

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume I

January 5, 1977 to May 25, 1977

KJ PRINTING
AUGUSTA, MAINE

HOUSE

Wednesday, March 23, 1977

The House met according to adjournment and was called to order by the Speaker.

Prayer by Representative Nancy Clark of Freeport.

The journal of yesterday was read and approved.

Mr. Carey of Waterville was granted unanimous consent to address the House.

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: As you are all well aware, the Uniform Property Tax hearings are scheduled for today, and I thought that we should tell you immediately so you can get hold of your people to try to prevent them from coming down today, if it is at all possible. We will be holding a part of the hearings today; however, in fairness to the citizens of the state, we will be continuing the hearings tomorrow morning, starting at nine-thirty, but we will be in the Armory on Western Avenue here. We have been able to secure the building so that we can hold hearings from nine-thirty until one o'clock in the afternoon in the Armory tomorrow.

It is unfortunate that the weather has given us the problems that it has, but leadership is very adamant, and I tend to agree with them, that we have an April 1 deadline and we should stick with that deadline. Therefore, we will have an interrupted hearing on the Uniform Property Tax.

**Papers from the Senate
Reports of Committees
Divided Report**

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" on Bill "An Act Providing Legal Definition of Hunter Orange" (S. P. 100) (L. D. 229)

Report was signed by the following members:

Mr. USHER of Cumberland
— of the Senate.

Messrs. PEARSON of Old Town
TOZIER of Unity
MASTERMAN of Milo
GILLIS of Calais
PETERSON of Caribou
DOW of West Gardiner
MILLS of Eastport
MacEACHERN of Lincoln
McKEAN of Limestone
ROLLINS of Dixfield

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill: Report was signed by the following members:

Messrs. PRAY of Penobscot
REDMOND of Somerset

— of the Senate.

Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.

In the House: Reports were read.

On motion of Mr. Dow of West Gardiner, the Majority "Ought to pass" Report was accepted in concurrence.

The Bill was read once and assigned for second reading tomorrow.

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution Allowing Certain Crimes to be Prosecuted by Information (H. P. 838) which was referred to the Committee on Judiciary in the House on March 16, 1977.

Came from the Senate indefinitely postponed in non-concurrence.

In the House: The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Prohibit Producers, Refiners and Distributors of Motor Fuels from Engaging in the Retail Sales of Gasoline" (H. P. 600) (L. D. 972) which was referred to the Committee on Energy in the House on March 10, 1977.

Came from the Senate referred to the Committee on Business Legislation in non-concurrence.

In the House: On motion of Mr. Connolly of Portland, the House voted to adhere.

Non-Concurrent Matter

Bill "An Act to Provide for Legislative Review and Automatic Termination of State Agency Rules" (H. P. 173) (L. D. 211) which was passed to be engrossed as amended by Committee Amendment "A" (H-56) in the House on March 10, 1977.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-56) and Senate Amendment "A" (S-37) in non-concurrence.

In the House: On motion of Mr. Palmer of Nobleboro, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Concerning Chemical Control of Vertebrate Animals" (H. P. 800) (L. D. 812) which was passed to be engrossed as amended by House Amendment "A" (H-73) in the House on March 16, 1977.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-73) and Senate Amendment "A" (S-38) in non-concurrence.

In the House: The House voted to recede and concur.

Non-Concurrent Matter

Tabled and Assigned

Bill "An Act to Amend the School Lunch and Milk Program" (H. P. 467) (L. D. 484) which was passed to be engrossed as amended by House Amendment "A" (H-40) as amended by House Amendment "A" (H-47) thereto in the House on March 2, 1977.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-40) as amended by Senate Amendment "A" (S-33) thereto in non-concurrence.

In the House: On motion of Mr. Tierney of Lisbon Falls, tabled pending further consideration and tomorrow assigned.

Messages and Documents

The following Communication:
STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
AUGUSTA, MAINE
March 21, 1977

Honorable Edwin H. Pert
Clerk of the House
108th Legislature
Augusta, Maine 04333
Dear Mr. Pert:

Pursuant to Sec. I, 22 MRSA §2095, sub-10, I am pleased to present "The 1976 Annual Report of the Office of Dental Health" to members of the 108th Legislature.

Respectfully,

Signed: DAVID E. SMITH
Commissioner

The Communication was read and with accompanying report ordered placed on file.

Petitions, Bills and Resolves

Requiring Reference

The following Bills and Resolves were received and referred to the following Committees:

Business Legislation

Bill "An Act Concerning Ski Lift Services"

(H. P. 958) (Presented by Mrs. Lewis of Auburn)

Bill "An Act to Provide Limited Immunity to aid in Arson Investigation" (H. P. 959) (Presented by Mr. Nadeau of Sanford)

Bill "An Act Relating to the Investigatory Powers of the Administrator of the Bureau of Consumer Protection" (H. P. 960) (Presented by Mr. Peakes of Dexter)

Bill "An Act to Increase the Tax on Fire Insurance Premiums to Aid in Arson Investigation by the State Fire Marshal's Office" (H. P. 961) (Presented by Mr. Nadeau of Sanford)

Bill "An Act to Repeal Certain Laws Relating to Occupations and Professions" (H. P. 962) (Presented by Mr. Davies of Orono)

Bill "An Act to Provide for Residual Rights of Artists upon the Sale of Works of Fine Art" (H. P. 963) (Presented by Mr. Davies of Orono)

Bill "An Act to Amend the Maine Electricians' Laws" (H. P. 964) (Presented by Mr. Ault of Wayne)

Bill "An Act Relating to the Imposition of Finance Charges on Purchases or Leases of Goods or Services Purchased During a Billing Period" (H. P. 965) (Presented by Mrs. Boudreau of Portland)

Bill "An Act to Provide Owners of Private Noncommercial Airports with Liability Exemption" (H. P. 966) (Presented by Mrs. Byers of Newcastle)

Bill "An Act to Change the License Status of Maine Resident Military Optometrists" (H. P. 967) (Presented by Mr. Carrier of Westbrook) (Ordered Printed)

Sent up for concurrence.

Education

Bill "An Act Relating to the Spending Ceiling for Education Purposes" (H. P. 968) (Emergency) (Presented by Mr. Fenlason of Danforth)

Bill "An Act to Remove Interscholastic Athletic Activities from the Operating Expenditures of the Education Budget" (H. P. 969) (Emergency) (Presented by Mrs. Kane of Augusta)

Bill "An Act Authorizing School Administrative Units to Charge a Driver Education Course Fee during the School Year" (H. P. 970) (Presented by Mr. Goodwin of South Berwick)

Bill "An Act Relating to the Payment of the Cost of Constructing a Pumping Station, Fire Hydrant and a Water Main for the New Stockton Springs Elementary School" (H. P. 971) (Emergency) (Presented by Mr. Shute of Stockton Springs)

Bill "An Act to Amend the Special Education Tuition Reimbursement Law" (H. P. 972) (Emergency) (Presented by Mrs. Prescott of Hampden)

Bill "An Act Appropriating Funds for the Winthrop Public Schools" (H. P. 973) (Presented by Mr. Bagley of Winthrop)

Bill "An Act Relating to Optional Local Appropriations with State Participation" (H. P. 974) (Emergency) (Presented by Mr. Fenlason of Danforth)

Bill "An Act to Authorize Certain School Debt Service Payments to be Offset by Increased Payments to the Treasurer of State" (H. P. 975) (Emergency) (Presented by Mrs. Byers of Newcastle)

Bill "An Act to Permit the Town of Orrington to Withdraw from School Union 91 and to Establish an Independent School Supervisory Unit" (H. P. 976) (Presented by Mr. Cox of Brewer)

Bill "An Act to Provide for Small Unit Subsidy Adjustments" (H. P. 977) (Emergency) (Presented by Mr. Blodgett of Waldoboro) (Ordered Printed)

Sent up for concurrence.

