 1125) (L. D. 1402)

Leave to Withdraw

The Committee on Public Lands on, Resolve, Authorizing the Attorney General to Convey Interest of the State in Certain Tidelands in Town of Eliot to Robert P. Levesque. (H. P. 234) (L. D. 290)

Reported that the same be granted Leave to Withdraw.

The Committee on Veterans and Retirement on, Bill, "An Act Relating to Out-of-State Service Credit under the State Retirement System." (H. P. 798) (L. D. 971)

Reported that the same be granted Leave to Withdraw.

The Committee on Judiciary on, Bill, "An Act Relating to Review by the Superior or Supreme Judicial Court of a Juvenile Court's Decision to Bind Over." (H. P. 1120) (L. D. 1408)

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.

Ought to Pass

The Committee on Fisheries and Wildlife on, Bill, "An Act to Increase the Penalties for Night Hunting." (H. P. 998) (L. D. 1261)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-222).

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

Ought to Pass — As Amended

The Committee on Legal Affairs on, Bill, "An Act to Assist Small Communities in the Development of Recreational Services." (H. P. 1189) (L. D. 1485)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-211).

The Committee on Labor on, Bill, "An Act to Improve Procedures under the State Employees Labor Relations Act." (H. P. 916) (L. D. 1130)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-201).

Come from the House, the Bills Passed

to be Engrossed as Amended by Committee Amendments "A".

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

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 Proximity of Stores to Churches and Schools under the Liquor Laws."

Leave to Withdraw

Mr. Graffam for the Committee on Liquor Control on, Bill, "An Act to Adjust Liquor License Fees." (S. P. 420) (L. D. 1376)

Reported that the same be granted Leave to Withdraw.

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

Second Readers

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

House

Bill, "An Act Relating to the Definition of a Real Estate Broker." (H. P. 685) (L. D. 869)

Bill, "An Act to Designate the Honeybee as the Official Insect for the State of Maine." (H. P. 721) (L. D. 897)

(On motion by Mrs. Corson of Somerset, tabled and Tomorrow Assigned. Pending Passage to be Engrossed.)

Bill, "An Act Relating to the Training of Coon Hounds." (H. P. 888) (L. D. 1063)

Resolve, to Reimburse Lawrence H. Roberts of South Portland for Damage to his Automobile Caused by State Ward. (H. P. 973) (L. D. 1222)

Bill, "An Act to Amend the Maine Consumer Credit Code as it Relates to the Refinancing of Single Payment Loans Granted by Supervised Financial Organizations." (H. P. 1063) (L. D. 1343)

Bill, "An Act Relating to Application of Payments under the Maine Consumer Credit Code." (H. P. 1065) (L. D. 1345)

(On motion by Mr. Johnston of Aroostook, tabled and Specially Assigned for May 5, 1975, pending Passage to be Engrossed.)

Bill, "An Act Relating to Default under the Maine Consumer Credit Code." (H. P. 1202) (L. D. 1497)

Bill, "An Act to Redefine the Term Finance Charge under the Consumer Credit Code so as not to Include a Discount for Cash Payment." (H. P. 1319) (L. D. 1638)

Bill, "An Act to Clarify and Make Uniform the Definition of Mobile Home." (H. P. 1544) (L. D. 1861)

Bill, "An Act to Protect Landowners Whose Land Abuts Land on Which Ten or More Acres of Timber is to be Harvested." (H. P. 1545) (L. D. 1862)

Bill, "An Act to Permit the Commissioners of Aroostook County to be Paid Traveling Expenses in Addition to their Salaries." (H. P. 1546) (L. D. 1863)

Bill, "An Act Relating to Sales Tax Interest and Penalties." (H. P. 1550) (L. D. 1867)

(On motion by Mr. Jackson of Cumberland, tabled until later in today's session, pending Passage to be Engrossed.)

Which were Read a Second Time and,

except for the tabled matters, Passed to be Engrossed, in concurrence.

(See Action later in today's session regarding L. D. 1343.)

Bill, "An Act to Authorize the Executive Council to Approve or Disapprove Certain Claims Against the State." (H. P. 366) (L. D. 460)

Which was Read a Second Time.

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

Mr. CURTIS: Mr. President, because there is an amendment that is not quite ready yet, I would ask that someone might table Legislative Document 460 for later in today's session.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.

House — As Amended

Bill, "An Act Relating to the Appointment of Clerks of the Judicial Courts." (H. P. 533) (L. D. 671)

Bill, "An Act to Prevent Unfair Discrimination Against Blind Persons Seeking Insurance Coverage." (H. P. 846) (L. D. 1033)

Resolve, to Reimburse Thomas F. Oechsle of East Holden for Damage to Beehives by Bear. (H. P. 883) (L. D. 1055)

Bill, "An Act to Increase the Veteran's Property Tax Exemption." (H. P. 1174) (L. D. 1172)

(On motion by Mr. Pray of Penobscot, Tabled and Specially Assigned for May 5, 1975, pending Passage to be Engrossed.)

Resolve, to Reimburse W. E. Emery of North Anson for Loss of Livestock by Coyotes and Bear. (H. P. 1090) (L. D. 1369)

Bill, "An Act to Create Hospital Administrative District No. 5 in Piscataquis and Penobscot Counties." (H. P. 1099) (L. D. 1382)

(On motion by Mr. Corson of Somerset, tabled and Specially Assigned for May 5, 1975, pending Passage to be Engrossed.)

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

Senate

Bill, "An Act Relating to Ballots Containing Improper Write-in Votes." (S. P. 84) (L. D. 255)

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 the Acquisition, Maintenance and Replacement of Multi-level Private Parking Facilities under the Municipal Securities Approval Act. (S. P. 331) (L. D. 1117)

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

An Act Relating to Throwing Objects at Emergency Vehicles under the Malicious Mischiefs Law. (H. P. 969) (L. D. 1202)

An Act Relating to the Lease or Acquisition of Certain Railroad Lines by the Department of Transportation. (H. P. 1514) (L. D. 1831)

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, to Refund Clyde Wardwell of Mexico a Portion of Liquor License Fee Due to Loss of Business by Fire. (S. P. 376) (L. D. 1227)

On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.

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

On motion by Mr. Greeley of Waldo, placed on the Special Highway Appropriations Table.

Emergency

An Act to Revise Certain Provisions of the Maine Health Facilities Authority Act. (H. P. 1027) (L. D. 1306)

On motion by Mr. Conley of Cumberland, tabled and Specially Assigned for May 7, 1975, pending Enactment.

Orders of the Day

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

House Reports — from the Committee on Taxation — Bill, "An Act Relating to Amount of Annual Excise Tax on Railroads." (H. P. 125) (L. D. 158) Majority Report — Ought to Pass in New Draft under same Title (H. P. 1494) (L. D. 1740); Minority Report — Ought Not to Pass.

Tabled — April 29, 1975 by Senator Speers of Kennebec.

