

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

Index

**Senate Confirmation Session
September 16, 1977**

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KJ PRINTING
AUGUSTA, MAINE

SENATE

Thursday, June 2, 1977

Senate called to Order by the President.

Prayer by Reverend Robert Roche, St. Bridget's Church in North Vassalboro.

Rev. ROCHE: In the name of the Father, and of the Son, and of the Holy Spirit.

Lord God, our Father in Heaven, we join with the angels at Bethlehem in saying glory to God in the highest and peace to his people on earth. Whatever we do, we glorify Your strength; if we do it well, we show Your wisdom; if we do it with kindness, we illustrate Your love.

Jesus, son of the living God, and our brother and Lord, we are convinced by the vision of faith, that You loved us and cared for us so much that You lived every opportunity to show us what to do in our living.

Spirit of the living God, You enable us to change if we are willing to accept change towards You. Pentecost is change and it comes from within with Your needed help.

Lord God, please direct the members of the Maine Senate that they may have their own pentecost, their own change. Please allow them to be gentle in argument and supple in discussion.

May the Senators of our State do what is right and not what is convenient. May the Senators of our State be more resolute than their constituents, because that's why they were elected.

Praise, honor and glory to the Lord God.

In the name of the Father, and the Son, and the Holy Spirit.

Reading of the Journal of yesterday.

Papers from the House**Non-concurrent Matter**

Bill, "An Act Authorizing Municipalities to Create Development Districts." (H. P. 1216) (L. D. 1482)

In the House, May 25, 1977 Passed to be Engrossed as amended by House Amendment "A" (H-414).

In the Senate May 31, 1977 Passed to be Engrossed as amended by Committee Amendment "A" (H-377) and House Amendment "A", in non-concurrence.

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

On Motion of Mr. Jackson, of Cumberland, The Senate voted to insist and join in a Committee of Conference with the House.

Non-concurrent Matter

Bill, "An Act Concerning County Contingent Funds and the Rate of Interest Which May be Charged for Delinquent County Taxes." (H. P. 877) (L. D. 1102)

In the Senate May 26, 1977 Passed to be Engrossed as amended by Committee Amendment "A" (H-337), in concurrence.

Comes from the House, Bill and Papers Indefinitely Postponed in non-concurrence.

On Motion of Mr. Jackson of Cumberland, The Senate voted to recede and concur.

(See action later Today)

Non-concurrent Matter

Bill, "An Act to Increase the Use of Wood Fuel as a Supplement to Conventional Energy Sources in Residential Space Heating." (S. P. 295) (L. D. 921)

In the Senate May 27, 1977 Minority 'Ought to Pass' 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.

On Motion of Mr. Huber of Cumberland, The Senate voted to adhere.

Non-concurrent Matter

Bill, "An Act to Amend the Priority Social

Services Program to Serve Elderly Health Needs." (H. P. 224) (L. D. 288)

In the Senate May 26, 1977 Passed to be Engrossed as amended by Committee Amendment "A" (H-378), in concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-456), in non-concurrence.

The Senate voted to recede and concur.

Non-concurrent Matter

Bill, "An Act to Establish a Fund to Insure the Safe and Proper Decommissioning of Nuclear Energy Generating Facilities." (H. P. 1454) (L. D. 1694)

In the House May 26, 1977 Minority Report Read and Accepted and the Bill, in New Draft, Passed to be Engrossed.

In the Senate May 31, 1977 Majority 'Ought Not to Pass' Report Read and Accepted, in non-concurrence.

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

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President, I move the Senate adhere.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, now moves the Senate adhere.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I move the Senate insist and join in a Committee of Conference.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now moves that the Senate insist and join in a Committee of Conference.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested on the Motion.

Will all those Senators in favor of the Motion to insist and join in a Committee of Conference, please rise in their places to be counted.

Will all those Senators opposing the Motion to insist and join in a Committee of Conference, please rise in their places to be counted.

3 Senators having voted in the affirmative, and 18 Senators in the negative, the Motion to insist and join in a Committee of Conference does not prevail.

The Senate voted to adhere.

(See Action Later Today)

Joint Orders

Expressions of Legislative Sentiment recognizing that:

Helen V. Robinson is retiring after 20 years of cheerful and loyal service to the Town of Gorham. (H. P. 1622)

Ralph E. Emery is retiring as Code Enforcement Officer after a career of faithful and efficient service to the citizens of Gorham. (H. P. 1623)

Mr. and Mrs. Roland Joudry of East Millinocket have made substantial contributions in the field of mental retardation. (H. P. 1626)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Joint Order

WHEREAS, there have been several bills before the 106th, 107th and 108th sessions of the Legislature which have attempted to address numerous problems associated with Maine's dog population; and

WHEREAS, the 108th session of the Legislature has received a number of bills and a significant amount of testimony regarding the problems caused by coyotes; and

WHEREAS, both dogs and coyotes do damage

to the state's wildlife, especially the deer herds, and to domestic animals; and

WHEREAS, both the dog population and coyote population are growing at an alarming rate; and

WHEREAS, these 2 populations are reported to be commingling and producing a new breed of animal known as a "coydog"; and

WHEREAS, in addition to raising havoc with the State's wildlife, the burgeoning population of unwanted and uncared for dogs is causing municipalities to expend considerable resources for the care and control of such dogs; now, therefore, be it

ORDERED, that a Joint Select Committee composed of 4 members from the Joint Standing Committee on Agriculture and 4 members from the Joint Standing Committee on Inland Fisheries and Wildlife, selected by the respective committee chairmen, study and assess the problems and dangers posed by these dog and coyote populations to the state's wildlife and the agriculture industry; and be it further

ORDERED, that the committee study means by which these populations can be controlled; and be it further

ORDERED, that the committee study the problems of enforcement of the dog licensing and dog leash laws, including an assessment of the authorities most appropriate for the enforcement of these laws; and be it further

ORDERED, that the committee study the problems faced by municipalities in providing proper care for stray dogs, study the existing fee schedule for all dogs and study the various methods of destroying dogs and other small animals and identify those which would ensure the most humane death under various circumstances; and be it further

ORDERED, that the committee shall complete this study no later than December 1, 1977 and shall submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee. (H. P. 1624)

Comes from the House, Read and Passed.

Which was Read.

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

Mr. HICHENS: Mr. President, a few weeks ago we had an Order, very, very similar to this one, with the exception that coyotes have been included in this Study Order, and as the Chairman of the Agricultural Committee, I do not see the close relationship between all of the domestic animals mentioned in the previous Order and the coyotes. I think there should be a separate Study, if we are going to have studies on the two subjects, rather than having them combined together.

I would move that this Order be indefinitely postponed.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that this Joint Order be indefinitely postponed. Is this the pleasure of the Senate? It is a vote.

House Papers

Bill, "An Act Extending the Time for Apportionment of County Taxes from May to June in the Year 1977." (Emergency) (H. P. 1630) (L. D. 1829)

Reference to the Committee on Local and County Government is suggested.

Comes from the House, Passed to be Engrossed without Reference to Committee.

Under suspension of the Rules, the Bill Read Twice without reference to Committee, and Passed to be Engrossed in concurrence.

Sent forthwith to Engrossing Department.

Bill, "An Act to Reform the State Budgetary Process." (H. P. 1625) (L. D. 1828)

Comes from the House, referred to the Committee on State Government and Ordered Printed.

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

Mr. SPEERS: Mr. President, I move that the rules be suspended and that this Bill be given its First Reading without reference to Committee.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate suspend its rules and give this Bill its First Reading by title only at this time, without reference to committee.

On Motion of Mr. Conley of Cumberland, Tabled until later in Today's Session, Pending the Motion of the Senator from Kennebec, Senator Speers, that this Bill be given its First Reading without reference to Committee.

(See Action Later Today)

Communication

House of Representatives

June 1, 1977

The Honorable May M. Ross

Secretary of the Senate

108th Legislature

Augusta, Maine 04333

Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Relating to the Spending Ceiling for Education Purposes" (Emergency) (H. P. 968) (L. D. 1165)

Mrs. NAJARIAN of Portland

Mrs. MITCHELL of Vassalboro

Mr. HIGGINS of Scarborough

Respectfully,

Signed:

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Placed on File.

Committee Reports

The following Ought Not to Pass report shall be placed in the Legislative files without further action pursuant to Rule 20 of the Joint Rules:

Bill, "An Act to Provide for a Webless Migratory-Bird Stamp." (H. P. 750) (L. D. 955)

Leave to Withdraw

The Committee on Education on, Bill, "An Act to Improve the Ability of Local Education Agencies to Provide Educational Services to School Dropouts and Chronic Truants." (H. P. 686) (L. D. 868)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Fisheries and Wildlife on, Bill, "An Act to Establish a Bounty on Northeastern Coyote." (H. P. 625) (L. D. 766)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Fisheries and Wildlife on, Bill, "An Act to Provide Certain Residency Requirements to Purchase Resident Hunting and Fishing Licenses." (H. P. 1354) (L. D. 1659)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Fisheries and Wildlife on, Bill, "An Act Restricting Guide Licenses to Residents and Requiring Nonresidents to have a Guide while Hunting." (H. P. 483) (L. D. 603)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Authorize the Chief Justice to Employ Court Officers." (H. P. 1419) (L. D. 1629)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Taxation on, Bill, "An Act to Relieve Homeowners and Renters from the Burden of the Uniform Property Tax." (H. P. 1478) (L. D. 1737)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted in concurrence.

The Committee on Taxation on, Bill, "An Act to Establish a Pipeline Privilege Tax." (H. P. 1252) (L. D. 1476)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read.

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

Mr. SPEERS: Mr. President and Members of the Senate: I call the Senate's attention to L. D. 1476, Bill "An Act to Establish a Pipeline Privilege Tax." I call the attention of the Senate to this particular matter, not to debate the merits of the Bill itself, but because I feel that the Legislative process and the integrity of the Legislative process, and nothing less than that, is at stake with this particular Report appearing on this calendar at this time.

I have spoken to the sponsor of this Bill, and the sponsor assures me that he has not, nor does he intend, or has he ever, asked to have a Leave to Withdraw Report on this particular Bill. Now if the Committee wished to report this Bill out Unanimous Ought Not to Pass, that, of course, is the privilege of that Committee. But the Committee has not done that, and I do not believe that the Committee will do that. What has appeared is a Leave to Withdraw Report, and the explanation that was given is that the Attorney General's Office had given an opinion that this Bill was unconstitutional.

It was also very well known in the Committee that the Attorney General has requested the Committee to hold up any further action because they wanted further information from the United States Department of State before they affirmed or denied that former opinion that they had given as to the constitutionality. There has been an additional letter sent to Representative Howe by the Attorney General, dated May 31 of this year, which states that they are withdrawing their former opinion whereby they stated that the Bill was unconstitutional, and are awaiting further information from the Department of State before issuing any opinion as to the constitutionality of this particular Bill.

Now it has always been my opinion, and I would hope a valid understanding, that before a Committee would present a Bill with a Committee Report Leave to Withdraw, that the sponsor of that Bill at least would have requested a Leave to Withdraw. After all, that is what the Report means; that he be granted leave to withdraw the Bill from the Legislative process. If he does not request that, if he does not want to withdraw it, it is utter nonsense to see such a Report being reported out to the floor of either of these two branches.

Mr. President, I move that this Bill be recommended to the Committee on Taxation.

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

Mr. HEWES: Mr. President, I would request a Division on the Motion to Recommit.

I submit that this matter has had a hearing,

been in Committee for several weeks now, well attended hearing. The Committee in its wisdom apparently felt that the Bill was not meritorious. The Session is winding down. I see only 24 Legislative Days left. I think we should get on to other things, and I hope you vote against the Motion to Recommit.

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

Mr. CONLEY: Mr. President and Members of the Senate: I agree with the remarks made by the good Senator from Cumberland, Senator Hewes.

I do not want to address myself to the Report or the Bill, but I do believe that the good Majority Floor Leader, the Senator from Kennebec, Senator Speers, has made an excellent point. I do not believe this Bill should be reported out of Committee under any circumstances as Leave to Withdraw. If the Bill has any merit, then send it out. If it does not, deep six it, because this is the kind of a problem we are going to face, and we have faced in the past, and we are going to continue to face in the future. Somebody ought to put a signature on this Bill and report it out as a Minority or something. Bring it out here as a Leave to Withdraw is sort of being a, well you are a nice fella, I like the way you part your hair, so you know we are going to give you a Leave to Withdraw business. That is nonsense. Let us either change the rules, or let us report them out under 28.

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

Mr. MERRILL: Mr. President, I note that one of the most interested parties in this discussion, the Chairman of the Taxation Committee, is not here, and I think out of Senatorial courtesy that we ought to Table this Bill until later in Today's Session.

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

Mr. SPEERS: Mr. President, I appreciate the remarks of the Senator for Cumberland, Senator Merrill, and I would agree with him, but before someone perhaps might table this, I would ask a question of any member of the Taxation Committee who is here as to whether or not this matter was brought up in committee, whether or not there was a formal vote on this Bill, and whether or not it is the Unanimous Report of Leave to Withdraw from that Committee, and whether or not the sponsor did in fact ask to have this Leave to Withdraw.

On Motion of Mr. Merrill of Cumberland, Tabled until Later in Today's Session, Pending the Motion of the Senator from Kennebec, Senator Speer, that the Senate Recommit.

(See Action Later Today)

Ought to Pass

The Committee on Taxation on, Bill, "An Act Exempting from the Sales Tax Sales to Nonprofit Corporations Providing Home Health Services." (H. P. 840) (L. D. 1027)

Reported that the same Ought to Pass.

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

The Committee on Business Legislation on, Bill, "An Act Relating to Notice of Authorization to Registers of Probate." (H. P. 182) (L. D. 244)

Reported that the same Ought to Pass.

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

The Committee on Appropriations and Financial Affairs on, Resolve, to Appropriate \$20,000 to the Office of Camping Resources at the University of Maine, Portland-Gorham. (H. P. 1259) (L. D. 1488)

Reported that the same Ought to Pass.

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

Which Reports were Read and Accepted in

concurrence, and the Bills and Resolve Read Once and Tomorrow Assigned for Second Reading.

The Committee on Energy on, Bill, "An Act to Establish Procedures to Evaluate the Efficiency of Energy Utilization in State-financed and Leased Facilities." (H. P. 549) (L. D. 666)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-457).

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, and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Business Legislation on, Bill, "An Act Relating to Partnerships between Husbands and Wives." (H. P. 683) (L. D. 865)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-446).

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

The Committee on Business Legislation on, Bill, "An Act Concerning Solicitation Sales of Consumer Merchandise." (H. P. 256) (L. D. 325)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-447).

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

The Committee on Business Legislation on, Bill, "An Act to Increase Limited Partnership Filing Fees." (H. P. 404) (L. D. 514)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-448).

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

The Committee on Election Laws on, Bill, "An Act Concerning the Registration of Voters by Justices of the Peace." (H. P. 1353) (L. D. 1622)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-451).

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

The Committee on Marine Resources on, Bill, "An Act Limiting Three Lobster Traps to One Warp." (Emergency) (H. P. 648) (L. D. 792)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-435).

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

The Committee on Natural Resources on, Bill, "An Act to Expedite the Construction of Natural Gas Pipelines in the State." (Emergency) (H. P. 1247) (L. D. 1477)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-445).

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

The Committee on Transportation on, Bill, "An Act to Allow Limited Operation of an Unregistered Motor Vehicle." (H. P. 1101) (L. D. 1325)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-449).