Election Laws

Bill "An Act Relating to Absentee Voting" (H. P. 978) (Presented by Mrs. Kany of Waterville) (Cosponsors: Mr. Birt of East Millinocket, Mrs. Berube of Lewiston, Mrs. Kane of Augusta)

Bill "An Act to Clarify Election Related Laws" (H. P. 979) (Presented by Mr. Truman of Biddeford)

Bill "An Act Concerning the Fee for Recounts in Election Contests" (H. P. 980) (Presented by Mr. Carrier of Westbrook)

Bill "An Act Concerning Sound Media Near Voting Places on Election Day" (H. P. 981) (Presented by Mr. Carrier of Westbrook)

(Ordered Printed)
Sent up for concurrence.

Health and Institutional Services

Bill "An Act Relating to the Definition of Ambulance Personnel" (H. P. 982) (Presented by Mr. Goodwin of South Berwick)

Bill "An Act Appropriating Funds for Emergency Medical Training and Extrication Programs" (Emergency) (H. P. 983) (Presented by Mr. Drinkwater of Belfast) (Cosponsors: Mr. Tozier of Unity, Mr. Shute of Stockton Springs)

Bill "An Act Establishing a Maine Certificate of Need Program" (H. P. 974) (Presented by Mrs. Najarian of Portland) (Cosponsors: Mr. Kerry of Old Orchard Beach, Mr. Palmer of Nobleboro)

(Ordered Printed)
Sent up for concurrence.

Human Services

Bill "An Act to Authorize the Indian Township Tribal Council of the Passamaquoddy Tribe of Indians to Establish a Reservation Constitution and Council By-laws to Govern Itself" (H. P. 984) (Presented by Mr. Fenlason of Danforth)

Bill "An Act to Provide Investigative Personnel for the Maine Human Rights Commission" (H. P. 985) (Presented by Mrs. Trafton of Auburn)

(Ordered Printed)
Sent up for concurrence.

Judiciary

Bill "An Act Relating to the Use of Governmental Records by the Attorney General" (H. P. 986) (Presented by Mr. Joyce of Portland)

Bill "An Act Relating to Reporting of Data of Abortions Performed by an Attending Physician" (H. P. 987) (Presented by Mrs. Berube of Lewiston)

Bill "An Act to Clarify and Modify Causes for 7-Day Notice of Termination of Tenancy at Will" (H. P. 988) (Presented by Mrs. Berube of Lewiston)

(Ordered Printed)
Sent up for concurrence.

Later Today Assigned

Bill "An Act Charging the Boiler Owner or Contractors for the Fees for Additional Inspections Required by the Code" (H. P. 989) Committee on Legal Affairs was suggested. (Presented by Mr. Bustin of Augusta)

(On motion of Ms. Clark of Freeport, tabled pending reference and later today assigned.)

Legal Affairs

Bill "An Act Relating to the Regulation of Watchmen, Guards or Patrolmen" (H. P. 990) (Presented by Mr. Curran of South Portland)

(Ordered Printed)
Sent up for concurrence.

Liquor Control

Bill "An Act Reinstating the Malt Liquor License Application Filing Fee" (Emergency) (H. P. 991) (Presented by Mr. Raymond of Lewiston)

(Ordered Printed)
Sent up for concurrence.

Local and County Government

Bill "An Act to Define Duties and Set Salaries for Special and Part-time Deputy Sheriffs" (H. P. 992) (Presented by Mr. Gray of Rockland)

Bill "An Act Recognizing the Maine County Commissioners Organization as an Instrumentality of Maine's Counties" (H. P. 993) (Presented by Mrs. Berube of Lewiston)

(Ordered Printed)
Sent up for concurrence.

Marine Resources

Bill "An Act to Repeal the Scallop Drag Law in Blue Hill Bay" (H. P. 994) (Presented by Mr. Greenlaw of Stonington)

Bill "An Act to Create the Voluntary Fish Products Inspection Program" (H. P. 995) (Presented by Mr. Greenlaw of Stonington)

Bill "An Act Concerning the Issue of Special Licenses by the Commissioner of Marine Resources" (H. P. 996) (Presented by Mr. Higgins of Scarborough)

Bill "An Act Concerning the Availability of Results of Tests on Polluted Shellfish" (H. P. 997) (Presented by Mr. Higgins of Scarborough)

Bill "An Act to Limit the Size of Scallop Drags" (H. P. 998) (Presented by Mr. Greenlaw of Stonington)

Bill "An Act Relating to Purse Seining and Stop Seining" (H. P. 999) (Presented by Mr. Greenlaw of Stonington)

(Ordered Printed)
Sent up for concurrence.

Natural Resources

Bill "An Act Appropriating Funds for State Park Facilities at Swan Lake" (H. P. 1000) (Presented by Mr. Shute of Stockton Springs)

RESOLVE, Authorizing the Exchange of Certain Public Reserved Lands with Diamond International Corporation (H. P. 1001) (Presented by Mr. Martin of Eagle Lake)

(Cosponsor: Mr. Palmer of Nobleboro)
(Ordered Printed)
Sent up for concurrence.

Public Utilities

Bill "An Act Concerning the Powers of the Eagle Lake Water and Sewer District" (H. P. 1002) (Presented by Mr. Martin of Eagle Lake)

Bill "An Act to Amend the Charter of the Portland Water District" (H. P. 1003) (Presented by Mrs. Boudreau of Portland)

(Ordered Printed)
Sent up for concurrence.

State Government

Bill "An Act Establishing the Maine Small Business Loan Authority" (H. P. 1004) (Presented by Mrs. Kany of Waterville) (Cosponsors: Mr. Valentine of York, Mr. Quinn of Gorham)

Bill "An Act to Repeal Certain Laws Relating to State Government Administrative Procedures and Services" (H. P. 1005) (Presented by Mr. Wood of Sanford)

(Ordered Printed)
Sent up for concurrence.

Tabled and Assigned

Bill "An Act Concerning Community Industrial Buildings under the Maine Guarantee Authority Statutes" (H. P. 1006) (Presented by Mr. Gillis of Calais)

Committee on State Government was suggested.

(On motion of Mr. Curran of South Portland, tabled pending reference and tomorrow assigned.)