Pending — Acceptance of Either Report. (In the House — New Draft Passed to be Engrossed as amended by House Amendments "C" (H-166) and "D" (H-177))

On motion by Mr. Wyman of Washington, the Majority Ought to Pass in New Draft Report of the Committee was Accepted in concurrence and the Bill in New Draft Read Once. House Amendment "C" was Read.

Thereupon, on motion by Mr. Jackson of Cumberland, tabled and Specially Assigned for May 5, 1975, pending Adoption of House Amendment "C".

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

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)

Tabled — April 29, 1975 by Senator Conley of Cumberland.

Pending — Motion of Senator Speers of Kennebec to Indefinitely Postpone Senate Amendment "B" (S-95).

(In the House — Passed to be Engrossed)

(In the Senate — Senate Amendment "A" (S-94), Adopted)

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

Mr. CLIFFORD: Mr. President, after the session on April 29, we determined that Senate Amendment "B" had some technical problems, and we ironed them out yesterday and the amendment is being printed. I wonder if someone could table it until later in today's session, as another amendment is being printed to accomplish the same thing.

The PRESIDENT: The Chair recognizes

the Senator from Cumberland, Senator Conley.

Thereupon, on motion by Mr. Conley of Cumberland, tabled until later in today's session, pending the motion by Mr. Speers of Kennebec to Indefinitely Postpone Senate Amendment "B".

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

Bill, "An Act to Permit Pharmacists to Advertise Drug Prices and to Provide Retail Price Posting Information to Pharmacies." (H. P. 1538) (L. D. 1849)

Tabled — April 30, 1975 by Senator Speers of Kennebec.

(In the House — Passed to be Engrossed.)

Mr. HICHENS of York then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-107, was Read.

The PRESIDENT: The Senator has the floor.

Mr. HICHENS: Mr. President and Members of the Senate: By the vote taken the other day, it is apparent that you feel it should be mandatory that druggists post prices of prescription drugs. If such be the case, I believe that these druggists should be able to post such prices in such a way that it will be easier for them to change such listings as prices change and for the convenience of customers who may have difficulty reading signs placed behind counters or up on the walls. Such provision is granted in this amendment that I present this morning. A booklet with such drug prices listed can be readily used by the customer who in their own time can sit down and read the prices rather than stand back and be jostled about by others wishing to be served or trying to look over someone's shoulder in an attempt to see the sign.

I, as stated previously, feel that mandatory rulings in private business is an affront to those businessmen striving to serve the public, but at least if such mandates are made, the storeowners should have the prerogative of advertising in a way convenient for him and his customer. Other states were posting is mandated allow such books to be used, as given in testimony before the Health and Institutional Services Committee at the hearing.

This amendment is a simple and reasonable addition to this prescription drug posting bill. First, it excludes controlled substance drugs from this posting form, and secondly, although it will be mandatory for the pharmacy to post 100 prescription drug prices, it gives the option of using the 36 by 36 poster described in the bill or booklet placed in a conspicuous and convenient place in the store.

Some pharmacies will probably use both forms of posting, but I feel we should give them an option today. I, therefore, move Adoption of Senate Amendment "A".

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

Mr. BERRY: Mr. President and Members of the Senate: It is with some reluctance that I rise against the Chairman of the Health and Institutional Services Committee on Senate Amendment "A". I was approached and we did talk quite a bit about putting a book in the pharmacies for posting drugs. But

the amendment that we have before us today is one that I find I cannot support because I think it is definitely a watering down of the bill. I find that we also have incorporated the wording "hypodermic needles and hypodermic syringes", which have no bearing on the drug price listings.

I go further and I find it does not include any of the comprehensive drug abuse prevention control act, any drugs listed in that act. So I think that if every Senator in the chamber would read this amendment closely they would find it does not do what it is intended to do.

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

Mr. CONLEY: Mr. President and Members of the Senate: I rise in objection to the proposed amendment, which represents what I consider to be a watering down effort of a very good bill. This bill, incidentally, is not my bill, but one sponsored by a member of the minority party in the other body.

I think we are all by now trained in the necessity of compromise. The amendment proposed, however, is a measure designed by the lobby and the Maine Pharmaceutical Board to save face at the expense of Maine citizens.

The lobby has not covered itself with honor on this piece of legislation. At the initial hearing on this bill, they proposed an amendment, which was later withdrawn because it simply made the entire bill meaningless. They have disagreed with the reasonable approach advocated by the Director of the Maine Board of Pharmacy, and they have made a number of misleading statements.

One of these occurred Tuesday, when it was suggested that I would like to see this bill defeated because of the publicity which might be gained. I find this suggestion disgusting and a disservice to Maine's pharmacists.

Tuesday my office spoke with one pharmacist, for example, who believes that the bill we have before us is quite workable without any amendment. This gentleman is Mr. Poulin, the General Manager of Wellby's Drug in Portland. The firm has six stores in Maine and one in New Hampshire. It is a Maine firm, not a national chain store. Wellby's Drug Store posts the prices of between 80 and 100 prescription drugs and these prices represent more than 50 percent of the prescriptions filled. Mr. Poulin stated that, in addition, the posting of these prices encourages consumers to ask the prices of those drugs they don't see listed.

"This is a real service to the consumer and it helps us," he stated. "When people see the price of the drug on the chart, we don't have to explain it to them when we hand over the filled prescription. We can talk about more important things, such as how to take the drug." Mr. Poulin says his stores have had little trouble keeping the list up to date. "The time involved is minimal," he stated. Incidentally, Mr. Poulin previously worked in Boston and had no problem with the mandatory posting law in that area.

My office spoke Tuesday morning with Mrs. Trish Riley, the Executive Secretary of the Governor's Council on Aging, and she urged that this proposed amendment be defeated. "Consumers need a completely uniform posting system," she pointed out, "and not a notebook which they will be reluctant to pick up."

I would like to end with one final thought. At times we get so involved with each

question before us in the legislature that we lose sight of the forest. We think that bills discussed here are important to the average citizen, who has neither the time nor inclination to give close attention to our work. The average Maine citizen probably thinks that the work of the legislature involves some muddling around with the budget and taxes and that is about it. With this bill, we have the opportunity to take action which will benefit, at least in a modest way, just about every citizen of this state. We will have other consumer measures before us, but they will be far more complex. No one is arguing that this bill is going to put people out of work, or raise prices.

So I urge the Senate to pass the bill as it currently is without watering it down. Then all of us could say at the end of this legislative session that we had a chance to do something worthwhile, to meet an issue head-on, to set an example, and we did not shirk from this challenge.

Mr. President and Members of the Senate: I would like again to call your attention to the proposed amendment as it is before us. First, if you look at the first section as it is being amended to be included in the bill, it says "this price listing shall not list any drug included in the Comprehensive Drug Abuse Prevention and Control Act of 1970," and "For the purpose of this price listing, hypodermic needles and hypodermic syringes shall not be deemed a drug." We know that hypodermic needles and hypodermic syringes are not drugs to begin with.

