

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

June 21, 1977

Senate called to Order by the President.
Prayer by Reverend Lawrence E. Merckens,
Vassalboro Congregational Church in Vassalboro.

REV. MERCKENS: Let us pray. Holy Spirit of the Lord of history, God of our Fathers, and of our children, our God and our Father who requires of us justice, love and humility. How blessed we are that we are Thy children living in Thy creation, with Thy destiny in Thy hand.

Humble us in these moments with the awareness that we are called to be Thy servants, as well as Thy children, participants in a history which honors Thy faithful and loving ways. So much is required of us to whom so much has been entrusted. Without our awareness of Thy guidance, our hope and commitment to life seems so empty.

So Lord, may that ever present spirit of Thy holy love continually prod us that the best from within us will be revealed in all of our decisions and relationships and other endeavors. Amen.

Reading of the Journal of yesterday.

Papers from the House
Non-concurrent Matter

Bill, "An Act to Transfer the Eminent Domain Power of the Penobscot Indian Housing Authority to the Tribal Governor and Council and Require Referendum Approval of any Action Relating to Eminent Domain." (H. P. 490) (L. D. 609)

In the Senate June 14, 1977, Passed to be Engrossed as amended by Committee Amendment "A" (H-554), in concurrence.

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-727), in non-concurrence.

On Motion of Mr. Lovell of York,
The Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Relating to Habitual Truants and School Dropouts." (H. P. 1650) (L. D. 1851)
In the House June 15, 1977, Passed to be Engrossed as amended by House Amendments "A" (H-582) and "D" (H-636).

In the Senate June 17, 1977, Passed to be Engrossed, in non-concurrence.

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

On Motion of Mr. Katz of Kennebec,
The Senate voted to insist and join in a Committee of Conference.

Non-concurrent Matter

Bill, "An Act to Allow Escape of Sublegal Lobsters from Lobster or Crab Traps." (H. P. 944) (L. D. 1139)

In the House, June 9, 1977, Passed to be Engrossed as Amended by Committee Amendment "A" (H-540).

In the Senate June 20, 1977, Passed to be Engrossed as amended by Committee Amendment "A" as amended by Senate Amendment "A" (S-281) Thereto, in non-concurrence.

Comes from the House, that Body having Adhered.

On Motion of Mr. Chapman of Sagadahoc,
The Senate voted to Recede and Concur.

Non-concurrent Matter

RESOLVE, to Provide for the Development of Recommendations on Coastal Policy Issues. (H. P. 1384) (L. D. 1664)

In the House June 17, 1977, Passed to be Engrossed as amended by Committee Amendment "A" (H-626).

In the Senate June 20, 1977, the Minority "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.

On Motion of Mr. O'Leary of Oxford,
The Senate voted to adhere.

Non-concurrent Matter

Bill, "An Act to Prohibit the Sale of Gasoline Below Cost to Destroy Competition." (H. P. 455) (L. D. 560)

In the House June 15, 1977, Passed to be Enacted.

In the Senate June 16, 1977, Indefinitely Postponed, 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 Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President, I Move that we adhere.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now moves the Senate adhere.

The Chair recognizes the Senator from Cumberland, Senator Conley.

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

The PRESIDENT: The Senator from Cumberland, Senator Conley, now Moves the Senate insist and join in a Committee of Conference with the House.

The Chair will order a Division.

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: 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 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 pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that the Senate insist and join in Committee of Conference with the House.

A yes vote will be in favor of the Motion to insist and join in a Committee of Conference. A nay vote will be opposed.

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

ROLL CALL

YEA — Carpenter, Conley, Levine, Merrill, Pierce, Pray, Redmond, Snowe, Speers, Usher.
NAY — Chapman, Collins, D.; Collins, S.; Cummings, Danton, Greeley, Hichens, Huber, Katz, Lovell, Mangan, McNally, Minkowsky, Morrell, O'Leary.

ABSENT — Curtis, Farley, Hewes, Jackson, Martin, Trotzky, Wyman.

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

Mr. DANTON: Mr. President, I request permission to change my vote nay to yea.