State Government cont'd

RESOLVE, Authorizing the Director of the

Bureau of Public Lands to Transfer Land to Mr. and Mrs. John Donnan (H. P. 1007) (Presented by Mr. Masterman of Milo)

Bill "An Act Establishing a Single Unit Within State Government to Administer Human Services to Children" (H. P. 1008) (Presented by Mr. Curran of South Portland)

RESOLUTION, Proposing an Amendment to the Constitution Allowing the Legislature to Impose a Different Rate of Taxation Upon Properties Outside of Incorporated Municipalities and Plantations (H. P. 1009) (Presented by Mr. Brenerman of Portland)

Bill "An Act to Revise the Law Relating to the Land Use Regulation Commission" (H. P. 1010) (Presented by Mrs. Berube of Lewiston)

Bill "An Act Creating the Maine Capital Corporation" (H. P. 1011) (Presented by Mr. Martin of Eagle Lake)

Bill "An Act Creating the Maine Development Foundation" (H. P. 1012) (Presented by Mr. Martin of Eagle Lake)

(Ordered Printed)
Sent up for concurrence.

Taxation

Bill "An Act Concerning Property Relief for Widows, Widowers and Retired Persons Living on a Fixed Income" (H. P. 1013) (Presented by Mr. Laffin of Westbrook)

Bill "An Act to Establish an Income Tax Exemption for National Guard Members and Certain Members of the Military" (H. P. 1014) (Presented by Mr. Laffin of Westbrook)

Bill "An Act to Help Maintain the Purchasing Power of Participants in the Elderly Tax and Rent Refund Program" (H. P. 1015) (Presented by Mr. Shute of Stockton Springs)

(Cosponsors: Mr. Silsby of Ellsworth, Mr. Kelleher of Bangor, Mr. Hickey of Augusta)

(Ordered Printed)
Sent up for concurrence.

Judiciary

RESOLVE, Authorizing John Carlo Inc. to Resolve a Dispute with the State of Maine by Arbitration (H. P. 1016) (Presented by Mrs. Byers of Newcastle)

Committee on Transportation was suggested. On motion of Mrs. Byers of Newcastle, the Bill was referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

Transportation

Bill "An Act to Clarify the Statutory Provisions Concerning the Legal Capacity of a School Bus" (Emergency) (H. P. 1017) (Presented by Mr. Morton of Farmington)

Bill "An Act to Permit Members of Certain Nonprofit Associations or Corporations to use Special Organizational License Plates" (H. P. 1018) (Presented by Mr. Conners of Franklin)

(Ordered Printed)
Sent up for concurrence.

Veterans and Retirement

Bill "An Act Concerning the Retirement Law Relating to Certain Employees of the Department of Mental Health and Corrections" (H. P. 1019) (Presented by Mr. Gray of Rockland) (Cosponsors: Mrs. Gill of South Portland, Mr. Howe of South Portland)

RESOLVE, to Grant Creditable Service under the Maine State Retirement System to A. Edward Langlois Jr., of South Portland (H. P. 1020) (Presented by Mr. Howe of South Portland)

(Ordered Printed)
Sent up for concurrence.

Orders

An Expression of Legislative Sentiment (H. P. 956) recognizing that: the Red Riots of South Portland High School have won the State Class

"A" Girls' Basketball championship for the Academic year 1977 (Presented by Mr. Curran of South Portland) (Cosponsors: Ms. Benoit of South Portland, Mrs. Gill of South Portland, Mr. Howe of South Portland)

The Order was read and passed and sent up for concurrence.

**House Reports of Committees
Divided Report**

Majority Report of the Committee on Election Laws reporting "Ought to Pass" on Bill "An Act to Regulate the Circulating of Initiative or Referendum Petitions" (H. P. 223) (L. D. 287)

Report was signed by the following members:

Messrs. DANTON of York
TROTZKY of Penobscot
KATZ of Kennebec

— of the Senate.

Mrs. BOUDREAU of Portland
Mrs. DURGIN of Kittery
Messrs. BOUDREAU of Waterville
BUSTIN of Augusta
McMAHON of Kennebunk
TRUMAN of Biddeford
RAYMOND of Lewiston

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following members:

Mrs. MITCHELL of Vassalboro
Messrs. TALBOT of Portland
BIRT of East Millinocket

— of the House.

Reports were read.

Mrs. Boudreau of Portland moved the Majority "Ought to Pass" Report be accepted.

The SPEAKER: The Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: On election day last November, along with my neighbors, I queued up in a long, long line outside our sole polling place in Cape Elizabeth. Inside, confusion reigned. At the doorway on the left were the nuclear power moratorium people. On the right were the UPT repeal people. The town clerk frantically tried to separate the single line into two lines; one for District 32 and one for District 34. The District 34 line then had to be separated into A thru L and M thru Z names, then, another line for those who wanted to register in order to vote that day. I don't have to tell you that the situation was nothing short of complete bedlam.

After I had voted, and mercifully unopposed as I was in the general election, I had the rather rare opportunity of just standing around in order to observe the electoral process. I will not deny that the petitioners were polite and cooperative. I will not deny that they tried within the constraints of space, time and volume of people to explain their petitions to prospective signees. I will not deny the very important right of citizens to petition their government to address what they perceive to be wrong; but, ladies and gentlemen, what was the reaction of the voters. The response ran the gamut from surprise to incredulance, from irritation to downright annoyance, from tolerance to complete turn-off. Let me say that very few persons seemed grateful for the opportunity to sign either one of these petitions.

Voting is an important duty in this country. The people in my district take that act seriously. I think they deserve to vote in peace and quiet, as thoughtfully as possible, as promptly as possible and as free as possible from distraction.

Little more than 250 feet from the polling place is a shopping center, a library, a bank, a

gas station, a dentist office and plenty of homes. I believe that these are places in which petitioners can better present their cases in an orderly and less confused atmosphere.

At the hearing on this bill, the only opponent was a gentleman who was very instrumental in the "Save Bigelow" effort. To me, he represents a more special interest. I am more concerned about the good voters of the state who voluntarily do their duty and those who patiently and those who not so patiently wait in line to do it. So in the interest of the voters of this state, I urge you to support the "ought to pass" report.

Thereupon, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

**Consent Calendar
First Day**

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S. P. 155) (L. D. 395) Bill "An Act to Clarify the Responsibility for Payment of Expenses on Rendition of Prisoners" — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-32)

(S. P. 133) (L. D. 308) Bill "An Act Relating to Maintaining Records on Premises under the Laws Relating to Alcoholic Beverages" — Committee on Liquor Control reporting "Ought to Pass"

(S. P. 146) (L. D. 387) Bill "An Act Converting Rangeley Plantation into the Town of Haley" (Emergency) — Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-31)

No objections being noted, the above items were ordered to appear on the Consent Calendar of March 24, under listing of the Second Day.