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

Ought to Pass in New Draft

The Committee on Business Legislation on, Bill, "An Act Concerning the Definition of a General Lines Consultant and a Life Consultant under the Maine Insurance Code." (H. P. 406) (L. D. 499)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1617) (L. D. 1818)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

The Committee on Marine Resources on, Resolve, Directing the Commissioner of Marine Resources to Lease Land and Buildings in West Boothbay Harbor to the Northeastern Research Foundation, Inc. (Emergency) (H. P. 1492) (L. D. 1704)

Reported that the same Ought to Pass in New Draft, under same title. (H. P. 1619) (L. D. 1820)

Comes from the House, the Resolve, in New Draft, Passed to be Engrossed.

Which Reports were Read and Accepted in concurrence, and the Bill, and Resolve, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Divided Report

Six members of the Committee on Human Resources on, Bill, "An Act to Include the Term "Sexual or Affectional Preference" in the Maine Human Rights Act." (H. P. 1169) (L. D. 1419)

Reported in Report "A" that the same Ought to Pass.

Signed:

Representatives:

KANY of Waterville
BURNS of Anson
TALBOT of Portland
CUNNINGHAM of New Gloucester
GREEN of Auburn
DAVIES of Orono

Six members of the same Committee on the same subject matter Reported in Report "B" that the same Ought Not to Pass.

Signed:

Senators:

LOVELL of York
HICHENS of York

Representatives:

MARSHALL of Millinocket
HUTCHINGS of Lincolnville
LaPLANTE of Sabattus
PETERSON of Caribou

One member of the same Committee on the same subject matter Reported in Report "C" that the same Ought to Pass as amended by Committee Amendment "A" (H-444).

Signed:

Senator:

MANGAN of Androscoggin

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

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

Mr. LOVELL: Mr. President, I seem to get the worst Bills to debate of anyone I have ever seen in this Session, or any other Session, but I would like to move the Ought Not to Pass, or Report "B", and will speak briefly to that Motion, because I do not think that there will be much competition here this morning.

This Bill was given a careful hearing before the Committee on Human Resources, and the hearing room was absolutely filled with gays. There was only one opponent to the Bill; a minister. But since that time I think I have received more mail from both the gays, ministers and others than I did on the 20 year old Liquor Bill.

This Bill simply takes the Maine Human Rights Act, and where it puts in discrimination based on race or color, sex, physical or mental handicaps, religion, age, ancestry and national origin, it puts in the middle of that, sexual or affectionate preference.

Now I tried not to be biased on this Bill, although I do not have much use for homosexuals or lesbians, and I mentioned to a professor of the University of Maine during the course of the Hearing in questioning him, I asked the professor, I said, "Do you think that you should come out in the open?" I said "45 years ago 50 years ago when I was a youngster, we never had any homosexuals around." I knew all of them, heard some rumors, but it seems as though time progresses as has been done in Washington, D. C., where they did pass some sort of Bill such as this. It seems as time progresses the gays are coming out of the woodwork and they want to be recognized.

Now in my opinion, and in the opinion of many people, we feel that the gays should stay unidentified. Now the professor from the University of Maine said that ten percent of the students at the University of Maine, and there are 1,000 students at the University of Maine, were gays. He said ten percent of the population of the State of Maine are gays. That is 100,000. I asked him, I says, Sanford has got 17,000 people. We have got 1,700 gays in the town of Sanford? He says "yes, you have." Well, they have not started coming out in the open in Sanford if there is that many.

I do not think that this Bill is worthy at this time of passage. I do not think that we want to set up throughout the entire State of Maine sexual preference. There is nothing to stop two men from living together now, or two women from living together. But if they could just keep it quiet, there is no problem. Now there is no problem as far as the teachers. They say can do just as good a job if they are gays, but if they find it out they fire the teacher. Well there is no reason for the superintendent of schools to find it out if they had sense enough to keep quiet, keep still on the Bill.

This Bill may be coming up two or four years from now, and it might be passed as we get more and more gays in Maine. I also asked the professor of the University of Maine, I said, "Professor, when does this habit start." He says when the child is three or four years of age." I says, "I doubt it. I have known of grown men that have taken young boys and practiced this homosexuality on them. I have definitely seen it in my hometown."

So, Mr. President, Members of the Senate, I certainly hope that you will not see fit to pass this Bill, because this Bill is not a good Bill. This Bill is not fitted for the State of Maine. We do not want to be the first State in the Union to recognize the gays, the homosexuals and lesbians. I may be prejudiced at my age, but I just cannot see it. In fact I think I will move to my home in Florida if this Bill should pass.

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

Mrs. CUMMINGS: Mr. President, I do not think that necessarily voting for this, voting against the present Motion would necessarily mean that we condone this way of life. It is just, as far as I am concerned, a question of rights under the Constitution. Who are we to punish in public a decision made in private, decisions of adult citizens of the State of Maine? What makes us think we are dealing justly and fairly with people if, when they disagree with our way of life, we hinder them from getting jobs, or from keeping them? Are we prepared to subsidize these people in their enforced leisure?

This country was founded by those who wanted freedom. Freedom to be individuals who are not bound to traditions. Freedom to follow their own beliefs. Freedom to choose not to conform. Are we now going to ostracize these individuals because they are attempting to do in

the 20th Century what our forefathers guaranteed for future generations in the Constitution, Life, Liberty and the Pursuit of Happiness, and no one stipulated HOW.

Life — each individual's choice of a way of life.

Liberty — liberty to be oneself.

Pursuit of Happiness — everyone here pursues happiness in his or her own way.

I personally feel sorry for people who choose to live a homosexual life, and thereby forego the opportunity to become parents. But, it is their decision. And I do not feel any need to express my disagreement with them by withholding privileges afforded to other citizens in Maine.

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

Mr. HICHENS: Mr. President and Members of the Senate: L. D. 1419 expands the Human Rights Act of 1973 to include under the general provisions the words "sexual or affectional preference."

At the present time under the Human Rights Act all Maine citizens are protected from discrimination in employment, housing, or access to public accommodations relating to race, color, sex, physical or mental handicaps, religion, ancestry or national origin. Everyone of these with the exception of physical or mental handicaps and religion, are elements incidental at birth. Physical or mental handicaps may be a result of birth, accident, disease or illness. Discrimination according to religious beliefs are prohibited by Federal and State Constitution as we read in Article 1, Section 3 of the Declaration of Rights in the Maine Constitution.

Quote "and no one shall be hurt, molested or restrained in his person, liberty or estate for worshipping God in the manner and season most agreeable to the dictates of his own conscience" unquote.

Those speaking in favor of L. D. 1419 want to include a condition which is not inherent at birth, which is developmental in character and which is not, in my opinion deserving of legislative action in this area.

Not to steal the thunder of the lone member of the Human Resources Committee who signed a report endorsing Committee Amendment "A" (H-144), and Senator Mangan is not present this morning, so I am not actually stealing his thunder. I would draw your attention to the statement of fact in the amendment which states "this amendment prohibits discrimination under the terms of the Human Rights Act on account of marital status, personal appearance, family responsibilities, source of income and place of residence or business." These developmental characteristics are as equally deserving as the subject matter of L. D. 1419, at least in my opinion, and you can well imagine the wealth of developmental characteristics that anyone of us could add, of which we could exempt from discrimination if we expand the Human Rights Act in that direction. Pursuit of argument along these channels may border on the ridiculous, but if we except one, why not another?

The issue we make a decision on this morning is not whether any one of us believes in discrimination against so called "gays" or whether you approve or disapprove of homosexuality, although we all do have our own personal opinions and religious convictions on the matter.

The issue before us is whether or not we wish to expand the concept of the Human Rights Act to include a developmental characteristic of one select minority.

We must each make that decision this morning. As one who signed the Ought Not to Pass Report I urge you to accept the motion, and when the vote is taken I request a roll call.

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

Mr. CONLEY: Mr. President and Members of the Senate: Perhaps the most valid criticism of L. D. 1419 is that it should not be taking up the time of the Legislature when we have 40,000 citizens unemployed and many other difficult problems to deal with. But the Bill is before us now, and it is a Bill which mirrors the support of a large number of Members of the Committee which heard the Bill and a larger number of Legislators. If we can take hours to debate fish and game regulations, as we do every week, we can take the time today to discuss a measure which concerns Human Rights and human dignity.

I would concede, however, that our action on this Bill is not going to make a great deal of difference to most of our citizens. If anyone thinks this measure is going to take us down the path of Sodom and Gomorrah then they are wrong. This Bill does not legalize homosexuality. In the Criminal Code, revisions passed in the 107th Legislature, we already stated that our Law would not pass judgment upon the sexual conduct of two consenting adults. Homosexuality is already legal and the results of this change in our laws have not been noticeable.

This Bill does not promote homosexuality, no more than existing Human Rights Act in Maine has created more blacks, more females, more handicapped persons or older persons, French, Irish, Catholics or Jewish persons. The incidence of homosexuality in a society happens to become a constant statistic, and historic references from the Bible on suggest it is hardly new, or a new concern. What changes, of course, is society's tolerance for deviation from what is considered certain norms. I do not think there were any fewer homosexuals in Hitler's Germany, than there were in Rome during the most decadent years. People just treated the issue differently. And that is what we are trying to do with this Bill, just treat the issue a little more rationally, with a little more tolerance, with a little more respect for our fellow man and woman.

Mr. President and Members of the Senate, I would urge the Senate to vote against the Pending Motion.

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

Mr. LOVELL: Mr. President, in regard to the good Senator from Penobscot, Senator Cummings, I do not believe if the gays would stay the way they were 15 or 20 years ago, they would have no problem on jobs. And, they would be much happier than they are now. Now they are looking for happiness and respect. If a person does not know who a gay is, whether homosexual, lesbian or whatever it might be, if they do not know that they are, fine. I remember I had one chap who was a great friend of mine in Sanford. They said later on that he was a homosexual, but I held great respect for him. I did not think that he was any different than anybody else, if it had not been whispered around to me and so forth, so I think that if it is in the Criminal Code, as the good Senator from Portland said, I can not say that this is a Portland Bill actually because he did not enter it, but if the Senator from Cumberland says it is in the Criminal Code, and then certainly we do not need this Bill. This Bill is just going to start just like Alcoholics Anonymous. There are going to be gay homes. There are going to be gay parties all over the State. I am telling you, they will be calling Maine the Gay State, instead of the Vacationland.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from York, Senator Lovell, that the Senate accept Report "B" of the Committee, Ought Not to Pass.

A Roll Call has been requested.

In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those

Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

A yes vote will be in favor of accepting Report "B". A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Collins, D.; Collins, S.; Greeley, Hewes, Hichens, Katz, Lovell, Martin, McNally, Merrill, Minkowsky, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

NAY — Chapman, Conley, Cummings, Curtis, Danton, Farley, Huber, Jackson, Levine, Morrell.

ABSENT — Mangan.

21 Senators having voted in the affirmative, and 10 Senators in the negative, with one Senator being absent, the Motion to accept Report "B", Ought Not to Pass Report, does prevail.

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

Mr. LOVELL: Mr. President, having voted on the prevailing side, I would ask for reconsideration, and hope you will vote against me.

A viva voce vote being had,

The Motion to reconsider does not prevail.

(Off Record Remarks)

Reconsidered Matter

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President, with reference to Bill, "An Act to Establish a Fund to Insure the Safe and Proper Decommissioning of Nuclear Energy Generating Facilities." (H. P. 1454) (L. D. 1694) having voted on the prevailing side, I now move reconsideration, and I hope the Senate votes against me.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, now moves that the Senate reconsider its action whereby it voted to adhere on L. D. 1694.

A viva voce vote being had,

The Motion to reconsider does not prevail.

Reconsidered Matter

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

Mr. JACKSON: Mr. President, with reference to Bill, "An Act Concerning County Contingent Funds and the Rate of Interest Which May be Charged for Delinquent County Taxes." (H. P. 877) (L. D. 1102) having voted on the prevailing side, I move the Senate reconsider its action, and I hope you vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now moves the Senate reconsider its action whereby it voted to recede and concur with reference to L. D. 1102.

A viva voce being had,

The Motion to reconsider does not prevail.

Divided Report

The Majority of the 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)

Reported that the same Ought Not to Pass.

Signed:

Senators:

SNOWE of Androscoggin

GREELEY of Waldo

Representatives:

TYNDALE of Kennebunkport

GILL of South Portland

PRESCOTT of Hampden

NELSON of Portland

TRAFTON of Auburn

The Minority of the same Committee on the same subject matter Reported that the same

Ought to Pass as amended by Committee Amendment "A" (H-420).

Signed:

Senator:

PRAY of Penobscot

Representatives:

KANE of Augusta

KERRY of Old Orchard Beach

BRENERMAN of Portland

GOODWIN of South Berwick

FOWLIE of Rockland

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

Which Reports were Read.

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

Mrs. SNOWE: Mr. President, I move we accept the Majority Ought Not to Pass Report, and would speak to my Motion.

The PRESIDENT: The Senator has the floor.

Mrs. SNOWE: Mr. President and Members of the Senate: Just to give you a brief background on the Generic Substitution Law currently on the Books. In the 107th Legislature, and it took effect in January 1976, we passed a Bill which would allow a pharmacist to substitute a generic or chemically equivalent drug for a brand name provided that the price does not exceed the price of the brand name drug.

The Committee Amendment before you today, the Ought to Pass Report, provides that no less than 50 percent of the difference between the acquisition cost of generic drug and the brand name drug must be passed along to the consumer.

I have several reasons for my opposition to this Bill. Just a couple of months ago, the Bill did come out of Committee 12 to 1, Ought Not to Pass, and we recommitted it so that we could provide an opportunity for some members on the Committee to study it further. Therefore, my major reason for opposing this Bill is the fact that there is not any significant documentation whatsoever to require this kind of price mandating by the state. As a matter of fact, at the public hearing, besides the sponsor, there were not any other proponents. There was not any evidence to indicate that the State should venture into this kind of price regulation.

Such a mandate would also cause pharmacists, I think, to raise the prices of other over the counter drugs. This Bill does not provide any incentive, and rather it provides a disincentive to pharmacists to substitute drugs.

It also affects the small business man, because he has a different buying power than a drug store that has many drug stores. We have chain drug stores in this state, and I am sure that they can purchase at a wholesale price better than the individual drugstore owner.

It also, I feel, sets a very bad precedent for the State to get into price fixing, and this, I think, does just that. It eliminates competitive pricing. It is not an incentive for substitution, and I do not think the State should be price regulating. Perhaps the Legislature should be considering that other food chains who have their own brands. Perhaps we should require them to pass on the savings to consumers.

So, in effect, I think this is not a very good Bill, and I oppose it, and I urge you to Accept the Ought Not to Pass Report.

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

Mr. HICHENS: Mr. President, I would rise to support the Motion as the Chairman of the Committee which studied this in depth two years ago and pushed through a subsequent passage. It was not the intent of the Committee at that time, or the Legislature, I believe, itself, to put any restrictions such as put on by this Bill.

We do realize that there are druggists throughout the State that are abusing the privileges they have, but that seems to be a trait of human nature, to a lesser degree, I hope, in every instance.

I would support the Motion to Accept the Ought Not to Pass Report of this Committee.

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

Mr. LOVELL: Mr. President and Members of the Senate: Being a pharmacist for 50 years, registered in Maine, Massachusetts and Rhode Island, I would be remiss if I did not get up and say a few words on this Bill.

There are 216 drug stores in the State of Maine, and they vary in all types and sizes. Now the drug when it is made by a national advertised company such as Smith, Kline & French, or Hayes Robbins, or Warner & Chilcott, they have 17 years exclusive rights to that drug. Five years is used in experimentation, and 12 years that they can charge whatever they want to over the counter, or whatever they want to to the wholesaler or to the druggist.