The PRESIDENT: The Senator from York, Senator Danton, now requests leave of the Senate to change his vote from nay to yea.

11 Senators having voted in the affirmative and 14 Senators in the negative, with 7 Senators being absent, the Motion to insist and join in Committee of Conference does not prevail.

The PRESIDENT: Is it now the pleasure of the Senate to adhere?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I now move that the Senate recede and concur.

The PRESIDENT: The Senator from

Cumberland, Senator Conley, now moves the Senate recede and concur.

The Chair recognizes the Senator from Cumberland, Senator Morrell.

Mr. MORRELL: Mr. President, I ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion to recede and concur, please rise in their places to be counted.

Will all those Senators opposed to the motion to recede and concur, please rise in their places to be counted.

9 Senators having voted in the affirmative, and 15 Senators in the negative, the motion to recede and concur does not prevail.

The PRESIDENT: Is it now the pleasure of the Senate to adhere.

The Chair will order a Division.

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

Will all those Senators opposed to the motion to adhere, please rise in their places to be counted.

17 Senators having voted in the affirmative, and 10 Senators in the negative, the motion to adhere does prevail.

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

Mr. MORRELL: Mr. President, having voted on the prevailing side, I now ask that we reconsider, and hope you will vote against me.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now moves that the Senate reconsider its action whereby it voted to adhere on L. D. 560.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I had hoped that the motion to Reconsider had been made, so that we could table this until later, so that the Chariman would be here, and would have a chance to continue his impassioned plea in favor of this bill, but I think probably that is not the case. Therefore, I will not ask for a Division.

A viva voce vote being had,

The Motion to reconsider does not prevail.

Communication

Committee on Transportation

June 21, 1977

To Members of the 108th Legislature of the State of Maine

In accordance with the Joint Order (S. P. 543), of the 107th Legislature, dated June 24, 1975 directing the Committee to study the condition and operation of the Maine State Ferry Service. I enclose herein the final report of the Committee.

Respectfully submitted,

Signed:

EDWIN H. GREELEY
Chairman
Committee on Transportation
(S. P. 563)

Which was Read and with accompanying papers. Ordered Placed on File.
Sent down for concurrence.

House of Representatives

June 20, 1977

The Honorable May M. Ross
Secretary of the Senate
108th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The House today voted to Adhere to its former action whereby it accepted the Minority "Ought Not to Pass" Report of the Committee on Judiciary on Bill "An Act to Establish Procedures to Record Judgment in Registry of Deeds to Create a Lien on Debtor's Real Estate" (H. P. 1203) (L. D. 1429)

Respectfully,
Signed: EDWIN H. PERT
Clerk of the House
Which was Read and Ordered Placed on File.

Senate Paper

Mr. Collins of Knox presented, Bill, "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S. P. 564)

(Approved by a Majority of the Legislative Council pursuant to Joint Rule 25.)

Which was Referred to the Committee on Judiciary and Ordered Printed.

Sent down forthwith for concurrence.

(Off Record Remarks)

Committee Reports House

Ought to Pass — As Amended

The Committee on Natural Resources on, Resolve, Authorizing the Exchange of Certain Public Reserved Lands with International Paper Company. (H. P. 1704) (L. D. 1879)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-706).

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

The Committee on Fisheries and Wildlife on, Bill, "An Act to Establish a Licensing Fee for Bow and Arrow Hunting and Fishing." (H. P. 1031) (L. D. 1278)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-704).

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 Transient Sales of Consumer Merchandise." (H. P. 218) (L. D. 282)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-710).

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

The Committee on Taxation on, Bill, "An Act Concerning the Farm and Open Space Tax Law." (H. P. 1408) (L. D. 1678)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-711).

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 and Resolve Read Once. Committee Amendments "A" were Read and Adopted, in concurrence, and the Bills and Resolve, as amended, Tomorrow Assigned for Second Reading.

The Committee on Human Resources on, Bill, "An Act to Reduce Traffic Accidents and Fatalities by Providing for the Establishment of Education and Treatment Programs for Persons Convicted of Operating under the Influence of Alcohol." (H. P. 1122) (L. D. 1340)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-719).