**Consent Calendar
Second Day**

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H. P. 268) (L. D. 345) Bill "An Act Relating to Physicians Assistants"

(H. P. 372) (L. D. 461) Bill "An Act to Repeal Certain Statutory Provisions Relating to the Regulation of Food, Cosmetics and Work Places"

(H. P. 278) (L. D. 343) Bill "An Act to Clarify the Authority of Members of Volunteer and Governmental Organizations to Render Emergency Assistance"

(H. P. 357) (L. D. 522) Bill "An Act to Provide Supervision of Persons Released From the Maine State Prison and the Maine Correctional Center Under Furlough, Work or Rehabilitative Release"

(H. P. 524) (L. D. 642) Bill "An Act to Clarify and Confirm the Municipal Boundary between the City of South Portland and the Town of Scarborough"

(H. P. 40) (L. D. 57) Bill "An Act Establishing County Commissioner Districts in Cumberland County"

(H. P. 362) (L. D. 454) Bill "An Act Converting Caratunk Plantation into the Town of Caratunk"

(H. P. 336) (L. D. 427) Bill "An Act to Repeal Fishing Regulations on the Pemaquid River"

No objections having been noted at the end of the Second Legislative Day, the House Papers were passed to be engrossed and sent up for concurrence.

Passed to Be Engrossed

Bill "An Act Relating to Work Probation in Lieu of Fine" (S. P. 303) (L. D. 898)

Bill "An Act to Clarify the Borrowing Capacity of the Fort Fairfield Utilities District

and to Provide for the Imposition of Liens to Secure Payment of Sewer Rates of the District" (Emergency) (H. P. 928) (L. D. 968)

Bill "An Act Concerning Membership on Municipal Charter Commissions" (Emergency) (H. P. 926) (L. D. 967)

RESOLVE, Authorizing the Commissioner of Conservation to Convey Land to Somerset County Formerly Known as the Women's Correctional Center at Skowhegan" (Emergency) (H. P. 927) (L. D. 1017)

Were reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent to the Senate.

Bill "An Act to Create the Eastport Port Authority" (Emergency) (H. P. 925) (L. D. 966)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent to the Senate.

By unanimous consent, ordered sent forthwith.

**Second Reader
Tabled and Assigned**

Bill "An Act Creating a Mental Health Advisory Council" (Emergency) (H. P. 301) (L. D. 357)

Was reported by the Committee on Bills in the Second Reading and read the second time.

(On motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be engrossed and tomorrow assigned.)

Amended Bill

Bill "An Act to Improve the Performance of the State Lottery" (H. P. 212) (L. D. 222) (C. "A" H-82)

Were reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended and sent up for concurrence.

**Passed to Be Enacted
Emergency Measure**

An Act to Appropriate Funds to the Maine Chapter of the Epilepsy Foundation of America (H. P. 5) (L. D. 8) (C. "A" H-3)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and two-thirds vote of all the members elected to the House being necessary, a total was taken.

Whereupon, Mr. Biron of Lewiston requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and less than one fifth of the members present having expressed a desire for a roll call, a roll call was not ordered.

Thereupon, 111 having voted in the affirmative and two having voted in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Charter of the Freeport Sewer District (H. P. 439) (L. D. 546)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

RESOLVE, Reimbursing Certain 1976 County Taxes on Account of Insufficient Appropriation (H. P. 82) (L. D. 102)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of same and one against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act Appropriating Funds for the Purchase of Copies of "The Penobscot Expedition" (S. P. 7) (L. D. 12) (C. "A" S-3)

An Act Appropriating Funds for Replacement Volumes of the Maine Revised Statutes Annotated (S. P. 11) (L. D. 28)

An Act to Provide for a Trade-in Credit for Self-propelled Vehicles used in Lumbering or Agriculture (H. P. 61) (L. D. 82) (C. "A" H-25)

An Act Appropriating Funds for the Purchase of Copies of the History of Newfield (H. P. 137) (L. D. 138)

An Act Authorizing the Public Utilities Commission to Issue Temporary Contract Carrier Permits (H. P. 130) (L. D. 164) (C. "A" H-60)

An Act Authorizing the Public Utilities Commission to Use a Modified Procedure in Considering Certain Contract Carrier Permits (H. P. 133) (L. D. 167) (C. "A" H-61)

An Act to Appropriate Funds for Repair, Operation and Maintenance of Androscoggin Lake Dam (H. P. 367) (L. D. 458)

An Act Relating to the Distribution of Statutes and Session Laws (S. P. 210) (L. D. 620) (S. "A" S-23)

Finally Passed

RESOLVE, Reimbursing Certain Municipalities on Account of Property Tax Exemptions of Veterans (H. P. 91) (L. D. 117)

RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Maine Tree Growth Tax Law (H. P. 92) (L. D. 119)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, the Bills passed to be enacted and the Resolves finally passed, all signed by the Speaker and sent to the Senate.

On motion of Mr. Tierney of Lisbon Falls, Recessed until the sound of the gong.

After Recess

11:40 a.m.

The House was called to order by the Speaker.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

Bill "An Act to Allow the Purchase of Liquor at a Reduced Price in the Town of Sanford" (H. P. 285) (L. D. 369) (C "A" H-70)

Tabled — March 17, 1977 by Mr. Kelleher of Bangor.

Pending — Passage to be Engrossed.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I have no objections to this bill being passed to be engrossed this morning, because there is a bill being heard this afternoon before the Liquor Control Committee dealing with equalization of the price of liquor all over the state. If anything, we should let this bill go on its way just to substantiate our own positions when the other bill comes out and saying yes, we agree with Sanford; however, the other 86 communities that sell liquor should have the same consideration.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I believe we should handle this thing directly. I think we can all

recall last Thursday afternoon when the gentleman from Sanford so eloquently defended his bill to permit a discount store to be established in Sanford. Several times, as I recall, he mentioned his concern for a constituent named Jim Beam. At first, I thought Jim Beam was a member of the other body, but upon checking the roster down the hall, I found I was wrong. I now must assume that Jim Beam is an admirable constituent of the gentleman from Sanford.

We all have constituents who would no doubt prefer to have a discount liquor store. The Kittery store is serving its intended purpose. Let's leave well enough alone.

Mr. Speaker, if the motion is in order, I would ask this bill and all its accompanying papers be indefinitely postponed.

The SPEAKER: The gentleman from Portland, Mr. Joyce, moves that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I know many times we have bills come before us that favor certain sections of the state, and rightly so, because from one end of the state to the other it is close to 500 miles. Nevertheless, we are a state and we are a unit and we are united, and what we have to pay in taxes in the southern part of the state certainly has a bearing on what the people have to pay in the northern part of the state.

When we give special favors to people on the border towns for their constituents, I think we are stepping out of bounds for the simple reason that the people who live away from the border have to accept and pay higher for their products and because of no fault of their own, they are away from the border states.

I don't know why the State of New Hampshire sells things cheaper than we do. I don't know why they don't have an income tax. I don't know why they don't have a sales tax. I don't have the learning that all the tax people in this state have, so they can probably answer that. But I know what is fair and I know what is justifiable, and when we say that a certain town on the border should not pay what the people of my community have to pay, regardless of whether it is for liquor, regardless of whether it is for paper products or for shoes or for anything else, I feel then that the people of my area are not being treated fairly.