Secondly, of the Comprehensive Drug Prevention and Control Act of 1970, if one would like to take a look at that document which I would like to raise before the Senate, I don't know exactly how many drugs are listed in there, but I can guarantee you that it runs somewhere near 1,000. Let me say that 20 percent of those drugs are used by the elderly of this state daily, and that if they are not listed then they are not going to benefit any of our senior citizens, and certainly not going to benefit the regular lay person who may possibly have a sick child that has been on prescription drugs for most of its life.

Mr. President, I honestly find this to be nothing more than an underhanded attempt by the pharmaceutical lobby to scuttle the entire bill. If this amendment is adopted, I honestly feel that we have done nothing at all to benefit Maine citizens.

I move the indefinite postponement of Senate Amendment "A", and when the vote is taken, Mr. President, I would ask for a roll call.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I speak as someone who would be willing to vote for an amendment which would allow the posting to be in a book form. It seems to me, however, that the language here would really not be sufficient to accomplish the purpose of the posting, since the amendment indicates that the book shall be available for public use, in a manner permitting a convenient use by the public, and I would think that the language should be "prominent place" or some other type of language.

I also would like to pose a question through the Chair. After listening to the remarks of the good Senator from Cumberland, Senator Conley, therefore, I assume that some of the drugs listed in the

Drug Abuse Prevention and Control Act are used by our citizens, and I wonder why any of those drugs could not be on the posted list.

So these two things bother me a great deal about the amendment although, as I said, it seems to me that in some instances a book of the prices displayed in a prominent place, I would have no objection to giving the drug store that option, but I think this would allow the book to be out of sight of the public. I also would like to have the question of the Drug Abuse Prevention and Control Act answered. Thank you, Mr. President.

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

Mr. SPEERS: Mr. President and Members of the Senate: When this bill was first before this body, just a few days ago, there was a very thorough and complete debate on the question of whether the bill should require the drug stores to post the prices or merely authorize the posting of those prices. By an overwhelming margin this body decided that the bill should require the posting of the prices. This body voted for the wording in the bill which stated "shall" post these prices. If you look at the language of the amendment that is being offered now, I do agree with the good Senator from Cumberland, Senator Conley, that this is a watering down of that requirement and, therefore, a watering down of the decision that this body made a few days ago.

I think the good Senator from Androscoggin, Senator Clifford, is absolutely correct.

The language in this amendment would allow a druggist to have these prices posted in a book which could be tucked away somewhere deep beneath the counter and the individuals, of course, could ask for it, but we really would be no better off than we are at the present time.

I think this body has spoken that it wishes these prices to be prominently displayed, and I would urge the members of the Senate to continue in that decision and to defeat this amendment.

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

Mr. CONLEY: Mr. President and Members of the Senate: I was advised of part of this amendment, although certainly not the first part that I raised issue with, the price listing of the Comprehensive Drug Abuse Prevention and Control Act. That was something apparently that was tossed in later, which is obviously an attempt to really water down the bill.

Secondly, I think if the Maine Pharmaceutical Board wants to respond to the citizens of this state, and they really want to post their prices of the drugs, then I think honestly if they want to do it with a notebook or with a poster, I think it should be done by both. What I honestly feel is that a poster such as this that I displayed to the Senate the other day, should be posted in a reasonable place or a conspicuous place at the pharmacists in order for a citizen to be able to read it and to have the opportunity of glancing at it and get accustomed to seeing it there. Now, if the good pharmacists, on the other hand, think that in addition to that they would like to have a notebook for the convenience of their customers and consumers, then I would say that that would be perfectly all right.

But let me tell you, when you start talking about a notebook, there is one pharmacist in my area today who has a notebook for the use of his customers. The only thing is that there are 3500 drugs listed in that notebook. Now, what we are asking is the posting of 100 of the most prominently used drugs. I think if someone is going to attempt to make another amendment on this bill this morning, then I think it should say both the notebook and the posting, by way of using a poster such as this one, 36 by 36.

The PRESIDENT: Is the Senate ready for the question? The pending motion is the motion by the Senator from Cumberland, Senator Conley, that Senate Amendment "A" 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 pending motion before the Senate is the motion of the Senator from Cumberland, Senator Conley, that Senate Amendment "A" be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement of Senate Amendment "A"; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Carbonneau, Clifford, Collins, Conley, Corson, Cummings, Curtis, Cyr, Danton, Gahagan, Graham, Huber, Jackson, Katz, Marcotte, Merrill, O'Leary, Pray, Reeves, Speers, Wyman.

NAYS: Senators Berry, R.; Graffam, Greeley, Hichens, Johnston, McNally, Roberts, Trozky.

ABSENT: Senators Cianchette, Thomas.

Mr. Johnston of Aroostook was granted leave to change his vote from "Nay" to "Yea."

A roll call was had. 23 Senators having voted in the affirmative, and seven Senators having voted in the negative, with two Senators being absent, Senate Amendment "A" was Indefinitely Postponed and the Bill Passed to be Engrossed in 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 the Senate reconsider this bill whereby it was passed to be engrossed, and I would ask the Senate to vote against reconsideration.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby this Bill was passed to be engrossed. 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 matter tabled earlier in today's session by Mr. Jackson of Cumberland:

Bill, "An Act Relating to Sales Tax Interest and Penalties." (H. P. 1550) (L. D. 1867)

Pending — Passage to be Engrossed.

Mr. Marcotte of York 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: I would oppose that motion, and ask for some explanation of this particular bill as to why the motion has been made.

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

Mr. JACKSON: Mr. President and Members of the Senate: I know that all of you weren't here yesterday morning when we debated this L. D., and I would assume that the good Senator from York, Senator Marcotte, proposed the motion to indefinitely postpone it because the nature of the bill. It is a discriminatory bill in the fact that the penalty for the individual who incurs a tax liability of \$1,000 is the same penalty as for somebody that incurs a liability of, we would say, 10, 20, or 30 thousand dollars which would be conveyable.

I would assume that in debating this L.D. that the office next door that handles this, it was brought to our attention in the committee that they might possibly have a million dollars in accounts receivable. This is a department bill, and if they can't do their homework over there, I don't think they should come over here and expect us to legislate laws to do their homework.

I have a record of one individual who entered into business approximately a year and four months ago, he acquired a license to sell beverages, a sales tax license, a cigarette tax stamp, yet this department next door never checked the individual, and he went for one year without paying any sales tax whatsoever. Now he got away with about \$2700, I understand.

I would assume that maybe instead of writing laws over there and sending them over here for us to act on, I would assume they have got to spend more time in the field and check on some of these people that are negligent and are tardy. Therefore, I would support the good Senator from York, Senator Marcotte, in his motion for indefinite postponement. I don't think this is the body to take care of their problem over there. They have the laws on the books, the statutes, they have the organization to prosecute, and I feel that a bill like this is giving them a good sized sledge hammer to take a whack at someone.