Actually there are many doctors that will not use a generic drug, because the doctor only takes a year of pharmacology, the study of drugs. So, consequently, on the new prescription blanks that we have, we have a box on the side that they can check if the doctor wants the regular drug. Well, the doctor will in many cases check the regular drug, and on my particular position and in my business when I was operating a pharmacy in Sanford, prices were no object. I built my business up in 7 years from \$100,000.00 to a million dollars a year, and 35,000 mail order customers. Price is no point. In the drugstores in the State of Maine, way up in Aroostook County, if a fellow has to hire a druggist at \$250.00 a week, he may have to get a little bit more for his prescriptions. Now, as far as generic is concerned, by 1980, 90 percent of all drugs now on the market, the generic will be available.

So, consequently, when a person or any druggist buys a generic drug, he buys what he thinks is a good generic drug. In my particular case, I bought generic drugs, hundreds of thousands of a certain drug, so that I could sell it. I was the lowest priced pharmacy in the United States. On the other hand, I bought generic drugs from the largest generic concerns. So, consequently, buying from these concerns, I got very, very low price, and I sold at a very, very low price. Prescriptions would run .59, .98, or something like this; something we do not hear of now, but also the national advertised companies, Smith, Kline and French, when a drug would run out they also would make the generic. Now, their price on the generic was twice as high as it was where I bought my generics. So, consequently, if the doctor says generic and the drug was originally made by Warner and Chilcott and the patent had expired, then he would use a generic drug. Now, if he used a generic drug like I did, he could have his price very low, but if he used the generic that was made by a high type concern that have salesmen on the road that they pay \$300.00 a week to travel all over the United States, then naturally he is going to have to pay more for that generic drug, so he has got to charge a higher price.

But it is my opinion, 99 percent of the druggists in the State of Maine are perfectly honest and treat their customers right. I had 200 doctors sending patients to me. I certainly feel that this Bill is not needed. The druggist is a fair man, and he is not going to overcharge the patient. If he does, you have got the ARP and, well, you have got Lovell's Pharmacy you can buy from, and several other places, so I hope that you will vote against this Bill.

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

Mr. PRAY: Mr. President and Members of the Senate: I think this Legislation that we have before us is a refinement of the present law and it is an attempt to clarify the intent of the 106th Legislature. I believe the intent at that time was to pass savings on to the Maine elderly and

the low income individuals in the use of generic drugs.

It is with great interest that I read the debate that took place in this Chamber, and, of course, the sponsor of that Bill, now the Attorney General, is no longer here, but the Chairman of the Health and Institutional Service Committee, the good Senator from York, Senator Hichens, is still here, so he can still promote his arguments against this Bill and against the original Bill back in the 106th.

I think that what we should address is the intent of the original law and the intent of this Bill to its fullest, and that is to assist the elderly and the low income in the high cost of medical expenses. Today the American Society is increasing its drug use. The medical profession promotes the sale of drugs continuously to relieve pain in the injured people of this state and the elderly of the State.

What we have presently on a prescription form, when you receive it, there is a small box at the bottom of that form in which a doctor must check off if a generic drug cannot be used. Many individuals today, many doctors today just do not use that. As a matter of fact, when this Bill was recommitted to Committee, there was a Subcommittee from the Health and Institutional Service Committee that spent roughly eight weeks on this Bill, calling up a number of doctors, and checking around with a number of pharmacists, to find out exactly the practices as to what is going on.

It is interesting to note also that the drug industry is perhaps one of the largest profit-making industries in the country. From a Federal Report, the drug industry profits were twice as high as the average American industry, and some companies annually grossed profits exceeding 75 percent.

When we are talking about generic drug versus a brand name drug, and I will just give you a small example perhaps, and I am not a pharmacist, and know nothing about it, proclaim to know nothing about it, so I rise with a little hesitation to take on the good Senator from York, Senator Lovell, in this matter, but where some generic drugs that perhaps could cost something like .30 per hundred compared to a brand name that would cost you around \$4.00 a hundred. Presently, there are individuals, druggists, who will sell both these drugs for the same cost to the consumer, perhaps \$7.00. If the box is not checked at the bottom, the druggist can sell a .30 drug per hundred for \$7.00 and this seemingly is the practice that is going on in this state.

In talking about support for the Bill, the Committee on Aging supports this legislation. A number of consumer groups in this State support this Legislation. But these life sustaining drugs, in many instances, are for individuals, as I stated earlier, the elderly, the people who are on fixed incomes, perhaps less than \$4,500.00 a year. When the druggist has the opportunity, and I think that there are many fine druggists and many of them use generic drugs, and they give the Senior Citizens the breaks that they deserve, and give them a little bit of a discount. I have gone through several instances myself with relatives in my family who have been in situations where drugs have been needed. I have had a nephew who had open-heart surgery at the age of three who needed drugs and needed a large amount of it, and over the time period as the time lengthened, the cost of that drug went down through the good will of the pharmacist that was providing it.

The pharmacists in this state, in many instances, have circumvented the law, or the intent of the 106th on passing this cost savings on to individuals when they use a substitute drug. That is what this Bill addresses, is when that substitute drug, the generic drug is used, that those savings are to be passed on to the consumer. In many instances it is not.

The Bill when it comes out of the Committee with the Ought to Pass Report does basically three things. It identifies the amount of savings which can be passed on to the consumer as the result of the drug substitution. That is 50 percent of the acquisition cost, so the reference to small businesses being hurt by this is not true, because they are all based upon the same level of the 50 percent profit margin. Also, it retains an incentive for the pharmacist to substitute these drugs and it clarifies the intent of the existing law by closing the loopholes of which some pharmacists, and I say just some, have taken advantage of to increase their profits.

If you stop and consider the percentage of profit on a .30 per hundred drug which could be sold for \$7.00 because of a brand name is being retailed for that same price, I think that the Maine consumer should receive this additional legislation to clarify the intent of the 106th.

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

Mr. LOVELL: Mr. President, in answer to the good Senator from Penobscot, Senator Pray, I would say that the druggist is passing the savings on.

Now many times the doctor, who is friendly with the salesman, will not check the box to allow them to use the generic drug. If the druggist uses the generic drug, that is substitution, and it is against the pharmacy law of the State of Maine, and he can be arrested. The doctor has the final say.

As far as the prescription costing .30, fine, there may be some prescriptions that do cost 30 cents, but on the other hand if you have to hire a pharmacist you have to pay him \$200.00 a week, and the State allows on the MedicAid Program, allows \$2.00 on every prescription above the cost. Consequently, I feel and I am sure that there may be some substitutions where the generic drug is used when the regular drug was supposed to be used. On the other hand, the doctors like to use the regular drug, because the larger drug companies spend millions every year to discover new drugs, and I would dare say there are 10 people in this Senate that if the new drugs had not been discovered would be dead. I know I would be for one. So, they are spending millions. So they have got their 12 years exclusive to sell the drug at the price. They deserve it, and the doctor should write for it and he does. So, consequently, if the customer thinks they are getting "hoodwinked" or paying too much, all they have got to do is call a 1-800 number. There are several drugstores in the State. Call up a 1-800 number and they will quote you the price of the generic drug over the phone, and they will quote you the price of the regular. Sometimes you get mixed up. The doctor says you could use the generic drug but on the other hand the druggist feels or he may not have — it takes a lot of money, my inventory was \$150,000.00 It takes a lot of money to carry all the regular drugs, and all the generic drugs. For instance, you could carry on some types of drugs, you can carry the same drug from eight different companies, and sometimes you have to because a doctor will write for that particular company, and you have got to use that company, unless you call the doctor and ask him to change it.

So, I do not believe that this Bill is worthwhile at all. I think that it is against the rights of the pharmacist, and if Senator Pray will show me any pharmacist that overcharged him when the generic drug was written and the generic was allowed, or if there was no generic drug, why I will take care of that pharmacist personally.

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

Mrs. SNOWE: Mr. President and Members of the Senate: I would concur that the original law, the intent of that law, was to pass on the savings to the consumer, but I must emphasize that is occurring. The pharmacist is passing on

savings to the consumer. Now there may be instances where this is not happening, but those, I think, are rare.

I will read to you from the report that was done by the subcommittee on Health and Institutional Services. Although, and they are referring to the people in the group, they believe the savings were not being passed on to the consumer, believe that based on informal service and personal experiences, that could document or substantiate these beliefs in a systematic manner. No one has conducted an in-depth survey or study on the operation of the programs. So, we really do not know. We do not have any knowledge whatsoever what is occurring out there. I think we are venturing into an area that we should not be getting into. We are talking about price regulation, and I do not know anything else that we do regulate.

The Maine Committee on Aging, I would like to read to you their Resolution that they passed April 25. "Be it resolved that the Maine Committee on Aging go on record in support of a Legislative study order to research L. D. 177 and all its proposed Amendments, to make recommendations regarding the pass along of savings from generic drug substitution to the consumer to the next Legislative Session. We agree that it is an important issue but feel further study is necessitated."

Now we also passed in the last Legislature advertising of drugs, and posting of drugs. We still do not have a feeling yet as to what has been the effect of that also.

I think that we have to study the whole gamut, and I think that is the approach we should take.

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

Mr. PRAY: Mr. President and Members of the Senate: Just a few things I would like to pass on to clarify. Again I rise in a little bit of hesitation to take on the good Senator from Androscoggin and the good Senator from York with their wealth of knowledge in this field.

But I would point out the Federal Report which I referred to earlier, and just in reference to one of the remarks made by the good Senator from York, Senator Lovell, and the money that is being spent by the pharmaceutical groups on research looking for new drugs. Earlier I mentioned that their profits sometimes exceed 75 percent before taxes of the sales. That same study refers to cost to the pharmaceutical companies of advertising, which is one-fourth of their cost and research for new drugs is one-fourth of what they spend for advertising. So, although they may spend a multi-million situation for research, there is a much larger multi-million dollar profit for this one particular industry within our country.

Subsequent to the Committee Report which the good Chairman of the Committee, Senator Snowe, read, the Committee on Aging, having studied the Bill and the Amendment, has come out in support of the Bill that is now in the amended form. So, if we get everything in subsequent order in which the events have occurred, we will find that the Committee on Aging at this time does support this Bill, and they support it in the amended state.

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

Mr. LOVELL: Mr. President, for the third time I just want to say a word. The good Senator from Penobscot, Senator Pray, talks about the cost of the research, the profit of the manufacturer. That has nothing to do with the drug store, the manufacturer or the wholesaler, what the manufacturer makes as a profit. Now, for instance, valium and librium, two common tranquilizers, are sold in England for one-third of the price that it is sold in the United States, but that is nothing the druggist can do about. That is up to the Federal Government. That does not hold water on the profit of the manufacturers.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Androscoggin, Senator Snowe, that the Senate accept the Majority Ought Not to Pass Report of the Committee.

The Chair will order a Division.

Will all those Senators in favor of the Motion, please rise in their places to be counted.

Will all those Senators opposing the Motion, please rise in their places to be counted.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Androscoggin, Senator Snowe, that the Senate accept the Majority Ought Not to Pass Report.

A yes vote will be in favor of accepting the Majority Ought Not to Pass Report. A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Collins, D.; Collins, S.; Cummings, Curtis, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Lovell, McNally, Minkowsky, Morrell, Pierce, Redmond, Snowe, Speers, Trotzky, Wyman.

NAY — Carpenter, Danton, Farley, Levine, Martin, Merrill, O'Leary, Pray, Usher.

ABSENT — Conley, Mangan.

21 Senators having voted in the affirmative, and 9 Senators in the negative, with 2 Senators being absent, the Motion to accept the Majority Ought Not to Pass Report does prevail.

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

Mr. LOVELL: Mr. President, having voted on the prevailing side, I would move reconsideration of this Bill, and I hope you will vote against me.

The PRESIDENT: The Senator from York, Senator Lovell, now moves the Senate reconsider its action whereby it accepted the Majority Ought Not to Pass Report.

A viva voce vote being had,

The Motion to reconsider does not prevail.

Senate

Ought to Pass in New Draft

Mrs. Cummings for the Committee on Legal Affairs on, Bill, "An Act Relating to Licensing of Theaters and Motion Picture Houses." (S. P. 51) (L. D. 108)

Reported that the same Ought to Pass in New Draft under same title. (S. P. 524) (L. D. 1837)

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

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Assess a Surcharge on Fines and Penalties for the Operation of the Maine Criminal Justice Academy." (S. P. 179) (L. D. 493)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 179).

Signed:

Senators:

COLLINS of Aroostook
SNOWE of Androscoggin
MARTIN of Aroostook

Representatives:

VALENTINE of York
KANY of Waterville

LOCKE of Sebec
BACHRACH of Brunswick
MASTERTON of Cape Elizabeth
STUBBS of Hallowell

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

Signed:

Representatives:

CHURCHILL of Orland
DIAMOND of Windham
SILSBY of Ellsworth
CURRAN of South Portland

Which Reports were Read.

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

Mr. COLLINS: Mr. President, I move the Senate accept the Majority Ought to Pass as amended Report.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now moves that the Senate accept the Majority Ought to Pass as amended Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would move that this Bill and all its accompanying papers be indefinitely postponed, and I would speak to my Motion.

The PRESIDENT: The Senator has the floor.

Mr. CONLEY: Mr. President, I believe if this state is going to finance the criminal justice program then I think it ought to meet its obligations in a fair way; that it should raise the revenues through the General Fund and appropriate the necessary funds to run this Academy.

Any statistic that can be provided will clearly show that the system of justice, not only in this State, but in the Country, is geared to those who are less fortunate to meet their needs of life. Because of my strong feeling that it is generally the poor in this country that are generally brought before the courts, and it is generally they who are sentenced to jail, and who are sentenced to the electric chairs, and who are sentenced to the county jails, and the state prisons and every other type of institution that we have, I feel that that in itself is reason enough to vote against this particular Bill.

If we are going to continue this operation, I think the worst thing in the world is for us to establish a surcharge on top of a fine to maintain the operations of this institution, so I would hope and urge the Senate to vote for the Pending Motion.

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

Mr. COLLINS: Mr. President, I can understand the feelings of the good Minority Leader when he suggests that the device that is suggested here appears on the surface to be perhaps unfair.

I think the Committee in its decision to suggest this Bill for passage was concerned that the Academy was not being properly funded, and as it loses its Federal Funds and as the pressures build upon the Academy for its services, it became apparent to the Committee that this was a device for providing some money.

Now the surcharge, in terms of actual dollars related to fines, is relatively minor. I think it has a range of something like \$2.00 on small fines up to a maximum of \$17.00 on a \$5,000.00 fine. It costs about \$274,000.00 a year to run the Academy, and even at the present time they are not fully able to train all the people that require training. I think it was on this basis, sensing the real need of the Academy, that the majority of the Committee took the action that they did in suggesting passage of this Bill.

There are a number of States that do precisely the same thing. The State of California for example has had an Act that had a surcharge on

fines since about 1957 and they raised a substantial sum of money via this mechanism.

I think that when you vote that you ought to consider very carefully the importance of the Academy and its need for funding. Thank you.

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

Mr. COLLINS: Mr. President, I am very supportive of the Academy and its need for funding, but I would like to ask any Member of the Committee whether this Bill sets up a new dedicated revenue program or not.

The PRESIDENT: The Senator from Knox, Senator Collins, has posed a question through the Chair.

The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, I am afraid it does precisely that.

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

Mr. CURTIS: Mr. President, I have just read the Bill. It is fairly short, and I have a question about whether or not the money that is sometimes paid in lieu of a fine, after usually agreement between the accused and the prosecutor, would that be subject to this surtax that would be provided. It is usually called a cost of court, and sometimes exceeds \$100.00.

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

Mr. COLLINS: Mr. President, it would not be subject to the surtax.