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

Which Report was Read and Accepted.

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

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

Mr. CONLEY: Mr. President, I would pose a question through the Chair to any Member of

the Committee, and ask them how this Bill parallels with Legislation that we now have on the statutes, that is, I believe that those who are brought to Court and are convicted of operating under the influence, that they are assessed an additional amount of money to go to a school dealing with education dealing with the problem of operating under the influence, and I wonder how this Bill here relates to that.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair.

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, this Bill changes the law a little bit and makes it more stricter. If the good Senator would read the Statement of Fact that in 1975, 50,000 motor vehicle accidents in Maine with 226 deaths resulting. 35 percent of all serious injury accidents are caused by persons who are legally intoxicated having blood alcohol content of .10 percent or more, over .10 percent.

Now actually the criminal penalties which has been the problem, the ineffectiveness of criminal penalties to deter the alcoholic driver results primarily from the alcoholics physical and physiological dependency on alcohol. Now this bill is going to insist that the person take a very — it is a fairly lengthy bill — that a person take direct courses under the supervision of the State Police, and also that through the Office of Alcohol and Drug Abuse Prevention shall prepare biannually for the Legislature a thorough evaluation of the driver education treatment programs established under Title 29, Section 1512. The evaluation shall include examination of the cost and the effectiveness, benefits, burdens, social impact and other relevant aspects of the program or programs. Any Legislative extensive modifications or discontinuations shall take into consideration the results of the evaluation.

Now there are three or four bills in, and as the Amendment, of course, on this bill also is rather lengthy, and the evaluation council treatment is considered or any other Class C or D or E criminal offense, the Court may determine at the time of the offense that the defendant was under the influence. The court may continue the case with a sentence of a maximum of 14 days. During this period the court may request and shall receive a pre-sentence report conducted by the alcoholism counselor trained and experienced in the prevention and treatment of alcohol abuse and so forth. Now there is three or four Bills in this Session on alcohol, and they all depend on the passage, as I understand it, of the increased taxes, .02 on a can of beer, .01 on a bottle of wine and .03 on hard liquor, which is going to bring in some \$2 million in the general fund, and that is to be earmarked for the alcoholism treatment, and so that the alcoholic when he goes out on the road he is going to be thoroughly trained and cured, hopefully, of his alcoholism, and then the second offense, it is even worse, and the third offense, well, he might as well call it quits.

I guess that about covers the main points of the Bill.

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

Mr. CONLEY: Mr. President, I wish to thank the good Senator from York, Senator Lovell, for his explanation of the document. I wish the Senate would take the opportunity of reviewing this Bill, because I think it is extremely important, and I call your attention to page 3 of the printed document, at the top of the paragraph, the fourth line down, it says at such time as the rehabilitation. Now that rehabilitation has been scratched out. Substituted for rehabilitation now is the word education, a sort of a catch all 22. It says an education program under the auspices of the Secretary of State. Now that is

scratched off, and it is now referred to the office of Alcoholism and Drug Abuse Prevention.

Well I had reservations two years ago when we passed legislation that was originally financed by ASAP, which was under a Federal Program, and that was when we got additional monies to put State Troopers out on the road, primarily and solely for the Maine program of taking people off the highways who were operating under the influence. Once that program expired, then those individuals who were running the ASAP program came to the State looking for revenues to continue the program. What was done was when they went to Court, they were found guilty of operating under the influence, they were fined \$150.00, and I believe there was a \$20.00 surtax or surcharge was mandated by the court that they take part in this particular program, and it cost them \$20.00 to do this.

Today we have before us something quite to the contrary, and what it is doing again is, like I say, it is my understanding that the Secretary of State Department would just as soon shuffle this off to Buffalo, and that is across the river to the office of ODAP. The thing that bothers me primarily is we talk about first chance, second chance, third chance. We talk about an increase of \$50.00 on each occasion.