If they should have a sale up in Aroostook County in some small community such as Eagle Lake or up that way, I am sure that the people of Westbrook are not going to travel up there for that small sale. But I do know that there are people in my community of Westbrook that do go to New Hampshire to buy booze, the clubs and the organizations. This we cannot stop, but a man who comes out of the mill, if he chooses to buy booze, take a bottle home at night, he has to buy it in our liquor store in Westbrook or else go to New Hampshire for a cheaper price. I don't feel that he should be told that the people in Sanford or any other community along the border can go a few miles and buy cheaper booze.

The last two years, I have heard this; I heard it about the Kittery store, I heard it about the other towns being so close to New Hampshire. Well, that is unfortunate, but we can't help that, but what we can help is the fact that the rest of the people of the State of Maine pay the same price. If we are going to annex all these communities on the border, then maybe they had better join New Hampshire where they have free sales tax, no income tax. Maybe we had better let them join them, but I don't think that it is fair to the rest of the people.

I don't buy booze, so I could care less what the price is. In fact, the higher the price, the better

it is as far as I am concerned personally, but I am not speaking for the majority of the people of Westbrook, I can assure you. What I am concerned with is that if we are going to start giving these little special benefits to all these border towns, and I am sure they are very justifiable in their own belief, because they are working for the people of their communities, just like we are all working for the best interest of the people of our communities, but when they do that, we then lose revenue. Don't fool yourselves, the State of Maine is in the liquor business and don't think they are not. It is a \$45 million profit for us. We want to sell booze, we want the people to buy booze, because we are a liquor state and we make a lot of money on liquor. Every time the people go to New Hampshire, that means that someone else has got to pick up the tab for that money that we will not be putting into the General Fund for something else.

I can't see why we should today, or tomorrow, or next week give special benefits to a border town. I have never believed in it. I didn't believe in it two years ago and I am sure I won't believe in it two years from now. But I do say that if we are going to have lower booze, then I want the people of Westbrook, I want the people of Calais, I want the people of Caribou, I want all the people to get the same price. Consequently, I feel that if we are going to do for one town, have a uniform price, then we should have it for all the citizens of Maine, or let all the citizens bear the expense.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I thank the good gentleman from Westbrook, Mr. Laffin, for his oratory.

In explanation to the good gentleman from Portland, Mr. Joyce, Mr. Jim Beam is not a constituent of mine; I merely used that name brand of liquor to show an example of what does happen.

Apparently, I see there is much objection to this bill. The sale of liquor in the State of New Hampshire is, of course, going to continue whether this bill goes through or not. The State of Maine is losing revenue right now because people from my home town are buying in New Hampshire now. Therefore, you are losing not only revenue from liquor, you are also losing revenue from sales tax when they go across the line to buy other things. It is a simple point, we are there, we are next to New Hampshire and we are just drawing I don't know how much money away from the state, and New Hampshire is getting it. It is as simple and plain as that.

I am not sure that the total revenue loss would be — if there would be any loss at all, because there is a sales tax and we would also have the increased volume of the people now going to New Hampshire from Sanford, York County, all the business we have in the county and Sanford during the summer months.

The Sanford area has approximately 20,000 people, and during the summer you can almost double that from all the camp areas in Sanford.

I feel I hit the points which I wanted to impress last Thursday in the debate. I would hope you would vote against the motion to indefinitely postpone the bill, give it a chance, and if it doesn't work out, the legislature can take it away as easy as it gives it. I only ask for a chance, the merchants only ask for a chance, they are getting hurt, just as we seemingly are going to give the merchants a chance in Bangor after we gave them \$600,000 for the turbojet, but I guess that regionalism doesn't carry down to the southern part of the state.

The SPEAKER: The Chair recognizes the gentleman from Millinocket, Mr. Marshall.

Mr. MARSHALL: Mr. Speaker, Ladies and

Gentlemen of the House: As a member of the Liquor Control Committee, I voted against this measure. I wonder, when he asked us to give him a chance, if Mr. Nadeau takes into account Biddeford.

I can understand and appreciate his fear of a loss of revenue to Sanford to the State of New Hampshire, but I also wonder about the argument of other border communities such as Bethel, and I wonder at what point in fact we are going to stop and draw the line.

If we do pass this bill and Sanford does get liquor at a reduced rate, what effect would that have on the merchants, particularly those merchants who sell liquor in Biddeford, for example. In fact, would not what is now happening to Sanford then happen to Biddeford, and Biddeford merchants then lose revenues to the Town of Sanford? If that is argument, wouldn't that be argument to allow Biddeford reduced fees and rates to compete with Sanford? Then where would we stop?

I understand Representative Nadeau's intention here, and I can appreciate his fear of the loss of revenue, but I think that this bill, as presented, is a step toward a process which we cannot afford. I would hope that you would support the motion to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Richmond, Mr. Moody.

Mr. MOODY: Mr. Speaker, I request when the vote is taken that it be taken by the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from West Paris, Mr. Immonen.

Mr. IMMONEN: Mr. Speaker, Ladies and Gentlemen of the House: The original bill for the Kittery store was not introduced by anyone from York County. Six years ago, the Representative from Portland, Representative Cottrell, introduced the bill to open a special discount store at the New Hampshire border. It was a well known fact, as it is now, that many Maine citizens were buying their spirits from New Hampshire due to the lower prices. He felt we should get this income for the State of Maine and could attract much of the tourist trade.

Last year, this store made \$3 million for the General Fund of the state. I recognize that it has been a compromising position have a two-priced system; however, I do not believe this special store system should be expanded.

There is no financial note to this bill, and I believe it would mean a loss to the state.

I understand the feelings of the border towns; however, I urge you to follow the motion of the gentleman from Portland, Representative Joyce.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: Just one final note. I have a feeling that my bill is going to die. I was just going to say that it is not going to stop us; we are still going to get our liquor at reduced prices. I just thought we would like to have the revenue in the State of Maine instead of making Mr. Thomson and the New Hampshire people get more money.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Portland, Mr. Joyce, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor of that

motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Biron, Birt, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Byers, Carter, F.; Chonko, Churchill, Cox, Cunningham, Dexter, Diamond, Drinkwater, Dudley, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gill, Gillis, Gould, Gray, Green, Greenlaw, Henderson, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Jensen, Joyce, Kany, Kerry, Kilcoyne, Laffin, Lewis, Littlefield, Lizotte, Locke, Lougee, Lunt, Lynch, MacEachern, Mahany, Marshall, Masterton, McBreairty, McHenry, McKean, McPherson, Mitchell, Moody, Morton, Najarian, Nelson, M.; Nelson, N.; Pearson, Peltier, Perkins, Peterson, Quinn, Raymond, Rideout, Rollins, Shute, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Trafton, Twitchell, Tyndale, Whittemore, Wilfong.

NAY — Ault, Carroll, Carter, D.; Clark, Connors, Connolly, Cote, Curran, Davies, Dow, Durgin, Goodwin, H.; Hall, Hickey, Higgins, Howe, Jacques, Jalbert, Kelleher, Martin, A.; Masterman, Maxwell, McMahan, Nadeau, Tarbell, Truman, Valentine, Wood.