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

Mr. SPEERS: Mr. President, I was very happy to hear the good Minority Leader of this Body, who is well known for his abhorrence of Law Enforcement activities in the State, or at least some of the personnel involved in Law Enforcement, at least not attack the purpose and the justification for the Criminal Justice Academy as it was established by the State of Maine by previous Legislatures.

Unfortunately, it is a fact that the Academy is not being properly funded. In fact, not anywhere near the level of funding that would be needed for the Academy to carry out those programs in the field of correction and, indeed, Legislature. The Academy is responsible for training and a broad range of the Criminal Justice system, not only Law Enforcement Officers, which is what most individuals think of when they think of the Academy, but the Academy also is mandated to carry out training programs in the field of correction and, indeed, in Court administration as well. These three elements are all involved in the broader spectrum of the Criminal Justice System.

It is a question of funding. It is a question of where the funding is going to come from. If we were indeed able to provide for adequate funding out of the General Fund, there may in that case be no need for this particular Bill. I would simply point to the Members of this Body that the question boils down to whether or not you wish to mandate or require funding from the General Fund, which after all is a tax upon the general taxpayers of the State of Maine, or whether you feel that we might be able to raise some additional revenue for the training that must be provided by the Criminal Justice Academy, to raise this additional revenue from those who are found in violation of the very Criminal Justice System that the Academy was created to support.

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

Mr. MERRILL: Mr. President and Members of the Senate, I have two objections to this Bill. One has been brought out very effectively by the Senator from Knox, Senator Collins, and that is that it would establish another dedicated revenue account.

The second objection is this, — and probably more fundamental, it is a principle of our sys-

tem of jurisprudence that the punishment should match the crime, and I think that it is very important if there is to be faith in our judicial process, that people think that the best effort has been made by the Court to see that that is the case. That the fine arrived at, is a fine that is arrived at with only that taken into consideration. When you have quotas on the amount of convictions that you want people to get, or when you have dedicated revenues that go off to part of the Law Enforcement System as a result of the fine that is levied, that undermines the faith of the people in the judicial system that the fine was levied solely for the purpose of seeing to it that the punishment matched the crime.

And, I think that it is a very bad precedent, and I think when we think about the comments that we have heard generally from people about anything that interferes with that sort of judgment, and creates another possible motive, real or apparent, a conflict between that important principle and other desires, or the appearance of one, we see one more thing that undermines the confidence of the court and in the court. I think this is a time when we ought to be doing everything we can to go in the opposite direction, because, frankly, the confidence in our judicial system among the general public is appallingly low and this will do nothing but drag it down lower.

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

Mr. SPEERS: Mr. President, in quickly reading through the Bill again, I see nothing in the Bill that has anything whatsoever to do with the various quotas as suggested by the previous speaker, and I wish that we could direct our remarks to the Bills that are presented to us.

I would agree with the good Senator from Cumberland, Senator Merrill, that the punishment should fit the crime. Indeed, it should. I would point out to the Members of this Body that the very reason for the creation of the Criminal Justice Academy is because there has been such a real problem in the crime rate, not only in this State but across the Nation. And the Criminal Justice Academy was created and has been funded to the extent possible from the General Fund, because there has been the feeling that we need to upgrade the administration of justice in this State. Now, I see nothing wrong with requiring those who are found in violation of that Criminal Justice system to contribute directly to the Academy that was founded to upgrade that system itself.

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

Mr. PRAY: Mr. President and Members of the Senate, I become a little concerned when I hear the good Senator from Cumberland, Senator Merrill, stand up and talk about the justice system and that punishment should fit the crime.

When I read this Bill, I interpret to read exactly that way. That the punishment is going to fit the crime, that the criminals in this State, those that have gone through the judicial system and have been found guilty, will pay the burden of cost to society, or at least help sustain part of that cost.

I think that the intention of this Legislation is heading in the right direction. Perhaps the good Senator from Cumberland, Senator Conley, if these individuals were better trained and there were more funds available to train them, then he would not have to refer to them as imbeciles.

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

Mr. CONLEY: Mr. President, apparently the young man from Penobscot, the good Senator Pray, who was not around in the early '60's when it was spelled out — let me even point out a more recent incident. In 1968 we saw on national television what a group of imbeciles we had trying to take law and order into their

hands. I happen to be there and I saw it.

Let me say first that the Presiding Officer of this Body, the good Senator from Penobscot, Senator Sewall, and myself sat on the Appropriations Committee at a time that the Criminal Justice System came about or the Criminal Justice Academy came about. It came about primarily through LEAA money. If anyone thinks that this is the first time that this Bill has been before this Legislature, they are totally erroneous.

What I am saying is if we are going to measure up to providing the correct appropriations to maintain such a system, then let us bite the bullet and do it. Let us not do it in a shoddy way of trying to persecute those who can least afford to do it.

I do not have the highest regards for the police system in this State or in this Country, and primarily because again I look upon it, it is those people who can least support to hire an attorney, and I do not mean some cracker jack hanging around in a Courthouse, and that is a little slap at the attorneys, but some cracker jack hanging around the Courthouse to be appointed to defend this poor soul. The whole Criminal Justice System in this Country should be revamped.

But to address the measure that is before us this morning, I am saying the Chairman of the Appropriations Committee who is absent, but at least two other Members of the Appropriations Committee are here, that they, when they are dealing with this in budget that they appropriate the monies for the program. I am not so sure really that even the program that is underway up there is so great. If we took a real close look at it, we might even reconsider as whether or not we want to finance it at all.

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

Mr. PRAY: Mr. President and Members of the Senate, I would like to thank the good Senator from Cumberland, Senator Conley, in reference to my youth. As a matter of fact, in 1968 I was standing in Reserves waiting to go to Chicago to control some of those imbeciles that were giving the police trouble.

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

Mr. CURTIS: Mr. President, if it would be appropriate to return to the subject matter of the Legislation, it seems to me that the direction, the philosophy involved with this piece of Legislation is wrong. I have listened to the debate, that part of it which seemed appropriate to the Bill, would seem to indicate that we might begin to rely upon the dedicated revenues of the Court System to fund costs which have to do with law enforcement.

Now let me suggest to you that there are several areas that are in dire need of appropriations this year, which also have been funded up until this year by LEAA or other Federal monies, and which we have got to make some decisions as the Legislature. Those include the cost of Court Administration for the State. They include the costs of funding assistant prosecutors, assistants to the District Attorneys for the State, and I would suggest that we have another piece of Legislation, which was not funded, of course, by the Federal Government, and that has to do with judicial salaries.

There was an item in the newspaper just recently, this week, about the Courts in Alabama, and the difficulties that the Legislature and the Courts had found itself because they have tended to rely almost completely, as I understand it, upon dedicated revenues to fund the Court system. Now, what has happened is that they are in the hole, the personnel who worked in the Courts have not been paid. The Legislature is considering emergency Legislation to fund several million dollars to solve the problem, and I would suggest that that type of direction in which this

piece of Legislation will lead us, might start with the Criminal Justice Academy and end up with anything up to and possibly, — I certainly would hope not, but possibly including Judicial salaries. I think at that point it should become very clear to everybody here that we would begin to undermine the basis for the judicial system which is a reliance upon an objectivity, because as soon as the money that is involved in the judicial system, or in the police system, is responsible or comes from the revenues from fines, then I think we have struck a very severe blow at the entire system.

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

Mr. SPEERS: Mr. President, I thank the good Senator from Penobscot for his remarks, but I would point out that the Courts already do rely upon fines for part of the funding of the Court System. That is where some of these fines go at the present time.

All we are asking in this particular Bill is not that judicial salaries be funded through dedicated revenue, all we are asking in this Bill is that there be a portion set aside over and above these fines to go to the Criminal Justice Academy to support some of the programs that they have with regard to the training in the Criminal Justice System. This is not the only source of revenue for the Academy because there are funds that now come out of General Fund which are going to the Academy. It is not totally funded by LEAA at the present time.

As I mentioned earlier, if we had sufficient funds in the General Fund to support the activities of the Academy, there may very well be no need for this Bill, but we do not have that situation. There is a need for additional revenue for the Academy to support some of the programs that we have mandated in this Legislature. I, therefore, feel that it is a worthwhile Bill and a very much needed Bill and I would Request a Roll Call on the Motion.

The PRESIDENT: A Roll Call has been Requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, noticing that everyone is participating, at least listening to this debate, I would note the correction on the calendar relevant to House Amendment 179, that the Amendment is Senate 179. We have ways of doing funny things in this State. This is not the only area that irritates me. The Fish and Game Department, as you know, becomes a tremendous thorn in my side. Last Session it was the Marine Resource Committee that came in with a Bill to jack the fee schedules practically out of existence, digging clams or lobsters or whatever else you had to do to get some sort of license. We have all gone out and waved the flag of how proud we are of our parks throughout the State that provide our citizens the opportunity to go into these State Parks and the beaches, then all of the sudden we have some Department Head, without any Legislative Authority whatsoever, just skyrocket the prices of admission to these parks, denying once again the citizens, who, by the way, voted in favor of bond issues to provide these parks for the citizens, and then once that is done the Department Heads, the Bureaucrats, once again go into action.

They have gone into action again with this Bill before you today. If you look into it you will find out perhaps that it is the Maine Municipal Association that is hiding behind the door on this particular Bill. It was in fact one of their creatures that brought this Academy about, one of their brain childs.

So, I say to you, if this is the way we want to run State business, then we might just as well pack up and go home. You do not need me here. You do not need any of us here. Just allow these people to bring in a Bill, give it to the President of the Senate, let him sign it, send it

downstairs and let the Governor give it another green light, let the system, just continue rolling on away from us. Some day we are all going to wake up, and I am afraid it is going to be too late.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that LD 493 and all its accompanying papers be indefinitely postponed.

A yes vote will be in favor of indefinite postponement. A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Conley, Curtis, Danton, Farley, Hewes, Levine, McNally, Merrill, Minkowsky, O'Leary, Trotzky, Usher.

NAY — Carpenter, Chapman, Collins, D.; Collins S.; Cummings, Greeley, Hichens, Jackson, Lovell, Martin, Morrell, Pierce, Pray, Redmond, Snowe, Speers, Wyman.

ABSENT — Huber, Katz, Mangan.

12 Senators having voted in the affirmative, and 17 Senators in the negative, with 3 Senators being absent, the Motion to indefinitely postpone does not prevail.

Majority Ought to Pass Report accepted.

The Bill Read Once, Committee Amendment "A" Read.

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

Mr. MERRILL: Mr. President, I would like to inquire through the Chair whether adoption of Committee Amendment "A" would preclude amending this Bill tomorrow, so as to also fund the Drug Enforcement and Court Administration.

The PRESIDENT: The Chair would advise the Senator that he may prepare any type of an Amendment that he sees fit. The Chair will consider it when it sees it.

Committee Amendment "A" adopted, and the Bill, as amended, Tomorrow Assigned for Second-Reading.

The PRESIDENT: The Chair at this time would ask the Sergeant-at-Arms to escort the Minority Floor Leader to the Rostrum, where he may serve as President Pro Tem.

Thereupon, the Sergeant-at-Arms escorted Senator Conley of Cumberland to the Rostrum where he assumed the duties of President Pro Tem, and the President retired from the Senate Chamber.

Second Readers

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

House

Bill, An Act to Assist in the Determination of the Mental Condition of Criminal Defendants. (H. P. 1366) (L. D. 1597)

Bill, An Act to Improve the Laws Relating to Exceptional Children. (H. P. 1607) (L. D. 1812)

Bill, An Act to Exempt Nonprofit Medical Facilities from the Maine Sales Tax. (H. P. 1609) (L. D. 1814)

Bill, An Act Relating to Sentences for Leaving the Scene of an Accident which Results in Death or Injury. (H. P. 1610) (L. D. 1815)

Bill, An Act Relating to Actions in Trespass for Cutting Trees on the Land of Another. (H. P. 1611) (L. D. 1816)

Bill, An Act Concerning the Effect of Specially Authorized Appropriations upon the Calculation of State Aid to Public Schools. (H. P. 1612) (L. D. 1817)

Which were Read a Second Time and Passed To Be Engrossed, in concurrence.

Bill, An Act Revising Procedures For Certain Tied Elections. (H. P. 937) (L. D. 1134)

Which was Read a Second Time.

On Motion of Mr. Hewes of Cumberland, Tabled for One Legislative Day, Pending Passage to be Engrossed.

House — As Amended

Bill, An Act Relating to Voter Registration. (H. P. 146) (L. D. 176)

Bill, An Act to Limit the Liability for Damage to Underwater Lines. (H. P. 501) (L. D. 619)

Bill, An Act Concerning Warrantless Arrests by a Law Officer. (H. P. 630) (L. D. 771)

Bill, An Act Requiring Permanent Markers Prior to the Sale or Conveyance of Land in an Approved Subdivision. (H. P. 832) (L. D. 1005)

Bill, An Act to Clarify the Statutory Provisions Concerning the Legal Capacity of a School Bus. (Emergency) (H. P. 1017) (L. D. 1232)

Bill, An Act Relating to Purse Seining and Stop Seining. (H. P. 999) (L. D. 1240)

Bill, An Act to Establish the Maine Food and Farmland Study Commission. (H. P. 1336) (L. D. 1593)

Which were Read a Second Time and Passed To Be Engrossed, As Amended, in concurrence.

Bill, An Act to Require Drivers License Renewal Examinations. (H. P. 397) (L. D. 509)

Which was Read a Second Time.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President, I move indefinite postponement of this Bill and all its accompanying papers.

The PRESIDENT Pro Tem: The Senator from York, Senator Farley, now moves that L. D. 509 be indefinitely postponed.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I request a Division.

We debated this Bill yesterday, and you will recall that it is one which requires a visual examination, which may either be at the expense of the State or from your personal physician once in 12 years after age 40. It is a good safety measure, and I think we should keep it.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President and Members of the Senate: At the present time some insurance companies do require this. The fact is, a lot of us who do have eye problems, I am sure we do not have to go through this to take an examination. This is a needless waste of time, and I think state money, and I would hope you would support my Motion to indefinitely postpone this Bill.

I would request a Roll Call.

The PRESIDENT Pro Tem: The Senator from York, Senator Farley, has requested a Roll Call. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators present in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President, would the Secretary please read the Committee Report. Which Reports were Read.

The PRESIDENT Pro Tem: The pending question before the Senate is the Motion by the Senator from York, Senator Farley, that this Bill be indefinitely postponed.

A Roll Call has been ordered.

A yes vote will be in favor of indefinite postponement. A nay vote will be opposed.

The doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Conley, Cummings, Danton, Farley, Greeley, Huber, Jackson, Levine, McNally, Merrill, Minkowsky, O'Leary, Wyman.

NAY — Carpenter, Chapman, Collins, D.; Collins, S.; Curtis, Hewes, Hichens, Lovell, Martin, Morrell, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Sewall.

ABSENT — Katz, Mangan.

13 Senators having voted in the affirmative, and 18 Senators in the negative, with 2 Senators being absent, the Motion to indefinitely postpone does not prevail.

The Bill Passed to be engrossed, as amended, in concurrence.

Bill, An Act to Amend the Land Use Regulation Commission Statutes. (H. P. 946) (L. D. 1141)

Which was Read a Second Time.

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

Mr. MERRILL: Mr. President and Members of the Senate, I would just like to direct a question through the Chair. This is a Bill that deals with the Land Use Regulation Commission. It is amended now in its present form, and I wonder if the Chairman of the Natural Resources Committee could just give a brief description on the record of what this Bill would do.