Many people in this State know my concern for the problems of alcoholism, and probably everyone is aware of the fact that at one time I had that problem, and I used to frequent AA meetings around the State, and the greatest surprise that always came to anybody in that program used to be the guy that came through the door that was arrested the week before for operating under the influence. He would get you off in a corner and he would say how long do I have to come to AA before I can get my driver's license back? Well you know I could understand what the fellow was dealing with, because obviously it was a serious concern of his. He had a family to support and so forth, but his objectives were just going down the wrong road.

I look at this Bill here as going down the wrong road, because what we are saying if you look again at the bottom of page 3 under Section 5, which states "any person convicted of a second violation of this Section shall have his license or permit and privilege to operate a motor vehicle in this State suspended for a period of one year, provided that he may petition the Secretary of State for a license or permit after three months if he has paid a registration fee of \$50.00." Now again this to me, it is just another assumption that what we are trying to do is well excuse me, I notice that I am being flagged down over here, and has successfully completed a driver's education program conducted by the office of alcohol and drug abuse prevention. That still does not solve the problem as far as I am concerned.

I have not had an opportunity to really go into it, but as I look at page 4 and I see again Section 6, we start getting into a third violation with another \$50.00 fee, and I am just going to keep quiet and review the legislation.

I have grave concern, and I hate to see a bureaucracy being established for a purpose that, I believe an education program is needed, but I do not want to see one started that is just going to create another layer of bureaucracy.

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

Mr. LOVELL: Mr. President, just a few words. The idea of this Bill is to make it more restrict. Now, let's say one year, now if the person goes under the supervision of the school of the Secretary of State, under the supervision that he is declared after three months that he is cured of his alcoholism, and has not drunk, his job may be depending on driving his car, rather than waiting a year, then he for \$50.00 can take the test after three months.

Now this bill is not perfect, we do not claim

that. The Committee on Human Resources is actually for it. This bill had the backing of the department, several departments, and I think it is the best we can do, and I certainly hope that it is passed. Thank you.

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

Mr. COLLINS: Mr. President, I point out to the Senate, that the Bill is now found in the Committee Amendment, which I think leaves out most of the objectionable material mentioned by the Senator from Cumberland, Senator Conley. I share many of his concerns about this, and this Bill is much different than it started out to be.

The program that we had earlier in a Bill that related to a mandatory education program for those convicted of drunken driving, while it is related to this, it is not the same, because this is broader and relates to any kind of a crime that has an alcohol connection, where there is evidence that alcoholic problems are a part of the crime background, and I do not know a lot about this bill. It was not in my committee, but I think it has been restructured. There was some conferring between staff members of the different committees so as to try to avoid overlap and unnecessary duplications.

I do not guarantee that has been achieved, but I think that rather than throw this out, perhaps it would be better if we let it pass through First Reading and on closer look if there seem to be problems with it, why we could correct them.

Committee Amendment "A" Adopted.

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

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Provide for Tourism Promotion and Information Services." (H. P. 740) (L. D. 945)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-671).

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

The Committee on Health and Institutional Services on, Bill, "An Act Relating to the Term of Membership on the Board of Visitors for Mental Health and Corrections' Institutions and the Baxter School for the Deaf." (H. P. 148) (L. D. 178)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-721).

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 and Resolve, as amended, Tomorrow Assigned for Second Reading.

The Committee on Business Legislation on, Bill, "An Act Relating to Charitable Solicitations." (H. P. 1451) (L. D. 1736)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-690).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-740) thereto.

The Committee on Taxation on, Bill, "An Act to Increase the Exemption on Estates of Veterans." (H. P. 70) (L. D. 94)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-648).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-747) thereto.

Which Reports were Read and Accepted, in

concurrence and the Bills Read Once. Committee Amendments "A" were Read. House Amendments "A" to Committee Amendments "A" were Read and Adopted, in concurrence. Committee Amendments "A" as amended by House Amendments "A" thereto were Adopted, in concurrence and the Bills, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Election Laws on, Bill, "An Act Relating to Campaign Reports and Finances." (H. P. 1256) (L. D. 1444)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1739) (L. D. 1888)

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

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

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Resolve, Authorizing and Directing the Commissioner of Marine Resources, the Commissioner of Inland Fisheries and Wildlife and the Atlantic Sea Run Salmon Commission to Take the Steps Necessary to Assure the Construction of a Fishway on the Dam Obstructing the Kennebec River at Augusta. (H. P. 1267) (L. D. 1494)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-689).