Therefore, I go along with the good Senator from York, Senator Marcotte, on the move for indefinite postponement, and I hope the rest of the members of this body do too.

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

Mr. SPEERS: Mr. President and Members of the Senate: I feel a bit alone in talking on this particular issue, not being a member of the Committee on Taxation which heard this bill. But it does seem to me that the objective of this bill is to increase the penalties for late payment of one's sales tax. It does seem to me obvious as well that the Bureau of Taxation does feel that at the present time the penalties are not sufficient to act as a deterrent for an individual for making sure that he pays his sales tax each month as it is due to the State of Maine.

This is very similar to another bill that we had before us discussing truck weights, and I hesitate to bring that up but it does seem analogous, that if

the State of Maine makes it economically advantageous for one to withhold payment of the sales taxes as they become due each and every month, then it seems to me that we are defeating our own purpose in writing the laws and enforcing these laws through the Bureau of Taxation.

The good Senator from Cumberland, Senator Jackson, made reference to the fact that this is a discriminatory law in that there is a \$50 limit to the fine or the penalty that can be imposed. Well, I agree with him. I think that there can be a way in which this is on a scale, a percentage of the amount that is owed, and if it is not paid when it is due that there should be a penalty which is based upon a percentage of the particular amount owed. In that way, you will make sure that those who are withholding payment to the State when it is due will be assessed a legitimate and a just penalty for so doing. And I would point out to the members of this body that the good Senator from Cumberland, Senator Jackson, has prepared an amendment for just that purpose, in case the motion to indefinitely postpone should fail.

I would strongly oppose the motion to indefinitely postpone this bill. I don't think that we can simply pass over this and say that the individuals in the Bureau of Taxation are lounging around and not doing their job. I don't know how many businesses there are operating in the State of Maine precisely, and I don't know how many individuals there are in the employ of the Bureau of Taxation, and I don't know how many of those individuals who do happen to be in the employ of the Bureau of Taxation are actually inspectors in the field who go from door to door in the number of businesses that are in the State of Maine to inspect them, but I am doggone sure that they have not been able and are not able to check every single business in the State of Maine. Perhaps that is just one more reason to have an increase in the penalties, so that when there is a violation it makes it that much more disadvantageous for the individual than at the present time.

I may be missing something in this bill; as I mentioned, I was not at the hearing and not being a member of the committee, and if so, I would be very willing to listen to the arguments against it. But it does seem to me that if the Bureau of Taxation feels that an increase in the penalties is necessary and desirable to reduce the amount of accounts receivable that they have over there, that it is incumbent upon us, as the only body that can help them out, to provide the tools that they feel are necessary to do the job.

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

Mr. WYMAN: Mr. President and Members of the Senate: I think once more this points to the cost of state government. I think the Bureau of Taxation would be very happy to check every business once a month on this matter, but if we don't do something to help them and give them the tools with which to work, it is going to require more state employees and more people over in that department to do this work. I think that is the point of the whole matter: do we want to give them money enough to hire additional help so they can check everyone's sales tax once a month or keep very close to it? I certainly oppose the motion of the good Senator from York, Senator Marcotte.

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

Mr. MERRILL: Mr. President and Members of the Senate: I rise for two reasons: First of all, I would not want the Majority Leader, the good Senator from Kennebec, Senator Speers, to feel alone. I know how that feels in this body from time to time.

Secondly, I would like to provide a little bit more explanation as to what is being attempted here and what the purpose of it is. If I am incorrect in my explanation, I would be glad to be corrected by the good Senator from Cumberland, Senator Jackson, or any other member of the body. As I understand it, never having been personally engaged in this activity, never having run a store or anything of that kind, retail outlets in this state collect the tax for the state and have the money for the month. At the end of the period of that time they have to file a report, and that is what section one of this bill goes to, it goes to the filing of that report. It increases the penalty for failure to file that report on time. It increases the penalty to five percent of the tax liability or to \$50. Now, the reason we put a ceiling on that and made the ceiling \$50 was because we didn't want the penalty to be too high.

In any case, obviously that is discriminatory, in one sense, because after you get over the liability that would be reached at five percent on \$50 there is a ceiling. The desire here was to do exactly what I think Senator Jackson and the Senator from York, Senator Marcotte, would want, and that is to put some ceiling on this for this act of failing to report.

The second section of this bill goes to penalty for failing to pay the money that is due the state on time. I think that is the most important part of this bill, and that is the part that I think the Senate should take into the greatest consideration when it votes on this motion. The present penalty is one-half percent per month or six percent a year. If the money that the stores collect, in essence, for the state is kept by the stores, they pay a rate of one-half percent per month. Now, this is supposed to be a penalty, this is in the law as a penalty. And yet anyone here who has had any commercial transaction knows that one-half percent a month is anything but a penalty. One-half percent a month is a more favorable interest rate than any business in this state could have at the present time. So quite the contrary from being a penalty, it is such an advantageous interest rate that it provides no encouragement whatsoever for the businesses to give the state its money on time. What this really does, it brings us up, to date with the high cost of money today. Probably when this law was originally passed six percent was a good hefty interest rate. Today twelve percent is not so high above the average prevailing interest rate that it really could be considered a great penalty.

There is one other provision of our laws that should be pointed out so that you can keep it in mind when you vote on this. If finally the business doesn't report and if it doesn't pay its tax over a period of time, after a considerable period of time passes, the Tax Department can go in and do an audit. At that point they have another penalty that they can bring to bear, which is ten percent of the total amount of money that is due. That penalty is presently in the law. I think it is best for the business, and it is certainly best for the cost to the state to collect its money that that remedy doesn't have to be used. I think it is best to have a law in the first instance that will bring about compliance with the law.

It is not, you know, with a great deal of pleasure that you rise to talk about penalties that are going to be placed on Maine's businesses, and I think it should be pointed out that most Maine businesses pay their taxes on time and it won't affect them. This applies only to the businesses that aren't complying with the law at the present time, and I would urge the Senate not to go along with the motion of the Senator from York, Senator Marcotte, to indefinitely postpone.

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

Mr. JACKSON: Mr. President and Members of the Senate: The good Senator brought out the point that the Bureau has the right, under section 3, 36 MRSA, subsection 2112, to utilize a ten percent penalty charge. I would assume that if a fellow was in arrears on his sales tax payments that this could be instituted any time in any manner it wanted to be.

Number two, the bill itself, that first section of L.D. 1867, one dollar or five percent, not to exceed \$50, it could be very conceivable for a businessman, take a small one or a large one, whatever it could be, it could be very conceivable that this man could forget to file the 15th day of the month, and he could miss one day, this penalty at five percent not to exceed \$50, I would assume it would be kind of harsh on a businessman if he did forget one day or two days, not intentionally, and it could happen.

Another thing is that we talked about the fact that it is discriminatory with that \$50 limit. If somebody intentionally fails to pay their sales tax, I would assume that it would be better if we took the \$50 limit off and left it wide open, because I don't think that \$50 maximum ceiling is going to be any deterrent to anybody who owes the State of Maine a tax liability of maybe 10 or 20 thousand dollars. He can make that back very quickly just by reinvesting it in a week's time or maybe a day's time.