ABSENT — Blodgett, Carey, Carrier, Devoe, Gauthier, Goodwin, K.; Hobbins, Kane, LaPlante, LeBlanc, Mackel, Mills, Norris, Palmer, Peakes, Post, Prescott, Spencer, Wyman.

Yes, 102; No, 28; Absent, 19; Vacant, 1.

The SPEAKER: One hundred two having voted in the affirmative and twenty-eight in the negative, with nineteen being absent, the motion does prevail.

Sent up for concurrence.

The Chair laid before the House the second tabled and today assigned matter:

House Divided Report — Majority (12) "Ought Not to Pass" — Minority (1) "Ought to Pass" — Committee on Health and Institutional Services on Bill, "An Act to Require that Savings from Substitution of Generic Drugs be Passed on to the Purchaser" (H. P. 147) (L. D. 177)

Tabled — March 22, 1977 by Mr. Goodwin of South Berwick.

Pending — Motion of the same gentleman to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: Today I have a difficult task; I have to try to persuade you to overturn a majority "ought not to pass" opinion. This is difficult for two reasons, the first is the mechanical difficulty of overturning such a large majority; the second one is what might be considered the implied criticism of the members in the majority report of this committee. That is not my intention. The honorable members of this committee have done their work, but I feel that I, myself, failed to properly present the case to them.

There are about three major objections, as near as I can determine from talking with members of the committee and some other members of the House. One is the difficulty in definition of what is the full amount of the savings. I have prepared an amendment which will take care of that difficulty. The second one is the objection of interference with free enterprise, the right of a business to set their own prices. It is not the intention of this bill to tell people what their prices shall be by setting any definite price. Let me say that this substitution that they are now allowed to make, they are only allowed to make it because this

legislature, in a bill which I presented in the last session, granted them the right or privilege of making this substitution under certain conditions. Therefore, I would say that if the legislature giveth this opportunity, the legislature has a perfect right to attach conditions to it. Of course, the purpose was to save people money, and I see nothing wrong with the legislature attaching this condition which requires that this in fact happened.

An analogy was made at the hearing between this and cans of peas on the grocery shelves, and I think this was a very poor analogy, because cans of peas on the grocery shelves are lined up side-by-side the different brands with the prices right on them. You are not allowed to go into the back room of the drug store and look at the drugs or see them side by side on the shelves to see just how many different brands they may have of this same drug.

Another thing which is quite common in our concept of free enterprise is the willing seller and the willing buyer. So to me there is some question about whether the buyer of drug products is actually a willing buyer. He or she is buying these drugs to either protect his or her health or to save his life. In other words, in some cases, it is sort of a question of your money or your life, which is hardly a pretty situation. I would say also that free enterprise does not mean a right to cheat one's customers.

The third objection that was made to this was that the need for this legislation had not been proven. I have received complaints to the effect that in this state on a large scale, all of these savings are not being passed on to the consumers. Indeed, the testimony before the committee implied to me that at least one major drug company in the state was not passing on the full savings, and I understand that in testimony from the representative of this same drug company on another bill yesterday, it was even more strongly implied that this drug concern was not passing on the full amount of the savings.

I hesitate to make this statement — I got it from one of the members of the Health and Institutional Services Committee, this next statement — but a measure of the attitude of a major drug chain in this state which is opposing that bill is that they admitted, and again I would have to defer to the member of the committee who told me this for any corrections, that they admitted to filling illegal prescription blanks — that they were filling prescriptions, occasionally at least, on blanks that did not contain the required statement and the required blocks that covers the substitution of generic drugs.

So ladies and gentlemen of the House, in conclusion, I suggest let's defeat the majority "ought not to pass" report and accept the minority "ought to pass" report and make it possible for this to move on to the second reading where we can adopt the House Amendment and then send this consumer protection bill on its way.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Howe.

Mr. HOWE: Mr. Speaker, Men and Women of the House: I told the gentleman from Brewer that I would speak on this bill and I am much more comfortable doing so today than I would have been before his amendment, because I also had questions about the meaning of the full amount of savings, but this amendment makes clear that the pharmacists may retain the same profit margin or percentage of markup as would be the case under a brand name drug and, therefore, I would urge defeat of the majority report.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to just briefly cover this bill a little bit of historical

perspective so we can understand where we are at. Back in the 106th, both the regular and special session, we had bills to allow substitution of generic drugs. Finally, in the 107th, the regular session, we were able to pass a law, a law which I think is pretty good, which allows pharmacists to substitute a generically equivalent drug for the brand name the doctor prescribes if the doctor has not checked off a little square on the prescription blank.

It seems that there have been, since this has gone into effect, through some other bills which we have heard, some problems which have developed with this, some doctors aren't conforming and there are some problems with liability and things and our committee is going to try and work some of this out and a couple members of the committee have already decided that we should spend some time during this session and before the session next year to do some study on this whole generic drug picture and what is happening and whether or not it is really lowering drug prices.

As a companion measure to the generic drug bill, we also passed a law allowing the advertising of prescription drug prices. I think more than anything else the advertising is a very important part of this whole drug price picture. You may have noticed in your papers recently a series of advertisements by LaVerdiere's and several other drug stores listing various generic drugs, that is brand name drugs, and their prices.

We also have several controls already existing on the price of drugs, one of them being the Medicaid Program and Medicare which has set limits on the price of drugs that they will pay for, and most of the pharmacists follow these prices. We have PSRO's for pharmacists, which are the Professional Standard Review Organization to maintain professional standards and everything. We also, as I mentioned, have the third point of advertising.

I think all these points together, the most important being advertising, the ability for a person to check around and find the lowest priced drugs, to get a good buy on his drugs, is there, it is already existing in the law.

I have talked with several people about this and I just can't comprehend how the present law that we are debating here today is going to work. We have had a lot of talk about it is a consumer thing, that it is a people's bill, and anybody who has been here for the last couple of sessions knows how hard I fought for generic drugs and for advertising.

The concept, perhaps, has some merit, and maybe we can try to work something out along this line but for this one, two-line bill to work it is going to involve a massive amount of people monitoring every prescription that is written, going around to people and finding how much they paid for these things, checking the invoices of the pharmacy and measuring these up to the percentages that they would have charged under the brand names and this whole concept is, I think, totally beyond anything that the state has or can do right now. I think most of the committee members felt that this concept was just impossible to carry out right now, and that is why we report the bill out "ought not to pass."

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I enjoyed Mr. Goodwin's speech, the historical background of moves to improve the drug situation in the state, the purchasing of drugs, and I would have to tend to label it as a "haven't we been great speech" but I think that Mr. Cox, the Representative from Brewer, deserves to be able to make it a greater effort on the part of this legislature and I think that I would be willing and I would hope that everybody else would be willing to extend to him the courtesy of putting

it in second reading so he could have the position to amend it.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I would take exception with the gentleman from South Berwick, Mr. Goodwin, when he says this bill has some merits. I think the bill has a lot of merit, and when he said that some people have called this a people's bill, I think he is very accurate.