Signed:

Senators:

REDMOND of Somerset
USHER of Cumberland
PRAY of Penobscot

Representatives:

MacEACHERN of Lincoln
ROLLINS of Dixfield
GILLIS of Calais
TOZIER of Unity
McKEAN of Limestone

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Representatives:

MILLS of Eastport
MASTERMAN of Milo
DOW of West Gardiner
PETERSON of Caribou
PEARSON of Old Town

Comes from the House, the Minority Report Read and Accepted and the Bill Passed to be Engrossed.

Which Reports were Read.

On Motion of Mr. Redmond of Somerset,

Minority Ought to Pass as amended Report accepted in concurrence.

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Clarify and Modify Causes for 7-Day Notice of Termination of Tenancy at Will." (H. P. 988) (L. D. 1199)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-536).

Signed:

Senators:

COLLINS of Knox
CURTIS of Penobscot
MANGAN of Androscoggin

Representatives:

GAUTHIER of Sanford
DEVOE of Orono
TARBELL of Bangor
SEWALL of Newcastle

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

Signed:

Representatives:

SPENCER of Standish
HUGHES of Auburn
HENDERSON of Bangor
HOBBINS of Saco
BENNETT of Caribou
NORRIS of Brewer

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-684) thereto.

Which Reports were Read.

Majority Ought to Pass as Amended Report Accepted in concurrence.

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

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act Relating to Private Visitation and Rehabilitation Process at Correctional Institutions." (H. P. 698) (L. D. 880)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-687).

Signed:

Representatives:

TRAFTON of Auburn
NELSON of Portland
BRENERMAN of Portland
GOODWIN of South Berwick
KANE of Augusta
KERRY of Old Orchard Beach
GILL of South Portland

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

Signed:

Senators:

SNOWE of Androscoggin
PRAY of Penobscot
GREELEY of Waldo

Representatives:

PRESCOTT of Hampden
TYNDALE of Kennebunkport
FOWLIE of Rockland

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

On Motion of Mr. Speers of Kennebec,

Tabled until later in Today's Session.

Pending acceptance of either Report.

(See Action Later Today)

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Provide for the Posting of Certain Common Dental Fees." (H. P. 1269) (L. D. 1497)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-686).

Signed:

Representatives:

TRAFTON of Auburn
BRENERMAN of Portland
GOODWIN of South Berwick
KANE of Augusta
KERRY of Old Orchard Beach
PRESCOTT of Hampden
FOWLIE of Rockland

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

Signed:

Senators:

SNOWE of Androscoggin
GREELEY of Waldo
PRAY of Penobscot

Representatives:

GILL of South Portland
NELSON of Portland
TYNDALE of Kennebunkport

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

Which Reports were Read.
Minority Ought Not to Pass Report Accepted in non-concurrence.
Sent down for concurrence.

Senate

Ought to Pass — As Amended

Mr. Pierce for the Committee on Business Legislation on, Bill, "An Act Relating to Secured Transactions under the Uniform Commercial Code." (S. P. 353) (L. D. 1361)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-291)

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

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Provide Home Health Care Coverage in all Health Care Policies and Contracts." (S. P. 341) (L. D. 1125)

Reported that the same Ought to Pass as amended by Committee Amendment "B" (S-292).

Signed:

Senator:

FARLEY of York

Representatives:

ALOUPIS of Bangor

BOUDREAU of Portland

CLARK of Freeport

WHITTEMORE of Skowhegan

KILCOYNE of Gardiner

JACKSON of Yarmouth

RIDEOUT of Mapleton

SPROWL of Hope

HOWE of South Portland

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-293).

Signed:

Senators:

PIERCE of Kennebec

CHAPMAN of Sagadahoc

Representative:

PEAKES of Dexter

Which Reports were Read.