Again, I would urge my colleagues in this body to support the good Senator from York, Senator Marcotte, on his motion to indefinitely postpone this bill.

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

Mr. MARCOTTE: Mr. President and Members of the Senate: It certainly is not my intention to obstruct the Bureau of Taxation in its performance of duty. I don't want to do this. But I do very strenuously oppose this bill, because I think it is directed particularly at the small businessman. This is why I have moved to indefinitely postpone. It seems we are always taking our whacks at the little guy. Why not take the ceiling off if you want them to do the job? I would hope this body would follow us in this motion to indefinitely postpone.

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

Mr. MERRILL: Mr. President, I would request that when the vote is taken that it be taken by the "Yeas" and "Nays."

The PRESIDENT: A roll call has been requested. The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: I fail to see the discrimination in this. If you don't pay your real estate tax, whether you have a large business or small business, you have a lien with all the attendant costs. If you don't pay your income tax you are in real trouble. And I can't see why this isn't the

same thing. We are trying to give the department tools with which to work, and hopefully to cut down on the number of employees necessary to enforce this law to the last detail. I certainly hope that you will oppose the motion to indefinitely postpone.

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

Mr. SPEERS: Mr. President and Members of the Senate: I couldn't agree with the good Senator from Washington, Senator Wyman, more, nor disagree with the Senator from York, Senator Marcotte, more. This is not a bill which is aimed at the small businessman. This is a bill which is aimed at any businessman in the state, whether small or large, who does not pay the tax on time when it is due to the State of Maine. It is as simple as that. If the taxes are paid on time when they are due to the State of Maine, this bill would have no effect whatever on anyone.

As to the comments of the good Senator from Cumberland, Senator Jackson, that there is a real problem that arises should the individual forget for a few days to file a report, well, that won't happen very often, and it probably doesn't happen very often right at the present time. For an individual in the retail business this is a monthly activity that is undertaken every single month of the time that he is in business, and it is as much a second nature to him as opening the store in the morning. He knows that this has to be done every 15th of every single month.

I would oppose the motion to indefinitely postpone this bill.

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

Mr. JACKSON: Mr. President and Members of the Senate: Earlier in the session we had a bill where a fellow filed late for his gasoline shrinkage rebate. He filed late because he was vacationing in Florida, so the testimony gave it. We in that committee gave that fellow the opportunity to collect his rebate, and this is done every six months, but that is beside the point. I think what I am trying to get at is that if we allow something like this, and I would assume that his filing late would have been probably something similar to a penalty, because you can't get the rebate if you file late — how, here with this bill with the five percent or \$50 ceiling, on the other side you are penalizing the other fellow if he forgets and files one day late or two days late. This is why I oppose this thing.

I agree with the good Senator from Cumberland, Senator Merrill, that on the interest rate you can't go to a bank and borrow money at one-half percent. But when a fellow has a tax liability of \$10,000 or \$15,000, he would be better off not to pay that tax liability until they force him to, with their ten percent penalty charge, because he can make that \$50 back very easily plus the one percent.

I just feel myself that this is not the answer to that department's problem. I just think they need to enforce our laws a little bit heavier and take time, and maybe get with the beer and wine and the liquor distributors when these people apply for licenses and check to see if their sales taxes have been paid. They have to renew these licenses once every year. I think this is probably the answer, get the departments to work together so that they can find out what is going on and where it is going on. If somebody is late on their sales tax or has a liability is three or four

months old, until he pays that sales tax he doesn't get his license. I would just leave it there, and I hope everybody supports indefinite postponement.

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

Mr. BERRY: Mr. President and Members of the Senate: I listened to the arguments here with a great deal of interest. I am quite familiar with the businesses who pay sales taxes and the problems attendant upon them, and I feel there is one impression that has been given here this morning that should be removed, and that is that people make a practice of filing their sales tax late. The average Maine businessman or taxpayer certainly does not; he does not want to establish a reputation for not following the law. So I don't think this is the issue, that we are going to encourage people to violate the law by having a low interest penalty.

I don't understand how it is so difficult to see the discrimination involved here because it is rank discrimination. The discrimination is against the little fellow and in favor of the big fellow. If you can only pay a maximum of \$50, that means if your business is of such a volume that your sales tax return is \$50 or more, and you are late filing it, the little chap is being discriminated against because he is being charged a percentage of his tax due. The big chap is getting away scot-free because regardless of the amount, if his liability is over \$50, he gets a free ride. I don't think that this is difficult to understand. This is the basic problem with the bill, it is against the little guy. The grocer, the seasonal operator.

There is plenty of chance for misunderstanding in the filing of sales tax returns, and genuine misunderstanding, not intentional. For instance, we have a great deal of seasonal businesses here in the state, and quite properly the sales tax section of the Tax Bureau permits the payment of taxes on a seasonal basis, quite properly. If there were to be an honest disagreement on whether a seasonal tax is due, due to a change in the operation of the business or something like that, and it were impossible for the owner of the business to get a ruling from the Tax Department, he could be in violation and have to pay a fine under this. This is just a possible example of the confusion that can arise. So I do feel that we have this possible confusion, we have discrimination in favor of the big chap, we have discrimination against the little fellow, and I really believe that here we have just one more impediment to the smooth functioning of a small business. And I frankly also don't think there is a problem involved here in collecting; I think Maine people do pay their taxes. I don't believe we need this legislation, and I hope you support the motion.

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

Mr. COLLINS: Mr. President and Members of the Senate: I intend to vote against the motion for indefinite postponement, with the hope that I will later have an opportunity to vote for the amendment that the good Senator from Cumberland, Senator Jackson, has already prepared, which seemed to be to be a good compromise and a good middle course.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion by the Senator from York, Senator Marcotte, that

L. D. 1867 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 pending motion before the Senate is the motion of the Senator from York, Senator Marcotte, that L. D. 1867 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.

ROLLCALL

YEAS: Senators Berry, R.; Carbonneau, Conley, Corson, Cummings, Cyr, Danton, Graffam, Greeley, Hichens, Jackson, Katz, Marcotte, McNally, Pray, Roberts.

NAYS: Senators Berry, E.; Cianchette, Clifford, Collins, Curtis, Gahagan, Graham, Huber, Johnston, Merrill, Reeves, Speers, Trotzky, Wyman.

ABSENT: Senators O'Leary, Thomas.

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 Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

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

Mr. JACKSON: Mr. President, having voted on the prevailing side, I move for reconsideration and would urge everyone to vote no.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now moves the Senate reconsider its action whereby this Bill was indefinitely postponed. Will all those Senators in favor of reconsideration please say "Yes"; those opposed will say "No".

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

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

Bill, "An Act to Authorize the Executive Council to Approve or Disapprove Certain Claims Against the State." (H. P. 366) (L. D. 460)

Pending — Passage to be Engrossed.