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Merrill, has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President and Members of the Senate, we passed a Bill, LD 476, which established environmental coordination procedures. If a person in the unorganized townships wants a permit he goes to LURC, and with this environmental coordination procedure LURC will handle all of it. The person in the organized township goes to DEP, and they will handle all of it, and make it easier, so that a person does not have to go to two or three or four different agencies.

Now the first section of L. D. 1141 basically says that the Land Use Standards shall not duplicate legal requirements imposed by other Agencies, and that just attempts to make this consistent with L. D. 476.

The next part of the Bill establishes guidelines for any zone changes, and the statement of guidelines for any zone changes, and I think it is self-explanatory, saying a change is consistent with the standards of the District Boundaries. LURC has standards for District boundaries, and any zone change should be consistent with the comprehensive Land Use plan, which has been adopted by the LURC. Changes in Districts would also satisfy demonstrated needs in communities. This gives the Commission a little flexibility in changing zones and changing Districts, and also a new District designation which is more appropriate for the protection and management of the existing resources within the affected area. It establishes guidelines for zone changes.

I hope that satisfies the needs of Senator Merrill from Cumberland.

Which was Passed to be Engrossed, as amended, in concurrence.

Bill, An Act to Require that Certain Conditions be Met Prior to Certification of any Nuclear Power Plant by the Public Utilities Commission. (H. P. 1388) (L. D. 1660)

Which was Read a Second Time.

On Motion of Mr. Collins of Aroostook, Tabled for One Legislative Day, Pending Passage to be Engrossed.

Bill, An Act to Clarify the Non-liability of Physicians and other Persons Submitting Reports to the Secretary of State Relating to

the Physical and Mental Status of Motor Vehicle Operators. (H. P. 706) (L. D. 886)

Which was Read a Second Time and Passed To Be Engrossed, As Amended, in non-concurrence.

Sent down for concurrence.

Senate

Bill, An Act to Simplify, Improve and Reduce the Cost of State Agencies Auditing Human Services Contracts and Grants. (S. P. 522) (L. D. 1826)

Which was Read a Second Time and Passed To Be Engrossed.

Sent down for concurrence.

Bill, "An Act to Regulate Security Deposits on Residential Rental Units." (S. P. 519) (L. D. 1813)

Which was Read a Second Time.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President, I request that L. D. 1813 be tabled for One Legislative Day.

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Hewes, now moves that L. D. 1813 be tabled for One Legislative Day.

The Chair will order a Division.

Will all those Senators in favor of tabling L. D. 1813 for One Legislative Day, please rise in their places to be counted.

Will all those Senators opposed to tabling L. D. 1813 for One Legislative Day, please rise in their places to be counted.

20 Senators having voted in the affirmative, and 2 Senators in the negative, the Motion to table does prevail.

Enactors

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

"An Act Concerning Record Checks on Applicants for Employment with Fire Departments." (H. P. 1214) (L. D. 1451)

"An Act to Implement a "Produce of Maine" Designation." (S. P. 446) (L. D. 1551)

"An Act to Authorize the County Commissioners of Hancock County to Transfer Certain Accounts to Certain Active Unorganized Townships." (H. P. 1176) (L. D. 1404)

"An Act to Amend and Repeal Certain Laws Relating to Amusements and Sports." (H. P. 1111) (L. D. 1378)

"An Act Concerning the Municipal Refund Claims for the Tree Growth Reimbursement." (H. P. 932) (L. D. 1129)

"An Act Relating to the Licensing of Auctioneers." (H. P. 905) (L. D. 1118)

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

Emergency

"An Act to Amend the Charter of the Augusta Sanitary District." (H. P. 718) (L. D. 840)

Emergency

"An Act to Extend the School Budget Adoption Date until July 1st and Vocational Region Budgets to August 1st." (H. P. 1616) (L. D. 1824)

These being emergency measures and having received the affirmative votes of 23 members of the Senate, were Passed to be Enacted, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

RESOLVE, to Extinguish Certain Debts Owed by Counties to the State of Maine. (S. P. 315) (L. D. 1035)

On Motion of Mr. Huber of Cumberland, Placed on Special Appropriations Table, Pending Passage.

Orders of the Day

The President laid before the Senate the following matters, in the consideration of which the Senate was engaged at the time of adjournment yesterday, tabled and especially assigned for Wednesday, June 1, 1977.

House Reports — from the Committee on Local and County Government Bill, "An Act to Clarify and Reform the Laws Relating to County Law Enforcement." (H. P. 214) (L. D. 224) Majority Report — Ought to Pass with Committee Amendment "A" (H-387); Minority Report — Ought Not to Pass

Tabled — May 31, 1977 by Senator Speers of Kennebec

Pending — Motion of Senator O'Leary of Oxford to Indefinitely Postpone.

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

Mr. HICHENS: Mr. President, I would request that the Secretary read the Committee Report.

Which Reports were Read.

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

Mr. JACKSON: Mr. President, when the vote is taken, I request a Division.

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Jackson, has requested a Division.

The Chair recognizes the Senator from Somerset, Senator Levine.

Mr. LEVINE: Mr. President and Members of the Senate: I am not going to stand in the way of the passage of this Bill today. I think in all it is a good Bill. It is a good piece of legislation. There is just one point I would like to make here.

There is one section of this Bill that I disagree with. That is Section 12, 30 MRSA, 959 is enacted to read, — and it goes on to speak about political activities. The first part of that Section deals with the Sheriff being unable to directly or indirectly coerce, attempt to coerce or command any County employee or deputy to pay, lend, or contribute anything of value. They cannot be forced to contribute or take contributions for political purposes.

However, the second section of this says that the Deputy cannot solicit or receive any monies for political purposes. Well, I strongly question that in that if the case should arise when a Deputy, who is a very well qualified man, who is very learned in his profession, and who wishes to become Sheriff of that particular County, wants to run for that office, he is going to have to quit his job as Deputy before he can collect funds in order to run, and I do not think that is proper. I do not think it is right. It is an incumbent Sheriff's section, that is what it is. That section of the Bill is improper.

I have read over the Bill. To be perfectly honest with you, I do not understand every word in the Bill, but I understand enough to realize and I can tie these words together and realize that this is a good piece of Legislation, and I would support it. I would hope that perhaps someone would add an Amendment that would allow a Deputy to at least solicit contributions for his own campaign.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President, I have a couple of problems with this. I think I have to agree with my good friend and seatmate, the good Senator from Kennebec, Senator Levine, that what we are really doing is relegating the Sheriff to, again we go back to second class citizens, primarily because of the fact that they can no longer get involved in any political activities since they work seven days a week, 24 hours a day.

The other matter that I would like to see changed in this thing, and I have raised it once

prior, is that the County Commissioners are basically the County personnel Board; however, if in their great wisdom, and I am not going to question their wisdom at this point, they should want to get a County Personnel Board besides themselves, and the County Personnel Board can be composed of three to five members, who shall not be County officers or employees. If the County Commissioners were County officers, they could not become part of the County Personnel Board, then I can see that very few of them would want to get any County Personnel Board outside of themselves, and they would hold the responsibility themselves and not want to really get too many other people involved in the process. I would like to see that amended to include at least one Member of the Commission, or two Members of the Commission on the Personnel Board themselves.

They do not have to get a Personnel Board, but if they do get it, then they wipe themselves out of office, and that reminds me of the \$25.00 a day if they hire a County Administrator problem.

Further, I notice that there are two additional amendments on this thing, one is the ambulance service. This Amendment allows communities to provide ambulance service to the entire County, omitting only municipalities. I wonder what the purpose of this Amendment is. I did like the initial one where the County Commissioners could provide an ambulance service for the entire county without omitting any municipalities, since all of the municipalities are going to be paying for this anyway through their County budget and through the County tax, I question whether Amendment (H-415) is really necessary.

Finally, the last one I think is fairly decent. It takes care of the administrative technicalities.

I would urge the Members of the Senate to support this thing, but I would hope that the two items that have been raised, — I think it is a good Bill, an excellent Bill, but I think the two items that have been raised, one to relegate the Deputy Sheriff to a second class citizen, and the second one relates to the County Commissioners being members of or being able to partake in that County Personnel Board. I think those two things would make it an excellent Bill, and I think it would be in the great wisdom of this Legislature to really put out a fine piece of Legislation.

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

Mr. O'LEARY: Mr. President, I was hoping that somewhere along through the process this Bill would be amended so that these Deputies would not be second class citizens. We have given the right to State employees and everyone else involved in the political process, and what we are doing in this Bill is relegating them to the back seat. They cannot be involved in the political process in one little instance.

I submit that this is my objection to the whole Bill, and unless this Bill is amended to give these people their rights, then I shall oppose it.

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

Mr. JACKSON: Mr. President, if the good Senators from Oxford and Androscoggin will give us the opportunity to accept this Bill in First Reading, I have an Amendment in on my desk which I would be willing to put on that would resolve that problem.

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

Mr. O'LEARY: Mr. President, I request leave of the Senate to withdraw my Motion.

The PRESIDENT Pro Tem: The Senator from Oxford, Senator O'Leary, now requests leave of the Senate to withdraw his Motion. Is it

the pleasure of the Senate to grant this leave? It is a vote.

Majority Ought to Pass Report accepted.

The Bill Read Once. Committee Amendment "A" Read. House Amendment "A" to Committee Amendment "A" Read and Adopted. Committee Amendment "A", as amended, Adopted. House Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

The President pro tem laid before the Senate: Bill, "An Act Providing for Improvements in the Sales Tax Collection Provisions Specified by Statute." (H. P. 395) (L. D. 501)

Tabled — Earlier in the Day by Senator Jackson of Cumberland

Pending — Passage to be Engrossed.

The Bill was Passed to be Engrossed in concurrence.

The President pro tem laid before the Senate: Bill, "An Act Relating to the Declaration and Payment of Estimated Tax for Corporations under the Maine Income Tax Law." (H. P. 464) (L. D. 569)

Tabled — Earlier in the day by Senator Jackson of Cumberland

Pending — Passage to be Engrossed

On Motion of Mr. Jackson of Cumberland, Retabled for One Legislative Day.

The President pro tem laid before the Senate: House Reports — from the Committee on Taxation — Bill, "An Act to Exempt Property Under Construction from Real Property Taxation." (H. P. 1327) (L. D. 1554) Majority Report — Ought not to Pass; Minority Report — Ought to Pass

Tabled — Earlier in the day by Senator Speers of Kennebec

Pending — Motion of Senator Wyman of Washington to Accept Minority Report

The PRESIDENT Pro Tem: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Members of the Senate: Since there are not very many here, I think that we can probably pass this Minority very handily, because this is the answer, or part of the answer, to what we debated yesterday on the great amount of unemployment compensation that the State owes the Government.

Here is an incentive to get new industry into the State of Maine and Lord knows with 40,000 people out of work and nearly 10 percent of the working population out of work, here is a Bill that will give an incentive to companies to come in and build a building.

I remember back in 1961. We passed a Bill to build speculative buildings in communities by bond issue. I sponsored that Bill. It is in the Constitution now. The good City of Portland did not have to take advantage of it. They had sufficient money in there and they formed an Industrial Development Authority, and look what they got now. They got Fairchild. I do not know how many they employ now, but it employed over a thousand. They have got three companies in Westbrook. They have got companies all over the area. That is why Cumberland County is the richest County in Maine, because they have the spirit to go out and build speculative buildings. In fact, in Westbrook they built two speculative buildings, and one of them was sold before it was only half built.

Now, this Bill — in my many years, we debated it yesterday — the good Senator from Kennebec is not here right now to table the Bill for me, so consequently I will continue, briefly we discussed it very heavily.

Now, it has been definitely proven that every dollar the State spends to get in industry, they get back \$50.00 in taxes. For instance, if we get a new industry in, build a building for them or give them, as this Bill states, free taxes, this is

just what might get an industry in. The Society of Industrial Realtors which is located in Newark, New Jersey, which I have worked very closely with for 10 years; they state now that a speculative building is no more speculative than an apartment building which has no rentals or a condominium which has no rentals. So, if we can get buildings built here in Maine, give companies an incentive to come in, and if they just employ 100 people, that is a million payroll. Approximately that turns over five times. Well, my gracious if it turns over five times, look what it amounts to, look what the state collects in taxes. I would definitely hope that you, oh, this is not a party bill. This is a bill to help everybody in the State of Maine. Even Biddeford, you have done well down there in Biddeford getting industry. We have in Sanford. But in some of the places have not. But, here is a bill, here is a chance. It is not going to cost anything unless they come in. We are not going to lose anything. If they come in, their payroll will much more than off-set the free taxes.

Thank you very much, and Mr. President, will you come down fast on the gavel.

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

Mr. MERRILL: Mr. President and Members of the Senate, it warms my heart today to hear the Senator from York, Senator Lovell, say that Cumberland County has industrial development because of the spirit of the County, and not because the Ladies of the Night happen to be down there. I am glad we finally got that issue straightened out.

I am very sympathetic with the purposes of this Bill and with the motives that brought it before us. But I do believe that our State Constitution provides that property has to be taxed on the basis of its real value, its highest and best use, and the only exception to that in the Constitution are farm property, open space property and forest land. And, therefore, it is my opinion that this Bill would be unconstitutional. This issue, not this issue specifically, but that part of our Constitution has been interpreted in advisory opinions as recent as the last Session of the Legislature.

It seems to me it is really quite clear that if we want to provide for property taxation on some basis other than the just value and highest and best use, we have made a change in the Constitution, and, therefore, I believe that this Bill violates the State Constitution, and I would urge the Senate not to accept the Ought to Pass Report, simply for that reason.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE: Mr. President, there may in fact be a constitutional problem with this Bill. I would speak before the Senate at this time, Mr. President and Members of the Senate, to explain that that might be cleared up with an Amendment. It could be very easily cleared up by, instead of giving them an exemption from that tax, that they be given instead a rebate on that tax.

The PRESIDENT Pro Tem: The Chair recognizes the senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, I do not intend to begin to debate with the good Senator from Cumberland, Senator Merrill, he being a lawyer, but this is a non-partisan Bill, and I think Senator Levine has definitely shown, and if this is agreeable with the good Senator from Cumberland, Senator Merrill, I would ask that the Taxation Committee to Table this Bill and draw up an Amendment, if that is suitable to the Senator from Portland.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President and Ladies

and Gentlemen of the Senate, I am very pleased to hear the Senator from York, Senator Lovell, tell about what great luck the State had with their speculative buildings. I have got one in Houlton that I would be glad to sell cheaply that has been sitting there for quite a few years vacant now.

I would pose a question through the Chair to anybody that might care to answer it. If this Bill passes, and I am a speculator and I decide to go out and buy up parcels of land and build these speculative type buildings, might not we have a situation where these buildings would be in fact built, and I am told by industrial developers that these are no longer that attractive in the economic development field. Might we not run into a situation where some of these buildings might be built, and in fact take up space that might go to another firm to build some kind of building or plant or something. What we have, for example, in my situation in my home town is a building that is sitting there, and it happens to be a State financed and constructed building, but the building is sitting there vacant, taking up space which, if this had been built by a private contractor, as I read this, would be tax exempt for all these number of years, when, in fact, we might have had some other industry, or some other type of building that possibly could have gone on that lot, which cannot because there is a big empty building sitting there.

The PRESIDENT Pro Tem: The Senator from Aroostook, Senator Carpenter, poses a question through the Chair to any Member of the Senate who may wish to respond.

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President, in reference to the question that the good Senator from Aroostook asked; on page two of the Bill it defines industrial buildings. It means any building which is used in the processing of national resources, in the production of electrical energy, or in the assembly, fabrication, manufacture and warehousing of tangible personal property. So, therefore, a building that was sitting vacant would not be possible to receive this.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, a brief answer to the good Senator from Aroostook, Senator Carpenter, Maine is a big State. It is almost as big as all the rest of New England put together, — 34,000 square miles. Aroostook County is larger than the State of Rhode Island and Connecticut put together.