When we passed the generic drug legislation in the last session of the legislature, including the drug price advertising, what we thought was going to happen and what we wanted to have happen was that people would be able to save money. We did not anticipate, nor did we plan, and I would suspect we would not approve that the end result of that legislation would be that the pharmacists would mark up the generic drug, and through the testimony and the arguments that I have heard, this is exactly what has happened.

The impact of this bill is on everyone. More specifically, we are always talking about doing something for the elderly, people on fixed incomes. They use a lot of drugs. The impact is the heaviest, I would suggest, on the elderly people in this state.

I think we should go along this morning and let this bill proceed, allow Mr. Cox the opportunity to put on House Amendment "A". This is a people's bill; let's not let it die in the people's house. When the vote is taken, I request the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would question whether any bill of this sort will ever be really effective. You are talking about equivalent generic drugs. I know that one drug in 250 quantity costs more than a 500 quantity of another manufacturer. If you are going to pass on savings, why don't you go all the way and tell the druggist whether it is constitutional or not, that he has to buy the cheapest generic drug available on the market and then he must pass on the cost savings. Then we can move from there into other areas. We can invade the doctors, the lawyers and all the other businessmen who provide services to the consumers. I think it is kind of ironical that we had a bill presented not too long ago to teach free enterprise in the public school system of Maine and we are doing everything we can to disrupt it.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Boudreau.

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: The last legislature decided that generic drugs were a good thing. One of the problems, if this bill passes, is that there will be no incentive for the pharmacists to substitute. If he is going to make the same percentage on the substitutions as he would on a brand name, he would have no incentive to substitute so he may as well give the person the brand name. In that case, it would cost the consumer more money. What is happening here is that the last legislature said substitution is good, it is going to save the consumer money. There is no question in some cases, the pharmacist makes more profit on the generic than he does on the brand name.

If we pass something like this, we are saying to the pharmacists, your profit is going to be the same no matter if you prescribe the brand name or the generic, and I don't know if we want to say that or not.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make a couple of points. First of all, the present law does require that if you substitute, the cost

must be less than the brand name. It doesn't require how much less. To require how much less and to enforce that was going to take a tremendous amount of work and manpower.

I would like to ask the proponents of this bill how they claim to enforce this bill? There is absolutely no stipulation on here in terms of penalties, in terms of how it is going to be enforced. Is there going to be somebody running around checking every one hundred prescriptions this particular pharmacy gives out during the day? If so, who is going to be doing that? You have one inspector now for the Board of Registration of Pharmacists.

I guess the point that I am trying to make is that if we are going to pass something like this, let's be realistic and take a good look and see if it is going to work, if it is going to be effective and how we are going to do it. Maybe there is some grandiose scheme. It has a lot of merit, but to be really effective or to be carried out, I just don't see how we are going to do it. No one has brought forward any way to do this yet.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: A couple of points that were just raised by the gentleman from West Bath, one is that they are required at the present time to substitute a cheaper drug. My recollection of the legislation is not that they were required to substitute a cheaper drug; they cannot substitute a more expensive drug. They could still charge the same price for the generic as for the brand name.

Another problem that seems to arise is the question of no penalty. What is a penalty? This is a part of the chapter in the law that governs dispensing of drugs. That chapter carries a \$1,000 penalty for any infraction of that chapter, and this is a part of the chapter.

As far as the enforcement, I don't believe that in any of the laws that we have now we have someone going around checking every transaction. I think you would have to depend on, one, the desire of most people to obey the law. Now it is legal for them to charge you whatever they want to for these drugs. The second thing is, especially in large concerns, they always have, sooner or later, disgruntled employees that they have to consider might turn them in if they knew of violations.

I really think that it is not necessary that someone be going around checking all of the invoices and every transaction. I think we can rely first on the desire of most honorable people to obey the law; secondly, the knowledge that there is a penalty of \$1,000 hanging over their heads, and coupled with that, the possibility that a disgruntled employee might turn them in.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Mr. Bustin wholeheartedly. The bill was passed to help the people of Maine, especially the elderly, but it seems that someone thought otherwise. They use it to make themselves a little bit of pocket money. Mr. Boudreau has just admitted that the pharmacists make more money, more profit, on the generic drug.

I hope you will go along with Mr. Cox.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. Kerry.

Mr. KERRY: Mr. Speaker, Ladies and Gentlemen of the House: I happen to be the one member of my committee who signed this bill out "ought to pass" and I did it without reservations, mainly because I felt that the issue itself has merit.

In this particular bill, we have to look at the historical perspective, maybe just a little bit more than Mr. Goodwin stated. One, back in the 107th Legislature, the drug industry lobbied

heavy against the generic drug bill. I believe at that time, mainly because it was a threat to their profit motivation. Two, they came to our committee hearings at this time arguing for the bill mainly because they said they were in favor of generic drugs. I believe it was due mainly to their profits.

What we have to understand here is that the generic drug bill, as we see it now, is not operating properly. I think there are many abuses, and I think we should just not be reacting to the drug industry, we should be acting for the people whom we represent. I was not elected by the pharmacists from my community or the druggists or anyone else. I was elected by the elderly people, the workingman, the people with families, those people who have necessary problems, heart attacks, high blood pressure, their children may be mentally retarded, they may have emotional disturbances.

You, the older members of this legislature, passed a law to protect the consumer. What is happening, the monopolistic tendencies of the drug industry are now infringing upon that law. What this bill does, it is going to insure that the consumer, the people you represent, are going to receive the proper due, and it is going to insure that the intent of the 107th Legislature is fulfilled.

Let's take for example, we hear, is it constitutional to infringe upon the free enterprise system? Is this a free enterprise system? Are we really seeing a free competitive market in the drug industry, where the drug industry in and of itself receives probably a 25 percent return on its investments in many cases versus maybe an 8 or 9 percent for most of us.

There was a survey of 31 different industries and manufacturers in the United States in the early 70's done by the Federal Trade Commission. The drug industry came out number one, two and three on six different occasions. Their percent of return investment was over 18 percent versus less than 9.8 percent for the rest of the manufacturers.

Now, a very keypoint. I spent a lot of time with my pharmacist in Old Orchard and the people I have called, various ones from my district, and I find right now that there are abuses. Let's take this for example — if a druggist can buy a generic drug and, by the way, there is really very little difference between a generic drug and the brand name — this is merely a scientific name vs. a name that has a bit more sex appeal, if you will, a name that will sell, Darvon vs. some very kind of cryptic type of name. Any pharmacist throughout the country can buy drugs, say, for 30 cents per hundred, all right? Now, if his markup was, say, 50 percent or 40 percent, it might increase the markup on that drug to the consumer, your elderly person, by the way, or your poor workingman, to maybe 45 or 50, 60, 80 or 90 cents. What is happening under our present statute in the State of Maine is the fact that this druggist buying this package of drugs at 30 cents per hundred is selling it for maybe \$3 per hundred and saying, okay, I will put an advertisement in the paper. I will give you 20 percent off the name brand. Yes, the name brand is selling maybe for \$3.50 or \$4, but what is happening is, he is getting his generic for 30 cents and selling it for \$3; that is nearly a thousand percent markup. Even if he does this for a 500 percent markup, he will be selling it for \$2.50. There is a savings, yes, no one is going to deny that, but is it a true saving? No. What we are seeing here is that the law itself is now being frustrated by the very market upon which it is supposed to rely on.