On Motion of Mr. Pierce of Kennebec Majority Ought to Pass, as amended, Report Accepted.

The Bill Read Once. Committee Amendment "A" Read and Adopted.

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

Second Readers

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

House

Bill, "An Act to Redefine the Designation of Beneficiaries of Priority Social Services." (H. P. 570) (L. D. 694)

Bill, "An Act Relating to Training, Counseling and Managerial Service Programs in State Government." (H. P. 1547) (L. D. 1772)

Bill, "An Act to Improve the Effectiveness of the State's Development Financing Mechanisms." (H. P. 1727) (L. D. 1886)

RESOLVE, to Authorize the Maine Guarantee Authority to Issue a Payment in Lieu of Taxes to the Town of Pittsfield. (H. P. 1476) (L. D. 1709)

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

Bill, "An Act to Clarify Certain Statutory

Provisions for the Licensing of Camps, Eating and Lodging Places." (H. P. 1260) (L. D. 1489)

Which was Read a Second Time and Passed to be Engrossed, in non-concurrence.
Sent down for concurrence.

House — As Amended

Bill, "An Act to Repeal Certain Laws Relating to Local and County Government." (H. P. 1279) (L. D. 1510)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, Tabled One Legislative Day. Pending Passage to be engrossed.

Bill, "An Act to Terminate Administration of the Industrialized Housing Law." (H. P. 654) (L. D. 797)

Bill, "An Act to Provide for a Sales Tax Rebate for Machinery and Equipment Used in Commercial Fishing." (H. P. 1405) (L. D. 1614)

Bill, "An Act Concerning Standards for the Measurement of Wood and Providing for a Standard Contract for Use Between Paper Companies and Wood Suppliers." (H. P. 1337) (L. D. 1650)

Bill, "An Act to Eliminate Dissimilar and Inequitable Taxation of Mobile Homes Owned by Maine Home-owners." (H. P. 1401) (L. D. 1656)

Bill, "An Act Concerning an Exemption from the Real Estate Transfer Tax." (H. P. 390) (L. D. 479)

Bill, "An Act Relating to the Right of Public and Private Residential Care Facilities to Provide Special Education." (H. P. 610) (L. D. 747)

Bill, "An Act to Revise and Clarify Portions of the Workmen's Compensation Act." (H. P. 638) (L. D. 820)

Bill, "An Act to Establish a Maine Veterans Home." (H. P. 795) (L. D. 939)

Bill, "An Act Concerning Review of Corporate Certificates and Other Documents." (H. P. 679) (L. D. 941)

Bill, "An Act to Expand the Availability of Certain Social Services by Increasing Income Eligibility." (H. P. 1230) (L. D. 1475)

Bill, "An Act to Assist Municipalities in the Acquisition of Land or Interests in Land." (H. P. 1407) (L. D. 1565)

Bill, "An Act to Provide Legislative Oversight of Appropriated-Fund Transfers." (H. P. 1391) (L. D. 1618)

RESOLUTION, Proposing an Amendment to the Constitution to delegate Certain Budgetary Powers to a Joint Legislative Committee. (H. P. 1397) (L. D. 1658)

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

Bill, "An Act to Redefine "Wages" to Include Fringe Benefits." (H. P. 435) (L. D. 542)

Which was Read a Second Time.

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

Mr. MANGAN: Mr. President, in reference to L. D. 542, just a question through the Chair to anyone who may wish to answer relating to whether the redefinition of wages to include fringe benefits would have an inconsistent effect with Federal law insofar for say example the federal income tax returns would fringe benefits have to be included within the wages section as income or is this being taken care of through the bill.

The PRESIDENT: The Senator from Androscoggin, Senator Mangan has posed a question through the Chair to any Senator on the Labor Committee who cares to answer.

On Motion of Mr. Pray of Penobscot, Tabled until later in today's session, pending Passage to be Engrossed.

(See Action Later Today)

Bill, "An Act Relating to Approving and Financing School Construction." (Emergency) (H. P. 477) (L. D. 583)

Which was Read a Second Time.