Now we must admit that we have disadvantages. We have a lot of snow here in the winter time, and particularly up in Aroostook County. Aroostook County deserves a great deal of credit for building a speculative building, but when you build a speculative building, you should build one like we did in Sanford, build it at required heights, 40 feet, with the posts so far apart, etc., and then when you get the industry, which in our particular case we have got Sprague Electric, and they employ 1,100 people now, mostly women, — Women's rights, Mostly women down there. It has been a great asset to the town.

In the last six years there were 600 and some odd speculative buildings built in the eastern part of the United States. They were all sold or leased before they were built, or within two years after they were built, with the exception of maybe a dozen, — One is up in Aroostook County.

Now — I do not know how hard Aroostook County works to get an industry in there, or if they are offering any incentive to get them to come in, but you have got to beat competition. You have got to meet competition if you are going to get business. I do not care what business

you are in. Just like — well, he is not here now — but you have definitely got to meet competition, and beat it, and we got very tough competition in New Hampshire. Here is just one Bill that might beat it.

I would Request a Division when the vote is taken.

I think I would request that somebody on the Taxation Committee Table this Bill for the purpose of amending it to make it Constitutional, as Senator Merrill, the Senator from Cumberland, has suggested.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would suggest that if it is the desire of the Senate that the Ought to Pass Report could be accepted, then it would be in order to amend it tomorrow when it is given its Second Reading, so I do not believe a Tabling Motion would be necessary.

It is my feeling that this Bill could be made Constitutional if, instead of giving a tax exemption, we said that the State would appropriate the money back to each one of these businesses to the amount of taxation that they have been taxed. Now, if the Senate thinks that that is an avenue that they would like to pursue, and to make that appropriation to all these businesses around the State, then I would suggest that we accept the Ought to Pass Report and amend it to do that tomorrow. If it does not seem like that is a realistically feasible approach, then I would suggest that the proper vote today would be against the Ought to Pass Report.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate: I thank the Senator from Cumberland, Senator Jackson, for his explanation. As I read the Bill, it would not apply to the speculative type building that the good Senator from York, Senator Lovell, is talking about, unless that building had a definite tenant lease signed prior to the construction of the building. It would not apply to any building that was just put there "willie-nillie" and hoping for a tenant.

And, I thank the good Senator from York, Senator Lovell, for all of his kind comments about the County, the County of Aroostook, and I would just hope that perhaps later on if this Bill receives a favorable First Reading, we could amend the Bill so that all future Aroostook County speculative buildings be built in York County.

The PRESIDENT Pro Tem: The pending question before the Senate is the Motion by the Senator from Washington, Senator Wyman, to accept the Minority Ought to Pass Report.

A Division has been requested.

Will all those Senators in favor of accepting the Minority Ought to Pass Report, please rise in their places to be counted.

Will all those Senators opposed to accepting the Minority Ought to Pass Report, please rise in their places to be counted.

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

Mr. O'LEARY: Mr. President, I request a Roll Call.

The PRESIDENT Pro Tem: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Washington, Senator Wyman, that the Senate accept the Minority Ought to Pass Report.

A yes vote will be in favor of accepting the

Minority Ought to Pass Report. A nay vote will be opposed.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, I like the suggestion of the good Senator from Cumberland, Senator Merrill, that we give this Bill its First Reading, and then try to see if we cannot correct it so we can do something to make it more attractive and help to bring industry to Maine, jobs.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Franklin, Senator Redmond.

Mr. REDMOND: Mr. President, before voting on this matter, I would like to have something clarified. May I ask through the Chair, does this mandate every municipality to do that, or is this only for those who choose to do so.

The PRESIDENT Pro Tem: The Senator from Franklin, Senator Redmond, has posed a question through the Chair to any Member of the Senate who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: In its present form it is not a matter of choice.

The PRESIDENT Pro Tem: Once again, the Chair will state the pending Motion before the Senate, and that is the Motion by the Senator from Washington, Senator Wyman, that the Senate accept the Minority Ought to Pass report.

A Roll Call has been ordered.

The doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Danton, Farley, Hichens, Levine, Lovell, Martin, McNally, O'Leary, Wyman.

NAY — Chapman, Collins, D.; Collins S.; Conley, Cummings, Curtis, Greeley, Hewes, Jackson, Katz, Mangan, Merrill, Morrell, Pierce, Pray, Redmond, Snowe, Speers, Troitzky, Usher, Sewall.

ABSENT — Huber, Minkowsky.

10 Senators having voted in the affirmative, and 21 Senators in the negative, with 2 Senators being absent, the Motion to accept the Minority Ought to Pass Report does not prevail.

Majority Ought Not to Pass Report accepted in concurrence.

(See Action later today)

The PRESIDENT Pro Tem: The Chair at this time would ask the Sergeant-at-Arms to escort the President to the rostrum.

Thereupon, the Sergeant-at-Arms escorted The President to the rostrum, and the Senator from Cumberland, Senator Conley, to his seat on the floor of the Senate.

The PRESIDENT: The Chair would like to thank the Minority Leader, Senator Conley, for his usual very excellent job.

The President laid before the Senate:

SENATE REPORTS — from the Committee on Taxation — Bill, "An Act to Establish a Tax Credit to Aid Businesses Providing New Jobs in Areas of High Unemployment." (S. P. 436) (L. D. 1513) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — Earlier in the day by Senator Speers of Kennebec

Pending — Motion of Senator Jackson of Cumberland to Accept Majority Report

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

Mr. JACKSON: Mr. President, I would ask leave of the Senate to withdraw my Motion.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now requests leave of the Senate to withdraw his Motion to accept the Majority Ought Not to Pass Report

of the Committee. Is it the pleasure of the Senate to grant this leave? It is a vote.

On Motion of Mr. Pray of Penobscot, Minority Ought to Pass Report Accepted.

The Bill Read Once, and Tomorrow Assigned for Second Reading.

The President laid before the Senate:

Senate Reports — From the Committee on Taxation — Bill, "An Act to Establish a Property Tax Exemption for New and Expanding Businesses." (S. P. 416) (L. D. 1457) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass

Tabled — Earlier in the day by Senator Speers of Kennebec

Pending — Acceptance of Either Report

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

Mr. LOVELL: Mr. President, I move that we accept the Minority Ought to Pass Report and speak just briefly.

I am glad to see, Ladies and Gentlemen of the Senate, that we do have some regard for industrial development and getting jobs into the state, and putting some of the people to work that are unemployed. Here is another Bill, we happen to have three bills in a row, and here is another bill out of the Committee on Taxation, sponsored by the good Senator from Kennebec, Senator Levine, so it is certainly a non-partisan bill, and I think that the employment or the tax exemption for new and expanding industries, employing 25 to 150, and 151 to 500, I think that this is a definitely good bill, which will not only help us to have companies expand in Maine, rather than going to another state. Now, I have seen many companies that expanded to Maine, and, for example, we had a dress company in Sanford, the Sanford Dress, and they got up to 200 workers, and then instead of expanding, with this bill they probably could well have expanded right where they were, but instead of expanding, they moved to another state and started a new factory.

So I do not want to bore this Senate too long on industrial development, but I think that industrial development is one of the most important things and the gentlemen on the second floor has stated that Maine needs industrial development and needs more jobs, and he has pledged to go out and contact industries, which he has. I think he has probably got one or two industries in, I do not know. But certainly I would recommend very highly that you pass the Minority Ought to Pass on this L. D.

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

Mr. CONLEY: Mr. President, I would also remind the good Senator from York, Senator Lovell, that the gentleman on the second floor does not look too favorably upon tax credits.

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

Mr. LOVELL: Mr. President, if investment, which the gentlemen on the second floor has done, and which I have done, you have got to invest or spend money to make money. Now if you do not spend any money, you are not going to make any money, unless you are digging ditches. Now the gentleman on the second floor never dug any ditches, but he made a lot of money, and he has invested it properly.

Now if we pass this bill it may cost us a little money as far as taxes are concerned, but the number of people employed, "Bang," when you take away from them their State Income Tax, when you sock them the State Sales Tax, Liquor Tax, all these other taxes, they will pay more into the State of Maine and the credits will be ten times over. Now is the time to get industry in the State of Maine. Do not wait, or we are going to have a lot more people on the unemployment rolls next winter, and it is going to be a cold winter, and oil is going up.

(Off Record Remarks)

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from York, Senator Lovell, that the Senate accept The Minority Ought to Pass Report. Is this the pleasure of the Senate? It is a vote.

The Bill Read Once, and Tomorrow Assigned for Second Reading.

Tabled and especially assigned for Thursday, June 2, 1977.

The President laid before the Senate: Bill, "An Act to Create a Clients' Bill of Rights and Responsibilities." (H. P. 1594) (L. D. 1802)

Tabled — May 31, 1977 by Senator Snowe of Androscoggin

Pending — Passage to be Engrossed.

On Motion of Mrs. Snowe of Androscoggin, Retabled for Two Legislative Days.

Reconsidered Matter

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

Mr. CONLEY: Mr. President, with reference to House Reports — from the Committee on Taxation — Bill, "An Act to Exempt Property under Construction from Real Property Taxation." (H. P. 1327) (L. D. 1554) having on the prevailing side, I would now move for reconsideration, and hope the Senate will vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves the Senate reconsider its action whereby the Senate voted to accept the Majority Ought Not to Pass Report of the Committee in reference to L. D. 1554.

A viva voce vote being had, The Motion to reconsider does not prevail.

The President laid before the Senate:

Bill, "An Act to Clarify Sex Discrimination in the Maine Human Rights Act." (S. P. 260) (L. D. 821)

Tabled — May 31, 1977 by Senator Katz of Kennebec.

Pending — Passage to be Engrossed.

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

Mr. KATZ: Mr. President, the Motion in front of us is passage to be engrossed. Would it be appropriate to offer an Amendment at this time?

The PRESIDENT: The Chair would answer in the affirmative.

Mr. KATZ: Mr. President, I offer Senate Amendment "A" (S-182) and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "A" (S-182) to L. D. 821 and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" (S-182) Read.

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

Mr. KATZ: Mr. President, the Senate Amendment "A" which is in front of you now is the entire piece of Legislation.

Unlike the original Bill, and unlike the Committee Amendment, I think it is written clearly, and very clearly gives the intent of those who support this piece of Legislation.

There are financial implications to this Bill, and I think that you should be aware of them. There are controversies with respect to this Bill, and I think that you should be aware of them.

But the issue is not very, very complicated, the issue is whether or not an employee, because she is a woman, and because she is disabled for reasons of pregnancy, this woman should be treated just exactly the same as any other employee who is disabled for any other reason. That is the issue.

Now as this debate unfolds, you will be hear-

ing about costs, and you will be hearing about hardships on Maine employers.

As far as I am concerned, it is an ethical issue as opposed to a dollar issue, and I would like you to keep that in mind as you listen to the debate. It is a fascinating Bill, and it is a complicated question, but I am confident that as the Senate listens to the debate unfold today, that you will come down on the side of the human rights of the people involved.

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

Mr. COLLINS: Mr. President, a parliamentary inquiry, what is the status now of Committee Amendment "A"?

The PRESIDENT: The Chair would advise the Senator that Committee Amendment "A" was adopted by the Senate.

Mr. COLLINS: Mr. President, from the remarks of the good Senator from Kennebec, Senator Katz, I would take it that he probably intends to indefinitely postpone Committee Amendment "A" when he comes to that point in this proceeding.

If the Bill is now Senate Amendment "A" (S-182), I would point out to the Senate that there really is very little difference in results as between this Amendment and Committee Amendment "A". I had earlier discussions with the good Senator about Committee Amendment "A" because for a while I could not decide what it meant. After some study, the good Senator agreed with me that it was rather difficult, and that he would have it redrafted with an emphasis on the disability features of pregnancy.

However, the Amendment that now comes before us, — and I have only had it on my desk for less than an hour and very little time to study it — the Amendment that now comes before us includes some of the most difficult features of the previous Committee Amendment, because it compels, as I understand it, employers to add to their insurance coverage, if they have any insurance coverage for the health of their employees, pregnancy coverage. I think the Statement of Fact quite properly says that you do not have to have any health insurance, but if you have some, you have got to put this in. Now this is a typical exclusion clause in this type of insurance.

In the small organization in which I earn my living, we have a very good health insurance coverage; medicine, doctors, hospitals, just about everything is covered, but there is a clause in it that does not include pregnancies and disabilities related to pregnancy. I have inquired about what the extra cost would be if this Bill passed, and they are considerable. Now I may be willing to pay those costs in my small business. Unfortunately, the insurance ratings on these things are not refined enough so that they can pick out each individual employee and decide whether or not she is likely to bear children in the future. As I understand it, they take all female employees under the age of 46, and you add a rate according to the number of employees you have under that age.

But, apart from the cost, in the private sector there are tremendous costs lurking here in the public sector.

I am going to speak, however, primarily to one feature of the bill. I have to tell you, I think that this bill is really a wolf in sheep's clothing. I am sure that a lot of people are going to say that I am against motherhood. But that is not my purpose here today. You will note that the Title of the Bill says "An Act to Clarify Sex Discrimination." — to clarify it. It does not say it is to do away with it. It says it is to clarify it, and that is certainly what it does. It clarifies it in favor of the woman and against the man. Well, I do not necessarily object to that, although I am a bit old fashioned. I rather think that the father ought to be sharing the responsibilities with the mother to a greater extent

than many people in today's society believe.

But the point is that what this Bill really does is to legislate a program of subsidizing child bearing for particular groups, not for everybody, but for particular groups. We talk about equality. We talk about lack of discrimination. How can we say that this bill is in that area, when it will operate only to help particular groups in the child bearing function?

I can agree with some of the provisions of this bill, about treating pregnant women equally whenever it is possible for them to work, hire them back, if that is possible, when they have had the baby. There are good things in it that I can agree with, but it is the total impact from it that we must examine. This bill is really an effort to legislate a reversal of the United States Supreme Court decision last December in the Gilbert Case, because in the Gilbert Case the Supreme Court tested this question on the equal protection clause on various other arguments with respect to Human Rights. The Gilbert Case decided last December 6 that the exclusion of normal pregnancy related disabilities from coverage under an employers disability plan does not violate the equal protection clause of the 14th Amendment, nor does it constitute discrimination under Title 7 of the Civil Rights Act of 1964, which prohibits sex discrimination.

We have had cases in this area in the State of Maine. The United States District Court for the District of Maine has had some cases, and they have ruled in those cases that this Gilbert Case decided last December does apply to these issues in the State of Maine. The Maine Human Rights Commission went to court here in Kennebec County, and in February of this year the Superior Court in Kennebec County held that the Maine Human Rights Act should be construed in harmony with Title 7, so that this Gilbert Case is controlling.

So the present Maine Human Rights Act does not require pregnancy benefits to be included within disability plans. When the Teachers' Unions go to the bargaining table, they frequently bargain this into their contracts, and that is proper. In one of the communities where I am active, in order to create a feeling of equality for the men, the teachers have also bargained in a provision that if the wife of a teacher has a baby, the husband gets time off to stay home and help. Now these things are being accomplished at the bargaining table. But, this particular piece of legislation is an attempt to take away all the bargaining, and put the rule clearly in one position, and that one position would be to subsidize the program of child bearing.

Now in some countries in the past and even in the present day, child bearing has been the subject of subsidy. In some countries you receive \$100.00 for the first baby and the second baby, \$50.00 for the third baby, and after that they do not pay you anymore, because they do not want you to have too big a family. That is a national policy. It applies to everybody. It does not make any difference whether you are a teacher or a secretary or whatever your job is.