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

The President laid before the Senate the matter tabled earlier in today session by Mr. Conley of Cumberland:

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)

Pending — the motion by Mr. Speers of Kennebec to Indefinitely Postpone Senate Amendment "B".

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

Mr. CLIFFORD: Mr. President, I would urge the Seante to vote yes on the motion to indefinitely postpone Senate Amendment "B". I have an amendment to propose which gets over the technical problems of Senate Amendment "B" and gets to the issue which I think should be debated as to the limits on annual sessions. Thank you.

The PRESIDENT: Is it now the pleasure

of the Senate Amendment "B" to L.D. 1827 be indefinitely postponed?

The motion prevailed.

Mr. Clifford of Androscoggin then presented Senate Amendment "D" and moved its Adoption.

Senate Amendment "D", Filing No. S-108, was Read.

The PRESIDENT: The Senator has the floor.

Mr. CLIFFORD: Mr. President and Members of the Senate: Senate Amendment "D" is an amendment to this constitutional change resolution, and the constitutional resolution, I think we ought to keep in mind, goes to annual sessions of the legislature, so that if the amendment is passed by the legislature and is ratified by the people in the State of Maine, we will be in an annual session situation. And it limits the session of the legislature to 100 legislative days. I think that is important that it deals with legislative days, as opposed to calendar days, so that the legislature has some control over the time when it is in.

It also limits the off-year session to 50 legislative days. It does not affect the right of the governor to call a special session in the constitution presently he has that power for extraordinary occasions. It also allows the legislature to call itself into special session on extraordinary occasions and limits those sessions to 25 legislative days. It also limits the second regular session to budgetary matters, legislation in the governor's message, and legislation recommended by a legislative committee authorized by the legislature to so recommend, as well as legislation referred to committees for study.

I think that if we keep in mind that we are talking about a fairly lengthy time period, we are talking about 100 legislative days, which would be 20 five-day weeks or 33 three-day weeks, or if the legislature saw fit to go into a two-day week schedule, 50 two-day weeks. I have the list of the number of legislative days that previous legislative sessions have been in. For example, we are now in the 67th legislative day. The 106th legislative session went 107 legislative days. The 105th went 101 legislative days. I think if you go back to the 102nd legislative session, and this is not an attempt to make this a partisan debate, but the 102nd legislative session was in 76 legislative days. I think if you keep in mind that these legislative days occurred when the legislature was not in an annual legislative situation, that these legislative days were intended to transact the entire business of the state for a two-year period, and if you think the legislature is now going to be in an annual legislative session situation, it seems to me 100 legislative days during the first regular session and 50 legislative days during the second regular session is certainly a great deal of time for the legislature to conduct its business.

I think the issue is beyond 100 legislative days and 50 legislative days; I think you cross the line from the citizen legislature to the full-time professional legislature. It seems to me that it is important for the citizens of Maine to retain the citizen legislature, and I would hope that we could adopt this. I think it would be much more palatable for the citizens in voting on the annual session constitutional amendment. I think it would put on an outside limit which is a very reasonable one, and I think it would guarantee Maine citizens in the future that their legislature would be a

citizen as opposed to a full-time professional legislature.

I would hope, Mr. President, the Senate would go along with the adoption of Senate Amendment "D", and I would request a roll call. Thank you, Mr. President.

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

Mr. CURTRIS: Mr. President and Members of the Senate: I would like to pose through the Chair a question to the Senator from Androscoggin, Senator Clifford, regarding the definition of "legislative days." I noted in his remarks that he referred to the possibility of having three-day sessions for a large number of weeks, and I wondered if the legislature were not to meet in plenary session, if the House and Senate were not to be in session themselves, but the committees were to be holding public hearings, would that day count as a legislative day or not?

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

The Chair recognizes that Senator.

Mr. CLIFFORD: Mr. President and Members of the Senate: Certainly it is the intent that legislative days means those days when both the House and the Senate are in session. And it seems to me that it allows flexibility to the legislature to hold committee hearings during those times when the legislature was not in session, so that the legislative days we are talking about would be the days when the legislature convened as a House and Senate, takes up those measures and votes on those measures of input to the citizens of the state.

I think that we are really talking about a very reasonable limit here. We are not talking about calendar days which many of the states have. I think it is in those states that they run into problems of putting a blanket over the clock, because they have no control once the legislative session begins. The calendar days begin to run and they have no control over them. This would give the legislature control because we are talking about legislative days. I think if we get a situation beyond 150 legislative days in a two-year period, we are really talking about a full-time legislature and we are really barring the working man or woman from serving in the legislative branch. Thank you, Mr. President.

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

Mr. CURTIS: Mr. President, I would like to thank the Senator from Androscoggin, Senator Clifford for providing an answer to question.

I would like to speak briefly about this matter because it is one that we have given a great deal of consideration for a number of years in the State Government Committee to. Although I have had the benefit and the pleasure of discussing this matter outside the halls of the Senate with the gentleman from Androscoggin, Senator Clifford, and I find nothing really unreasonable in his suggestion, I guess that in the end I think that we are writing for the future when we are proposing an amendment to the constitution, and that we ought to provide flexibility, the same flexibility that the gentleman mentioned. We don't know what is going to happen in the future.

The 100 days in the first regular session and the 50 days in the second regular session of the biennium seem very reasonable at this time, but who is to tell what might happen in future years, future decades, when the State of Maine might need a longer session. I hope that never happens, myself. I am in full agreement that we have a great benefit from having citizens of the State of Maine being able generally to run and serve in the Maine Legislature. And if we ever end up in a 12-month session of the Maine Legislature, then we will certainly be in a situation where there will be great expense, great hardship, and we will have some of that professional legislator situation that a number of people have decried. I think we are moving in a variety of other areas towards a more professional legislature, but hope we never reach quite that point.

On the whole, I guess that I would finally decide to vote against this amendment, and look at another amendment that will be before us, being offered by another Senator, to provide the same kind of limits for the second year that Senator Clifford has provided in his amendment in terms of the topics that might be discussed in legislation.

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

Mr. BERRY: Mr. President and Members of the Senate: I must first assure the members of the minority party that Senator Clifford's intimation that the 102nd was of such a short duration perhaps was due to the quality of the leadership of the then dominant party is not exactly what happened, that the real reason the 102nd was such a short session was the caliber of the minority party and its leadership that worked very closely for the welfare of the state with the then leaders here.

As usual, I find myself in complete agreement with Senator Clifford when he assumes the mantle of a statesman, which is practically all the time. For me to say this on this particular subject is a renunciation of my previous beliefs on the area. I have always felt that democracy started in the legislature, and that any attempts to inhibit its free activities resulted in a corresponding inhibition of democracy.

I also used to have a great deal of faith in increasing the salary of the legislators and increasing the staff of the legislature, and items such as the legislative council, all to the end that we would be having a more smoothly functioning legislative machine. While all these proposals have been put into effect, they certainly have not materialized the way many of us hoped they would when we fought, finally successfully, to get them in. This, to my mind, indicates the patient isn't exactly in top-notch health, and I think that, as happens to patients who are not in top-notch health, some strong medicine is indicated.