My feelings are, and this is one reason why I did pass the bill out, is the fact that the committee wants to do the best thing and the right thing. I feel right now that unfortunately the true facts have not been presented, that Mr.

Cox's bill deserves the ultimate attention of this body and I believe that you will vote, when you vote, not for the pharmaceutical industry, not for the lobbyists who were here in full force, but for the people who are back in your districts who are going to be buying those drugs, the little old man, the little old lady, or that workingman who pays with one prescription for the whole box that the pharmacist is selling.

The SPEAKER: The Chair recognizes the gentleman from Bath, Ms. Goodwin.

Ms. GOODWIN: Mr. Speaker, Men and Women of the House: The Maine Committee on Aging, not too long ago, did a statewide survey of elderly problems, and the number one problem of Maine's elderly is health. The median income of the elderly single person in this state is \$2,850. If an elderly person's income is in excess of \$2,000, they are too rich to qualify for federal SSI. If their income is in excess of \$2,900, they are too rich to qualify for the state optional supplement and free medicaid, free drugs, which means that they have to pay for those drugs. Their average real income now is lower than it was in 1969.

If a brand name of a drug costs \$6 and the generic would have cost \$3 and the druggist marks it up to \$5.75, what good did that quarter do that older person? I think the amendment which the gentleman from Brewer is going to offer carries out the intent of the law as we passed it two years ago, and I think that if it is not passed, then that law is a farce.

I would urge you to reject the majority report, and to do anything less would be a betrayal of the elderly of this state.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Trafton.

Mrs. TRAFTON: Mr. Speaker and Members of the House: I have heard some very nice philosophical arguments today, and I agree with many of those that have been presented; however, when the committee looked at this bill, we looked at the wording and what the wording would accomplish.

I think it is unfair to drag the lobbyists in here today, to drag big business in here today and to feel that somehow we are persecuting elderly and low income people by not passing this bill.

If we could just turn our attention for a moment to the amendment and what the actual impact of this amendment would be, I think it would —

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker, is it permissible to debate the amendment at this time since it is not before us?

The SPEAKER: The Chair would advise the gentleman from Auburn and the gentleman from Portland that the amendment is not before this body; therefore, it may not be discussed.

The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker and Members of the House: I am in support of this particular bill, but the reason that I raised that question is that I think the vote today should not be so much on whether you favor or oppose this particular piece of legislation, because there are some problems that have been presented and the committee has discussed it. It was my understanding, the committee, the day after they heard this particular bill, immediately became involved with L. D. 95, which was the public jobs bill, and that some members of the committee felt that they were not able to give the attention to this legislation that they felt it deserved, and that is indicated by the remarks of the gentleman from South Berwick, Mr. Goodwin, and the gentleman from Auburn, Mrs. Trafton.

I think the vote today should be a vote to allow the bill to go to the position of second reading

where Mr. Cox's amendment can be presented and where any other amendment that people have can be presented. At that point, we can get into the whole argument of the bill, but I think we should merely pass the bill along today to that position.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from South Berwick, Mr. Goodwin, that the Majority "Ought Not to Pass" Report be accepted.

The Chair recognizes the gentleman from Blue Hill, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, under the House Rules, I ask to be excused from voting.

The SPEAKER: The Chair will excuse the gentleman from Blue Hill, Mr. Perkins, pursuant to House Rule 1.

ROLL CALL

YEA — Alopous, Austin, Birt, Boudreau, P.; Brenerman, Brown, K. L.; Bunker, Carter, F.; Conners, Cunningham, Garsoe, Gill, Goodwin, H.; Gould, Gray, Higgins, Huber, Hunter, Jackson, Lewis, Lunt, Lynch, McBreairty, McMahon, Morton, Nelson, M.; Peterson, Silsby, Sprowl, Tozier, Trafton, Twitchell.

NAY — Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Biron, Boudreau, A.; Brown, K. C.; Burns, Bustin, Byers, Carey, Carrier, Carroll, Carter, D.; Chonko, Churchill, Clark, Connolly, Cote, Cox, Curran, Davies, Dexter, Diamond, Dow, Drinkwater, Dudley, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Gillis, Goodwin, K.; Green, Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Hughes, Hutchings, Jacques, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, Lizotte, Locke, Lougee, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McHenry, McKean, McPherson, Mills, Mitchell, Moody, Nadeau, Najarian, Nelson, N.; Pearson, Peltier, Quinn, Raymond, Rideout, Rollins, Shute, Smith, Stover, Strout, Stubbs, Talbot, Tarbell, Tarr, Theriault, Tierney, Torrey, Truman, Valentine, Whittemore, Wilfong, Wood, The Speaker.

ABSENT — Ault, Blodgett, Devoe, Gauthier, Immonen, LaPlante, LeBlanc, Littlefield, Mackel, Norris, Palmer, Peakes, Post, Prescott, Spencer, Teague, Tyndale, Wyman.

EXCUSED — Perkins.

Yes, 32; No, 99; Absent, 18; Excused, 1; Vacant, 1.

The SPEAKER: Thirty-two having voted in the affirmative and ninety-nine in the negative, with eighteen being absent and one excused, the motion does not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

The Chair laid before the House the following matter:

Bill "An Act Charging the Boiler Owner or Contractors for the Fees for Additional Inspections Required by the Code" (H. P. 989) which was tabled earlier in the day and later today assigned pending reference.

On motion of Ms. Clark of Freeport, the Bill was referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

(Off Record Remarks)

Mr. Burns of Anson was granted unanimous consent to address the House.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: In the minds and the hearts of many Maine citizens, this legislature has done them an injustice, and the fact most of these citizens are between the ages of 18 and 20 in no way should obscure the fact of their desires, their hopes and what they consider to be their rights. They are every much as real to them as other rights and privileges may be to other segments of our citizens.

In its wisdom, the Maine Constitution has provisions for just such circumstances, and it is called referendum. If our citizens feel aggrieved by an act of this legislature, they may have the recourse of petition. If approximately 37,000 of them sign the referendum within six months, the recently enacted 20-year-old law will be suspended until the entire citizenry of this state has a chance to vote in referendum.

Four petitions have been requested. It is unfortunate there has not been coordination to put all the efforts into one area. There are at least 45 of us here in the House and another 12 at the other end of the hall who would be willing to offer their assistance. This would defer the law from 10 months to a year.

To get the required signatures is no problem; the problem will be in getting the votes. Right now, if this question went to the voters, it would overwhelmingly be enacted into law in the same ratio that it was both in this House and the other body, approximately 2 to 1.

The challenge now lays with the 18- and 19-year-olds and those who aspire to that age. It is their efforts together to clean up their act and impose self discipline and get control of the use of alcohol. This is something that we adults have not been able to do. Therefore, it is a very trying challenge. It is going to be a very large public relations program. I stand ready to assist anyone in this effort.

On motion of Mrs. Najarian of Portland,
Adjourned until two o'clock tomorrow afternoon.