But this particular legislation, I submit, will, if it passes, result in singling out a few groups and saying to those groups the state wants a subsidy of child bearing for these groups but not for other groups. So, I submit, that this clarifies sex discrimination, but it certainly does not eliminate it. It is not a program of equal justice for everybody. It is a program of selective subsidy for a few, and I think we ought to examine the ethics the good Senator from Kennebec has described on that basis. I admire his generosity, his great heart.

I wish that we might be able perhaps to subsidize all child bearing but to do it in this fashion seems to me to be entirely too selective and I hope the Senate will vote to defeat this entire measure, and in order to pose that I will move

that this bill and all of its accompanying papers be indefinitely postponed.

The PRESIDENT: The Chair advises the Senator that the Motion to Amend takes priority over his Motion so that that Motion will have to be disposed of first before his Motion will be entertained.

The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President and Members of the Senate: Being a strong conservative, I am strongly opposed to abortion in any form, with minor exceptions. I certainly have no opposition to subsidizing child bearing. I think that that would accomplish one of my ulterior purposes, and I do realize that in several countries, notably Canada, the Government does provide sources of income and they do subsidize child bearing. I knew one family that had 18 children. They were still receiving for the 18th child.

However, this Amendment bothers me in one particular aspect. In Section 2 it says that it will be unlawful to treat a pregnant woman who is able to work in a different manner from any other persons who are able to work. It is my basic conservative feeling that pregnant women have a difficult time enough carrying a child. In many industries they would have to stand all day long. This may cause damage to the child in some way, shape, form or manner, but above all I think that pregnant women are very special people, and being very special people I think that you must give them additional considerations outside of treating them in the same manner as anybody else who is able to work, and I think that this Bill would really discriminate against people who are pregnant rather than trying to help them out, and I would urge that this Amendment be defeated.

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

Mrs. CUMMINGS: Mr. President, it has been mentioned that this would discriminate against, rather discriminate for certain women, the working women. But, it is obvious that most women, like most men, work because they need the money. Many young mothers cannot afford not to work, especially with the extra financial demands of having a young child. So, yes, it discriminates in their favor, because they are working because they need the money. I think that if they, therefore, become pregnant and have to take some time off, that they should not be penalized for this.

We are concerned here with the denial of pregnancy disability payments for child birth help keeps women transient workers, and makes it easier to plan that they do not stay on jobs, but leave the work force, and this is where most women get low seniority and lack of continuity in employment, which is so important to getting rehired.

Yes, it is going to be an expense. But, once again, I think that I am still beating the same old drum for equality, and that if a man can take leave for a planned disability, which I heard once in a fact-finding thing that a woman became pregnant only it was a planned disability and, therefore, was not something that she should be helped with, but I must say that if a man can have some time off with pay to have a hair transplant, it looks to me as if that was probably reasonably long term planning ahead. Women who are disabled by a miscarriage are not assured of all the same benefits as employees who are disabled by a skiing accident. Women, especially low income women will be discouraged from carrying their pregnancy to term. Without the mother's salary it will be more difficult for many parents to provide their new babies with proper nutrition and health care. Pregnant women and women with young babies may be forced to go on welfare.

These are all points that I hope you will keep in mind when you vote.

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

Mr. COLLINS: Mr. President, the Senator from Kennebec, Senator Katz, mentioned in his preliminary remarks that we probably should do something about cost with respect to this Bill. I think I would like to address that particular issue.

If sick leave benefits were to be allowed to cases of pregnancy, the increased cost to public employers, taxpayers, will be substantial. A recent survey of the Maine School Management Association revealed that in 20 Maine school systems, 83 teachers took maternity leaves between September '73 and February '75. Assuming a \$50.00 a day salary, an average pregnancy disability of eight weeks, the cost of providing sick leave benefits for the teachers in this small sample would have been \$166,000.00. Now there are over 200 units in the State of Maine, school units. So the total cost could well run between \$3 and \$4 million.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would like to address the cost features of this bill just briefly, if I could, because I think that the Senate might have an exaggerated sense of the cost of this proposal.

First of all, I would like to point out, and I think it is relevant to note that the absenteeism rate of female employees, even taking into consideration pregnancy leave, is no higher than it is for male employees. I think that is important to keep in mind. We are not dealing with a situation here where the female employees have a higher absentee rate due to the pregnancy leaves, even taking that into consideration.

Secondly, I think that it is important to note that almost all of the major plans now include coverage for women as far as pregnancy leave is concerned, so most of the employers already have plans that cover this cost. So we are not talking, in most instances, about any new cost. Where the plan does not include it, it is my understanding we are talking about .70 per month per female employee.

I think that this is a question simply of equity and treating the female employees with the same even hand as we treat everybody else. Now I think that the Senator from Knox, Senator Collins, has described the Supreme Court ruling as to the Constitution absolutely correctly, and I do not quarrel over that ruling, but I know that he does not mean to suggest that it is not within our prerogatives here in the form of legislation to go further or to make a statement clearer or to make a slightly different statement than the Constitution provides for. I think that is perfectly appropriate. The Constitution is not meant to include and encompass all problems, and, as a matter of fact, our Human Rights Act here in the State of Maine is much broader in scope in many areas than the Constitution is. We enacted it knowing that, because of the high importance that we placed on Equal Rights.

I think that this is an important further step, further clarification of what we mean when we talk about treating people equally, regardless of what sex they may be. I would hope that the Senate would accept this Amendment, and then would defeat the pending motion to indefinitely postpone this bill.

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

Mr. KATZ: Mr. President, just to clarify the debate, and I apologize to the Senate for coming in and getting us into a parliamentary mess. I would like to withdraw my motion for the Adoption of Senate Amendment "A" so I can then kill the Committee Amendment and then get back on the Senate Amendment.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now requests leave of the Senate to withdraw his Motion that the Senate accept Senate Amendment "A". Is it the pleasure of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I now move the Senate reconsider its action whereby it adopted Committee Amendment "A".

The PRESIDENT: The Chair would advise the Senator that in order to reconsider the rules must be suspended, and this would require two-thirds vote of the Senate.

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, I so move.

The PRESIDENT: Is it the pleasure of the Senate to suspend its rules? It is a vote.

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, I now move reconsideration of our action whereby we adopted Committee Amendment "A".

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate reconsider its action whereby it adopted Committee Amendment "A". Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, I move that Committee Amendment "A" be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate indefinitely postpone Committee Amendment "A". Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, I now offer Senate Amendment "A" (S-182) and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "A" and moves its adoption. Is it the pleasure of the Senate to adopt Senate Amendment "A"?

The Chair recognizes the same Senator.

Mr. KATZ: Mr. President, I am confident there are others who wish to speak before we go through the pro forma motion of adopting Senate Amendment "A".

I would like to raise a picture for the Senate. It takes place in your local hospital. There are two teachers who are patients of the hospital and they are in adjacent rooms. One of them is a male teacher who is there for a hemorrhoid operation, and the other is a female teacher there to deliver a child. The hemorrhoid operation may or may not be an essential or an optional operation, at the discretion of the patient. But here these two teachers, under similar circumstances, are lying in hospital beds. The male teacher automatically is entitled to sickpay, but not the female teacher. With the female teacher we ask her why are you in the hospital. And the burden of proof is on the female teacher to prove that she is there for an allowable reason to qualify for her sick pay.

Now this may be equity in some minds but it is not equity in mine. Again and again and again you see discrimination against women, particularly in education.

I would like to just get off the subject for a brief moment to point out the fact that there is not one woman who is superintendent of schools in the State of Maine. There is not one woman high school principal in the State of Maine, and there is one woman who is a junior high school principal in the State of Maine, but we are not discriminating.

Pregnancy is a voluntary thing you say. Ask the woman who is lying in the bed delivering the child what her financial constraints are, and does it make any difference that she is there to have a child, or for the man to have hemorrhoids.

I remember when the Human Rights Act first

came up, and it had to be in about the 104th Maine Legislature, 103rd I think it was. It was a very hotly decided issue. And there were an awful lot of concerns about what we were doing to the society in Maine in which we live by adopting a Maine Human Rights Act. The Maine Human Rights Act seems to me to have worked out rather well. It has made us conscious of the overt and covert discrimination that exists in the State of Maine. This is an expansion of what we are saying with respect to our societal conscience on Human Rights.

I want the Senate to understand that this is not a Department Bill. This Bill did not come from Maine Teachers' Association or the Human Rights Commission. It came because I, like the Senator from Penobscot, Senator Cummings, have sat on fact finding boards and seen how teachers are treated differently, depending on whether they are male or female. I say that the passage of Senate Amendment by the Senate today would be a very admirable step forward for the State of Maine to take in expressing our sense of conscience as to what is free and equal treatment.

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

Mr. COLLINS: Mr. President, I am pleased to report to the Senator from Kennebec, Senator Katz, that in the City of Rockland the longest tenure of any high school principal in the history of that City was the tenure of a woman principal, and a very distinguished lady she was.

I share the good Senator's desire to have the place of women recognized to have equality, but I cannot see how this bill really brings about equality. I think we have to look at what it really does. I think if we are going to do it, we really ought to put the right labels on it, and not put ourselves on the back and say we have done something magnificent for women, because what we will have done, if we do it, will have been to single out certain specific groups who have the good fortune to be in employment where the employer is either the public or a fairly large organization, and those women will get subsidy. But the women who do not have employers, or are self employed, or out of work, women that work for small employers perhaps cannot afford to have any kind of disability program or any kind of health insurance.

Those people will not have any of these benefits, and I wonder if it is really wise to proceed in that direction under the guise of equality and lack of discrimination because it seems to me that it is precisely the reverse of that that we are accomplishing. I agree with the Senator from Cumberland, Senator Merrill, that we can do it, certainly we can do it, we can move that way if we choose to. But I think we have to ask ourselves is that the best way, the right way. Is it in the path of equality, lack of discrimination, and encouragement of the Human Rights Program, or is it going to lead to a back lash against that kind of program.

Mr. President, if this Amendment is adopted, will it then be in order to move indefinite postponement.

The PRESIDENT: The Chair would answer in the affirmative.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: Lots of times when we vote on these items we establish certain mind-sets as we think about them, and the type of individuals that we are thinking about really go to a great extent to establish our thinking about whether or not we should pass the bill.

There has been a trend in recent times for there to be a lot of attention to the women who are going to the working place, because they have chosen a different life style than the traditional life style. In other words, they have made a conscious and voluntary decision to

work. And those women who are really leading a school of thought have received a lot of attention, and it is justifiable and fitting that they have.

But, I submit to this Senate, that most of the women who work in Maine today and most of the women who would be protected by the passage of this Bill, are women who are working because it is now necessary for them to work, because their money is necessary to keep bread on the table of the family. Recent economic conditions and inflation has made it necessary for more and more women to find themselves in that situation, the situation that my mother found herself in through my formative years, where she had to work, not a matter of choice, but because it was necessary to put bread on the family table and it was necessary to offer the opportunity that she and my father thought were important to offer to me and the other children in the family.

Now these are the people predominantly that we are talking about here today. These people have no higher rate of absenteeism, taking into consideration pregnancy leave, than any other employees, than the male employees. I ask this Senate why, why do we want to make it possible then to eliminate these women who are working because they have to, because they have to put food on the table of their families, because they want to offer something to their families, because they want to offer maybe a better opportunity to their children, why do we want to discriminate against them when they become pregnant and say that they cannot have this financial protection? I cannot think of one good reason why we want to do this to the working women of the State of Maine.

Certainly it is selective in the people it protects. For the most part it protects the women of the lowest incomes in the working families in the State of Maine. It protects the women who have taken that necessary step, left their homes for part of the day, added to the work burden that they have, and gone out and tried to improve the financial lot of their families. If you ask me, that is a darned good group of people to try to help out, and it is a group of people that maybe we do not help out enough in this Senate.

I would truly hope that we would do something for these people, and see to it that we give them equal protection with the male counterparts that they are working side by side with, and that we recognize the exemplary lack of absentee rate that they have, and that we provide that this extra benefit will be provided to them. I think that it is a matter of simple equity, and I think it is a matter of doing justice to some of the people that are the backbone of the State's economy, and people that have to make such an extra effort to give to their families what all mothers and all fathers want to provide to their families in the State of Maine.

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

Mr. MANGAN: Mr. President, I would pose a question through the Chair to anybody who would care to answer the question. Pertaining to Section 2 again, in the Senate Amendment "A", would it be possible, for example, for a young lady, a young mother who is working at Bates Mill in the weave room, carrying bolts of clothing from one end of the building to the other, to ask her employer to transfer her into an easier job, or would it be unlawful in this Bill to treat that woman who is able to work in a different manner than any other person?

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

Mr. KATZ: Mr. President, my presumption clearly would be that if the woman were engaged in physical labor, that disability would occur sooner rather than later, and the proper approach would be to transfer her to a job that

was not as demanding on her physical ability. I really do not know of much labor law that covers the subject, and the gentleman would have to make his own determination.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Katz, that the Senate accept Senate Amendment "A".

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Katz, that the Senate adopt Senate Amendment "A".

A yes vote will be in favor of adopting Senate Amendment "A". A nay vote will be opposed.

The doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Martin, Merrill, Minkowsky, Morrell, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher.

NAY — Carpenter, Collins, D.; Collins, S.; Mangan, McNally, O'Leary.

ABSENT — Wyman.

25 Senators having voted in the affirmative, and 6 Senators in the negative, with One Senator being absent, the Motion to adopt Senate Amendment "A" does prevail.

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

Mr. COLLINS: Mr. President, I now move this Bill and all its accompanying papers be indefinitely postponed, and I request a Division.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves indefinite postponement of this Bill and all its accompanying papers.

A Division has been requested.

Will all those Senators in favor of indefinite postponement, please rise in their places to be counted.

Will all those Senators opposed to indefinite postponement, please rise in their places to be counted.

4 Senators having voted in the affirmative, and 27 Senators in the negative, the Motion to indefinitely postpone does not prevail.

The Bill, as amended, Passed to be Engrossed.

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

Mr. KATZ: Mr. President, having voted on the prevailing side, I would now move reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves the Senate reconsider its action whereby L. D. 821 was passed to be engrossed.

A viva voce vote being had, The Motion to reconsider does not prevail. Sent down for concurrence.

The President laid before the Senate: Bill, "An Act to Ratify Certain Action Taken Relating to Construction of a York County Jail and to Provide for Acceptance of Gifts and Grants for such Purpose." (S. P. 523) (L. D. 1827)

Tabled — June 1, 1977 by Senator Hichens of York

Pending — Passage to be Engrossed.

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

Mr. HICHENS: Mr. President, I now move that this Bill be passed to be engrossed, but in doing so I would like to remind my fellow Senators that in cases like this, if the Bill had been discussed a little bit before a Motion was made to have it go through the Second Reading without being referred to Committee, it might have speeded up the procedures.

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

Mr. DANTON: Mr. President, I and Members of the Senate, I would like to remind my colleague from York County that we did have a meeting with reference to the York County Jail in the Court House about two weeks ago, and he was invited to be there, and he was not there.

The Bill Passed to be Engrossed without reference to Committee.

Sent down for concurrence.

The President laid before the Senate:

House Report — from the Committee on Legal Affairs — Bill, "An Act Relating to the Regulation of Beano." (H. P. 50) (L. D. 71) Ought to Pass in New Draft under same Title (H. P. 1606) (L. D. 1811)

Tabled — June 1, 1977 by Senator Danton of York

Pending — Acceptance of Report

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

Mr. PRAY: Mr. President, I would like to pose a question through the Chair to perhaps the Committee on Legal Affairs. I have read through this Bill once, and I am still a little confused over it. If he would explain what the Bill does.