We sought this morning in the order of Senator Huber of Cumberland to present what I jokingly referred to in a communication to a confrere as a gag rule. It is not so much of a joke because it is a gag rule. With all respect to Senator Huber, this is what it intends to do, and there is a need for it, or somebody of the stature of Senator Huber would not propose the matter.

As a result of this, I am now of the firm belief that the legislature should circumscribe its activities with some new

rules, be it Senator Huber's proposed order, be it Senator Clifford's proposed amendment. I think we should force ourselves to conduct our operations in a far more efficient manner. If we do not do this, we are going to continue to squander public money up here, spending time non-productively. And to say that we are doing it now, I am sure, is a statement to which everybody here in this room would agree.

I see no possibility of being accused of inhibiting the democratic procedure when we realize we have 33 more legislative days to wind up the business of this session. It can be done. And I disagree with the suggestion of Senator Curtis of Penobscot that the needs may be such in the future that we cannot handle the affairs of state with limited sessions. We always have the safety valve of the governor being able to call us back. There is no problem whatsoever. I think Senator Clifford's restraints on the special sessions are very much in order. Maybe the legislators in the future won't be the statesmen we are; maybe they will want to stay here for a long time.

So I feel that we have come to a point in determining what we need to do for the good of the state to consider some more drastic things than we now find ourselves operating under, as far as rules and guidelines are concerned. I am the first and foremost, and have been in all my years here, to deny any restrictions whatsoever on the introduction of bills or the operation of the legislature which could restrict the give and take of democratic principles, but I think the time is right now that in order to safeguard these principles we have got to adopt a measure like this. Until a better one comes along, I think we should do this.

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

Mr. SPEERS: Mr. President and Members of the Senate: My objection to the amendment which was originally introduced as Senate Amendment "B" was not simply a technical objection to it, and I appreciate the fact that the good Senator from Androscoggin, Senator Clifford, has indicated that some technical matters have been corrected in Senate Amendment "D". However, the very basis of my feeling and my objection to the other amendment, Senate Amendment "B", remains the same, and that is that this amendment still does prescribe a definite number of days in which the legislature must meet and conduct all of its business.

I agree with the good Senator from Androscoggin and also the good Senator from Cumberland Senator Berry, in that there is a need to more efficiently streamline the legislative process. And in fact, I agree with some of the matters that are contained in the Senate Amendment which is offered, and that is the limitation in the second regular session of the subject matter which should be considered.

Now, the good Senator from Cumberland, Senator Berry, mentioned that unless something better comes along perhaps this should be the amendment that is adopted. I would like to point out that I do believe that there is something better that is coming along. There is going to be another amendment offered which would contain much of the same limitations as are contained in Senator Clifford's amendment as to the subject matter that can be considered in the

second regular session, but without the specific limitation as to the number of days in which we can meet.

Almost as an aside, I would like to point out that if a special session were called to deal with an emergency, either at the behest of the governor or of the legislature itself, that under the constitution, if this amendment were adopted and voted upon and agreed upon by the people, that the constitution would limit that session to 25 days. Now, I would certainly hope that we would not have an emergency which would require any longer than that, but if we did, the constitution would deny the right of the legislature or the need of the legislature to meet for more than those 25 days.

Again, I would like to recall the comments made several days ago as far as the charade that is undertaken by many states that do have an actual limitation of the number of days, a charade of covering up the clock or ignoring the calendar and just not tearing off the days as they go by. This actually is done, and I don't feel that it is probably even constitutional under those states, and I don't know if it ever has been done, but I should think if someone challenged the constitutionality of the laws passed by those states after the day of the limitation has been reached. But at any rate, I don't believe the state of Maine should participate in that kind of charade. I agree that we should try and limit the sessions as much as possible, there are measures which should be undertaken, but I just don't happen to believe that the limitation as to specific days is the correct course to follow.

The good Senator from Cumberland, Senator Berry, mentioned that the patient is in ill health, and I don't think that the way to nurse the patient back to health is to cut off all oxygen. I would move the indefinite postponement of Senate Amendment "D".

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

Mr. MERRILL: Mr. President and Members of the Senate: I rise to support the motion to indefinitely postpone made by the Majority Leader, the Senator from Kennebec, Senator Speers. I am sorry to hear that the Senator from Cumberland, Senator Berry, has changed his view on this matter. As time passes I am afraid that the Senator from Cumberland, Senator Berry, and I agree on fewer and fewer items. I think that I agree with his past observations that the heart of democracy lies in the legislative body, and it is one of the unfortunate circumstances of our society maybe that matters are becoming more and more complex, and the things that we have to deal with here in the legislature are becoming more and more difficult and demand more time.

I don't think that by setting a limit on the number of days we can sit that we really address any of the problems. We treat a symptom, and by treating that symptom we further weaken the power of the legislature to deal with state government. I think that it is important that we keep a citizen legislature, and I will support moves within this body to set rules that will work towards that goal, without defeating the ability of the legislature to deal with problems of state government.

We are all aware that as government has grown the bureaucracy has gained power in our state government. When we talk about that, and we criticize that trend, we are not criticizing the people who work in

the bureaucracy, but we are troubled by the fact that more and more rules and regulations that affect all of the people in our state are not being made by people elected by the people in this state.

One of the hard facts that comes to light when we talk about this problem, if we want to do something serious about it, is that the legislature has to do more work. Instead of passing a bill saying that the commissioner, or whomever, will make rules and regulations, we have to make those rules and regulations, or we have to have the commissioner make those rules subject to approval by the legislature. That all takes more time. There are ways, I think this process could be speeded up.

I don't agree with the observation that we have an extremely sick patient. I think the people of Maine and the people in this legislature, taking a look in toto, can be proud of the way the legislature acts on most of the matters that come before it, and I think that much of the legislation that has come into this legislative process has been improved as it has gone through long and diligent committee work, and as it has been amended here on the floor. As a matter of fact, I have been impressed with what happens to most legislation as it goes through the process, and with the fact that most legislation is improved as it goes through the process. And sometimes this takes periods of time.

Now, not too long ago a group was formed, and it was the Citizens Conference of State Legislatures. They were formed because they were concerned that the legislatures weren't keeping up, and that as a result the legislatures were becoming weaker and weaker across the United States. I think that their concern was legitimate in respect to the bureaucracy and in respect to the executive departments. And they took a look at many of the problems that exist in state legislatures all over the country, and they made recommendations specific to each legislature in a book that was published called "The Sometimes Governments". And they had recommendations for the Maine Legislature. One of the problems that the Maine Legislature didn't have, that many states had, was the limitation on the length of legislative sessions, and I wouldn't want to see us go backwards in this regard and to see us further tie the hands of the legislature. In the book, in discussing this problem, they pointed out a problem the Missouri Legislature had operating under a constitution as we would have, if we accepted the amendment of the Senator from Androscoggin, Senator Clifford. They point out that in 1969 in Missouri, towards the end of the legislative session, a bill was introduced at the request of the local governments to help them raise more revenue. And it was very necessary that this pass because the local governments were in a very difficult position and they couldn't meet their obligations. It passed the House and went to the Senate, but before the final action could be taken on that measure the legislature had to stop because the constitution required that it come to an end. The result was a great deal of problems for local governments, and in many cases just in order to keep going they had to act in a way that wasn't in accordance with the laws. It was probably in accordance with the intent of the legislature, if they had had a chance to speak, but they didn't because they tied their own hands.

So I think that this amendment is ill

conceived. It would be a step backwards. As a matter of fact, it is such a step backwards that I couldn't support the amendment to the constitution that would provide for annual sessions, as much as I believe in that idea, if at the same time we placed a limit on our general sessions. I would hope that it would be defeated, and then we could consider the other amendments that we have that may accomplish the same purpose.

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

Mr. COLLINS: Mr. President and Members of the Senate: I speak as one who has not made up my mind yet about the best way of treating this problem. We are informed that there is another version in preparation, and I am one who would like to see that other version before I make a final decision about this particular issue. I would hope that some one would table the pending motion for a couple of days.

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

Thereupon, on motion by Mr. Clifford of Androscoggin, retabled and Specially Assigned for May 5, 1975, pending the motion by Mr. Speers of Kennebec to Indefinitely Postpone Senate Amendment "D".

Reconsidered Matter

On motion by Mr. Speers of Kennebec, the Senate voted to reconsider its prior action whereby Bill, "An Act to Amend the Maine Consumer Credit Code as it Relates to the Refinancing of Single Payment Loans Granted by Supervised Financial Organizations," (H. P. 1063), was Passed to be Engrossed.

On further motion by the same Senator, retabled and Tomorrow Assigned, pending Passagetobe Engrossed.

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

Mr. MERRILL: Mr. President and Members of the Senate: There was much talk in this body today as we discussed tax matters of the little guy and of the proposal. I would just like to point out for the information of the Senate that if we as an individual fail to file our income tax on time, that we pay a penalty of five percent, and there is an upper limit on that, thus working to discriminate against the big guy. Thank you.

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

Mr. CURTIS: Mr. President and Members of the Senate: Today is May 1st. That is Law Day in the United States, a day in which we rededicate ourselves to justice, which is really fairness and equity among people.

In the past year, we as a nation have come to realize again the importance of constitutions and other laws so that we can guarantee that no person is above the law, no matter whether that person is a pauper or a president.

Today we should thank all those people who dedicate their lives to the law, our judges, court clerks and other court officials, attorneys and the bar associations, police, our hardworking employees here in the legislature and, most importantly, all of those citizens who trust the laws and trust that they will be just and fairly administered, and who do their civic duties, including voting and serving on juries.

The goal of our society is to achieve the

high standard of fair laws, faithfully administered with mercy and justice. May we strive to achieve that goal, and may we be successful in reducing strife and discord among people and nations, and perhaps we will meet the criteria of the blessing of Saint Matthew: "Blessed are the Peacemakers, for they shall be called the children of God."

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

Mr. KATZ: Mr. President and Members of the Senate: A couple of weeks ago the members of this Senate, Republicans and Democrats alike, in a genuine outpouring of enthusiastic good will congratulated one of our colleagues, the Senator from Penobscot, Senator Cummings, because her name had been posted to membership on the Public Utilities Commission. I want to assure you my purpose in rising today is not to criticize, not to castigate, or in any way second guess any of the parties in the affair of the Public Utilities Commission, but I just wanted to reinforce my opinion, and I hope an opinion that is shared by all of us here, that the ability of this gracious lady to serve the people is unquestioned, and I hope that as her career unfolds the opportunity will avail itself in some form, at some level, so the people of the state can have the benefit of the abilities, the sincerity and the sensitivity of this very, very outstanding woman.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following unassigned matter:

House Reports — from the Committee on Fisheries and Wildlife — Bill, "An Act Relating to Hunting Pheasants." (H. P. 346) (L. D. 420) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass.

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

Pending — Motion of Senator McNally of Hancock to Accept the Majority Report.

(In the House — Bill and accompanying papers Indefinitely Postponed.)

Mr. McNally of Hancock then withdrew his motion to accept the Majority Ought to Pass Report.

Thereupon, on motion by the same Senator, the Bill and accompanying papers were Indefinitely Postponed in concurrence.

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

Mr. HICHENS: Mr. President and Members of the Senate: Along our course of Senate procedures, I have had the opportunity, and quite often by request, to write some verses which commemorate certain days. I have enjoyed writing them as it is sort of a relief from all the pressures which are put upon me, and it is one way that I can give vent to relief from these pressures. But sometimes we get too much of a good thing, and I realized that in the month of May there would be several occasions where I would have the opportunity to write. I don't want to overburden you people with all of my verse, as trite as it might be, or as good as some of you sometimes think it might be, but I have had to put two of my poems away because the course of events have changed, and I hope that one of these days I may be able to read both of them. But I have one that I would like to share with you this morning on the first day of May. I would ask you to hold your applause until I finish the entire verse because there are

several sections in it which would give opportunity for applause.

M' is for the month of May with its budding trees and flowers,

When ice bound brooks run free again - with daylights lengthening hours;

When the birds and when the bees do what comes naturally

And fill their nests and hives with young - quite prolific'ly.

And by the list of birthdays I've been informed about

It's not just the birds and bees with which today we tout.

For in the merry month of May quite a few were born

Who now grace our Senate Chambers and we can note this morn

That on the 2nd day of May in 1937

Pa And Mother Clifford received their gift from Heaven.

And on the 3rd day of the month, (I don't recall the year)

The happy parents, I am told - welcomed Edward Cyr.

And on the 12th, the 17th and 29th of May

Were born three lovely girls who labor faithfully each day

Taking care of Legislative bills and other chores

And putting up with Harry and the rest who pass their doors.

Of course I refer to 3 M's, Mary, May Marie,

And trust that you'll extend Best Wishes to them all, with me.

Even though I've mentioned five - I'm not quite finished yet

For on the 18th of the month we honor Chuck Cianchette.

And on the 26th according to my faithful trackers

We honor one who won his seat by giving Graham crackers

To all of his constituents - in turn they sent him here

To speak for them on legislation we shall pass this year.

Now with this information so that you might understand

I hope that you'll all join now - in giving them a hand.

With all the facts provided, I sometimes go astray

And miss somebody's birth date - and we honor one today

Who missed by a few hours having been a child of May

For I'm informed he noted his birthday yesterday

And although we all have work to do - we are not in such a hurry

That we can't add best wishes to colleague Elmer Berry.

On motion by Mrs. Cummings of Penobscot

Adjourned until 1:30 o'clock tomorrow afternoon.