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

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President, I move this lie on the Table for One Legislative Day.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, now moves that this item lie on the Table for One Legislative Day.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested on the Tabling Motion.

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President, I request leave of the Senate to withdraw my Motion to table for One Legislative Day.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, now requests leave of the Senate to withdraw his Motion to Table for one Legislative Day. Is it the pleasure of the Senate to grant this Leave? It is a vote?

Is it now the pleasure of the Senate to accept the Ought to Pass in new Draft Report of the Committee?

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, since my question has not been answered, I move the indefinite postponement of this Bill and all of its accompanying papers.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that this Bill and all of its accompanying papers be indefinitely postponed. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, since there seems to be a certain amount of confusion, perhaps somebody could table this matter until later in

Today's Session, and the Chairman of the Legal Affairs Committee and myself can get together and have a chance to look the bill over, and we can dispose of this matter today one way or another.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Pray, that this Bill and all of its accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Speers.

On Motion of Mr. Speers of Kennebec, Tabled until later in Today's Session, Pending the Motion to indefinitely postpone.

(See Action later Today)

The President laid before the Senate:

Bill, "An Act to Amend the Law Regulating Mass Gatherings." (H. P. 1603) (L. D. 1806)

Tabled — June 1, 1977 by Senator Katz of Kennebec

Pending — Passage to be Engrossed

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

Mr. KATZ: Mr. President, I offer Senate Amendment "A" (S-180) and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "A" (S-180) and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read.

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

Mrs. CUMMINGS: Mr. President, I read under the Statement of Fact that this is to insure that those suffering damages as a result of mass gathering will be properly compensated.

I am hoping that someone will tell me what funds are going to compensate, and what kind of damages. Would it be because a lawn has been bothered, or a window broken, or somebody's arm has been broken. I cannot figure it out from reading the Bill and the Amendment.

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

On Motion of Mr. Katz of Kennebec, Tabled until later in Today's Session Pending Adoption of Senate Amendment "A".

(See Action Later Today)

The President laid before the Senate:

Bill, "An Act to Increase the Salaries of the Judiciary." (H. P. 310) (L. D. 401)

Tabled — June 1, 1977 by Senator Huber of Cumberland

Pending — Adoption of Senate Amendment "A" (S-177) to Committee Amendment "A" (H-379)

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

Mr. HUBER: Mr. President and Members of the Senate: Our judges are now the lowest paid judges of any state in this nation. It was with great reluctance the Appropriations Committee reduced the recommended \$7,000.00 salary increase to all of the judges, which was contained in the original bill, to \$3,500.00 for the first year and \$3,500 for the second year. This Amendment would further reduce the proposed salary increases to 10 percent in each year of the biennium, which is even less than the \$3,500.00 each year recommended by the Appropriations Committee.

This Amendment would further widen the salary difference between the various courts, which is perhaps of dubious value at the present. I think our judges fully deserve not only the recommended \$3,500.00 each year, as recommended by the Appropriations Committee, or perhaps more. Unfortunately, due to financial constraints, we did not see fit to recommend this.

I, therefore, move indefinite postponement of

this Amendment and hope the Senate will agree.

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

Mr. CONLEY: Mr. President, I think the Chairman of the Appropriations Committee has made his point very well. I totally support his position. I would urge the Senate to join him in the defeat of this particular amendment.

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

Mr. USHER: Mr. President, I would request a Division.

I would like to make a brief comment. Members of the Senate, I believe 10 percent is very reasonable. I realize these Judges are working very hard, but there are a lot of other people, other State employees, who are working very hard, and the University of Maine employees, and I am worried about if we are going to have enough money to pay them all.

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

Mr. MERRILL: Mr. President and Members of the Senate, I would like to amplify just briefly, if I could, on one remark made by the Chairman, Senator Huber, and that is if we accept this percentage approach to increasing the salaries, what we will be doing, in effect, is increasing the disparity of pay between the District Court Judges and the Superior Court Judges, because that is where the major amount of disparity lies.

Now, this goes counter to the direction that was recommended to the Committee by the Governor, and I think it goes counter to good logic as well. I think that the present disparity between District Court and Superior Court, if anything, is slightly too large, and we certainly had not ought to increase it anymore by accepting this percentage approach. By a flat approach as the Committee suggested, we would at least not be increasing the percentage of disparity. We, in fact, in percentage terms would be closing it slightly, and I believe that is a trend in the right direction.

It recognizes the good quality people that we have on the District Court, and I might also add that it recognizes the improvement in quality that has been coming about, with making no negative comments on any Members who have been appointed to the Bar in the past. I think we all recognize that the Governor, the present Governor has done an excellent job in attracting good people to the District Court Bench, and it is a very important Court, and the problems the District Court Judges face are very difficult human problems, and they require not only a man with legal skills but a person with a great deal of human knowledge and compassion.

I do not think we ought to adopt an Amendment, the effect of which would be to increase the disparity between what we pay the District Court Judges and what we pay the Superior Court Judges. I hope that this Amendment would be defeated.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Huber, that the Senate indefinitely postpone Senate Amendment "A".

A Division has been requested.

Will all those Senators in favor of indefinite postponement of Senate Amendment "A" please rise in their places to be counted.

Will all those Senators opposed to indefinite postponement of Senate Amendment "A", please rise in their places to be counted.

21 Senators having voted in the affirmative, and 4 Senators in the negative, the Motion to indefinitely postpone Senate Amendment "A" does prevail.

Committee Amendment "A" Adopted, in concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate:

Bill, "An Act Relating to Adult Education." (S. P. 102) (L. D. 231)

Tabled — June 1, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed.

On Motion of Mr. Pierce of Kennebec, Retabled for One Legislative Day.

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

Mr. CONLEY: Mr. President, I would inquire if the Chair is in possession of Bill, "An Act to Dissolve Vocational Region 9 and to Establish a Vocational Center to Serve Northern Oxford County." (H. P. 1113) (L. D. 1372)

The PRESIDENT: The Chair would answer in the affirmative, the Bill having been held at the request of the Senator from Oxford, Senator O'Leary.

The Chair recognizes the same Senator.

Mr. CONLEY: Mr. President, Having voted on the prevailing side, I would move that the Senate reconsider its action whereby this Bill failed of enactment.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves the Senate reconsider its action whereby LD 1372 failed of enactment.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, a parliamentary inquiry as to how the Senator voted, whether it was on the majority side or not. I am not sure which was the prevailing side.

The PRESIDENT: The Chair would recognize the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, a parliamentary inquiry, was there a Roll Call.

The PRESIDENT: The Chair would answer in the negative. There was no recorded vote. It is impossible for the Chair to tell how the Senator from Cumberland voted. It would be up to his own good conscience, and I will leave it to his own discretion and sense of fair play, and honesty.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I know the good Senator from Kennebec, Senator Speers, might question my integrity, and I do not think I am, but I believe I voted on the prevailing side.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that the Senate reconsider its action hereby LD 1372 failed of enactment.

A viva voce vote being had, The Motion to reconsider does not prevail.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following papers from the House:

Joint Resolution Extending Appreciation to Members of The Maine State American Revolution Bicentennial Commission

WHEREAS, Maine and the nation commemorated the bicentennial of the creation of our Nation during 1776; and

WHEREAS, the success of the observance of the bicentennial is a tribute to the planning, dedication and resourcefulness of the Maine State American Revolution Bicentennial Commission, which effectively coordinated the efforts of the many communities and organizations which worked on projects and activities during the bicentennial year; and

WHEREAS, the spirit of the bicentennial and the recognition of the immeasurable value of our heritage as a state and as a nation will continue to grow through the many worthwhile cultural and historical projects which the com-

mission helped plan and sponsor to the lasting benefit of the people of Maine: now, therefore, be it

RESOLVED: That the Senate and House of Representatives of the One Hundred and Eighth Legislature of the State of Maine extend their appreciation to the members of the Maine State American Revolution Bicentennial Commission for their dedicated services in the planning, coordination and sponsoring of bicentennial projects which will continue to inspire the citizens of Maine and which will continue to inform us on the lasting values upon which our nation was founded; and be it further

RESOLVED: That an engrossed copy of this Resolution, duly authenticated by the Secretary of State, be immediately transmitted by the Secretary of State to the chairman and each member of the commission. (H. P. 1621)

Comes from the House. Read and Passed.
Which was Read.

The **PRESIDENT:** The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. **CHAPMAN:** Mr. President and Members of the Senate, on your desk today you will find copies of the final report of the American Revolution Bicentennial Commission. The Report summarizes the activities of the Commission during the period of the Bicentennial. Copies of the Report have been sent to various members of the public, libraries, including college and school libraries; and to towns that participated in the celebration, as well as to the Governor and other officials who assisted the Commission in doing its work.

As a Member of the Commission, I can say with much satisfaction that I feel that the Bicentennial was a successful one in Maine. In addition to the many celebrations and local committees which the Commission assisted, I think we can take a considerable measure of pride in the dozens of worthwhile projects that were sponsored which highlighted the heritage of our State and our Nation. This, of course, could not have been achieved without the assistance of the Legislature, and even greater assistance from the communities, organizations and the people of Maine.

The Bicentennial was directed toward three goals; to recognize the heritage of our past; to celebrate the event; and to plan for a better future. As you examine the dozens of projects which the Commission and individual Maine communities and organizations sponsored, you will note that there are successful projects in all of these areas. Working with limited means the Commission at the State Level and the communities at the local level, formed a partnership which produced a Bicentennial celebration of which I feel we can all be proud.

To recognize what has been accomplished by the State and by some of the groups and individuals who participate, this Order has been prepared. I am pleased to support its passage.

Which Joint Resolution was adopted in concurrence.

Enactor

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

An Act Extending the Time for Apportionment of County Taxes From May to June in the Year 1977. (H. P. 1630) (L. D. 1829)

This being an emergency measure and having received the affirmative votes for 26 Members of the Senate, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Communication Office of the Governor

June 2, 1977

Honorable Joseph Sewall
President of the Senate
and

Honorable John Martin
Speaker of the House
Dear Joe and John:

This is to formally notify you that Edward W. Rogers, 1616 Westbrook Street, Portland was nominated last night, June 1, to serve as Associate Administrative Court Judge.

We feel very fortunate to have a person of Mr. Roger's ability available to accept this important position.

In accordance with M.R.S.A. Title 5, Section 2401, this nomination is subject to review by the Joint Standing Committee on the Judiciary and to confirmation by the Legislature.

As always, your cooperation in the confirmation process is greatly appreciated.

Very truly yours,
(Signed) **JIM LONGLEY**
JAMES B. LONGLEY

Governor
(S. P. 526)

Which was Read and Referred to Committee on Judiciary.

Sent down forthwith for concurrence.

The President laid before the Senate: Bill, An Act to Reform the State Budgetary Process. (H. P. 1625) (L. D. 1825) which was tabled earlier in Today's Session by the Senator from Cumberland, Senator Conley, pending the Motion of the Senator from Kennebec, Senator Speers, that this Bill be given its First Reading without reference to Committee.

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

Mr. **SPEERS:** Mr. President, I request leave of the Senate to withdraw my Motion.

The **PRESIDENT:** The Senator from Kennebec, Senator Speers, now requests leave of the Senate to withdraw his Motion. Is it the pleasure of the Senate to grant this leave? It is a vote.

Which Bill was referred to committee on State Government and ordered printed in concurrence.

The President laid before the Senate:

Bill, An Act to Establish a Pipeline Privilege Tax. (H. P. 1252) (L. D. 1476) which was tabled earlier in Today's Session by the Senator from Cumberland, Senator Merrill, pending the Motion of the Senator from Kennebec, Senator Speer's Motion that the Senate Recommit.

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

Mr. **SPEERS:** Mr. President, it is my understanding there were several members of the Committee on Taxation who were intending or actually had signed the jacket, which would have made this a Divided Report, and that through inadvertence it became a Report Leave to Withdraw, and was referred to the House of Representatives.

I really do feel quite strongly that if this were to be adopted here today, or accepted here today, that it is a subversion of the Legislative process, and that the Bill, therefore, ought to be recommitted to the Committee on Taxation for their further consideration.

Which Bill was recommitted to the Committee on Taxation in non-concurrence.

Sent down for concurrence.

The President laid before the Senate:

House Report — from the Committee on Legal Affairs — Bill, "An Act Relating to the Regulation of Beano." (H. P. 50) (L. D. 71) which was tabled earlier in Today's Session by the Senator from Kennebec, Senator Speers, pending the Motion by the Senator from Penobscot, Senator Pray, to indefinitely postpone.

The Bill indefinitely postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act to Amend the Law Regulating Mass Gatherings." (H. P. 1603) (L. D. 1806)

Which was tabled earlier in today's Session by the Senator from Kennebec, Senator Katz, pending the adoption of Senate Amendment "A".

The **PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. **SNOWE:** Mr. President and Members of the Senate, perhaps I can respond to the question that was raised by the Senator from Penobscot, Senator Cummings.

Currently under law the Department of Human Services can require an Applicant for a permit for mass gatherings, that they purchase a Bond of \$5,000.00. The Senate Amendment offered by Senator Katz just clarifies what the Bond will be used for.

Senate Amendment "A" (S-180) Adopted.

The **PRESIDENT:** The Chair Recognizes the Senator from Cumberland, Senator Merrill.

Mr. **MERRILL:** Mr. President and Members of the Senate, this Bill is a many amended Bill now, and I wonder if we could have a little further description of how this changes the current law in regards to mass gatherings in its presently amended form.

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

The Chair recognizes the Senator from Androscoggin, Senator Snowe.

Mrs. **SNOWE:** Mr. President and Members of the Senate, currently the definition of mass gatherings is of 3,000 people or more for a gathering that is going to be held for 24 hours. This Bill just changes it to reduce the number of people attending to 2,000 people for 12 hours. In other words, if someone were to apply for a permit for a mass gathering that was going to be attended by 2,000 people for a 12 hour period, then they would have to apply for a permit. The Department felt that we should reduce it from 3,000 to 2,000 people, since 3,000 they felt that the level was too high.

Secondly, this just clarifies municipal ordinances and regulations. If they are in effect and they happen to be more stringent than State regulations, then municipal ordinances can supersede State regulations.

It also increases the fee for a permit from \$25.00 to \$100.00.

The Bill, as amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

Senate Appointments Committee of Conference

The **PRESIDENT:** The Chair will appoint on the part of the Senate several Committees of Conference:

"An Act to Require Towns without Secondary Schools to Provide Transportation to Secondary Schools" (L. D. 1273)

The Senator from Sagadahoc, Senator Chapman

The Senator from Cumberland, Senator Jackson

The Senator from Cumberland, Senator Usher

"An Act to Amend the Requirements for Public Notice of Public Proceedings under the Right to Know Law" (L. D. 1484)

The Senator from Penobscot, Senator Cummings.

The Senator from Androscoggin, Senator Snowe

The Senator from Aroostook, Senator Carpenter

"An Act to Provide for Exemption of Farm Supplies from the Sales Tax" (L. D. 653)

The Senator from Cumberland, Senator Jackson

The Senator from Kennebec, Senator Pierce
The Senator from Aroostook, Senator Martin

"An Act Relating to the Spending Ceiling for Education Purposes" (L. D. 1165)

The Senator from Cumberland, Senator Morrell

The Senator from Cumberland, Senator Huber

The Senator from Cumberland, Senator Merrill

The PRESIDENT: Is it the pleasure of the Senate that all matters acted upon by the Senate this morning be sent down forthwith? It is a vote.

On Motion of Mr. Huber of Cumberland;
Adjourned to 1:00 tomorrow afternoon.