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

Mr. KATZ: Mr. President and Members of the Senate: The House Amendment on this Bill needs some amendment so that in the event of a fire or an emergency, and it is necessary to lease temporary quarters, the State will not have to go through the whole routine of a life cycle energy study, and because of the fact that it is an Amendment to an Amendment to an Amendment, it is necessary to rewrite the whole thing, I guess.

So I move that the Senate reconsider its action whereby it 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 it the pleasure of the Senate? It is a vote.

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

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

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

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

Mr. KATZ: Mr. President; I now offer Senate Amendment "A" to Committee Amendment "A" (S-290), and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read and Adopted. Committee Amendment "A", as amended, Adopted in non-concurrence. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

Bill, "An Act to Amend the Statutes Relating to Airmobiles." (H. P. 527) (L. D. 657)

Which was Read a Second Time.

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

Bill, "An Act Concerning Solicitation by Law Enforcement Officers." (H. P. 547) (L. D. 664)

Which was Read a Second Time.

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

Mr. MANGAN: Mr. President, in regard to L. D. 664, I would request that this Bill be tabled for One Legislative Day, and I would like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Mr. MANGAN: Mr. President, being primarily a criminal lawyer, and being very well acquainted with most of the police officers in several counties, I received several requests, primarily from the Lewiston-Auburn area, one from the Auburn Police Benefit Association, stating that this Bill would prevent them from selling any kind of tickets to their own Policeman's Ball, and if they did have a Policeman's Ball, that they could not even sell tickets at the door to their own members coming in, and I can see the problems that had developed initially as far as the police are concerned, with the State Police earlier on running variety shows and what have you, and kind of requesting, and probably compromising police officers to some point or another, but I do not feel that it would be the intent of this Legislature to prevent police officers having a Policeman's Ball to actually raise some funds

for their own Benefit Association and what have you, and since I have basically debated this thing, I would request that someone table this matter for one day to eliminate this particular problem from this Bill.

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

Mr. PIERCE: Mr. President and Members of the Senate: Perhaps I could clarify for the good Senator what the Committee did on this matter, if he is not satisfied with my explanation, I have no objection to it being tabled so we could discuss it further.

Without addressing the other points in the Bill, and going specifically to the fact that an event such as a Policeman's Ball and so forth under the original major, they in fact would not be allowed to have such events. Under the Amendment under Filing H-678, what we have done is reach some sort of a compromise so that if a Policeman's Benevolent Association, for instance, wanted to sponsor Elvis Presley at the Civic Center, they could advertise that the Benevolent Association is sponsoring it. They could not sell tickets themselves, but they could be sold at the door, and by normal ticket outlets. If they wanted to have a Policeman's Ball whereby the proceeds did not go to the Benevolent Association, but went to the Pine Tree Camp for Crippled Children or charity or so forth, then under those circumstances they could sell the tickets themselves, and that is the difference between the two circumstances.

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

Mr. MANGAN: Mr. President, the issue I am raising here, I think, is basically that, I do not know about most municipalities, but I do know, for example, in Lewiston-Auburn, the Police Benefit Association is basically to provide some sort of benefit for a widow or for the children of slain police officers or this type of a thing, and police involved proceeds do go for that, and even with the Amendment, I think they would be prohibited from selling tickets which would benefit their own Association, and I have a problem with that, and I would like to see hopefully this thing tabled, and we could work this thing out.

On Motion of Mr. Speers of Kennebec.

Tabled until later in Today's Session, Pending Passage to be Engrossed.

(See Action Later Today)

Bill, "An Act to Require an Annual Adjustment in the Standards of Need for Families Receiving Aid to Dependent Children." (H. P. 1124) (L. D. 1342)

Which was Read a Second Time.

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

Mr. HUBER: Mr. President and Members of the Senate: This item, L. D. 1342 has by Amendment under H-653 become a considerably different Bill than the title indicates. The new title is "Resolve to Require the Department of Human Services to Provide the Legislature with Information Relating to the Determination of Need Under The Aid to Families with Dependent Children Program."

Basically the Bill, as amended, requires that, and I quote from the Bill, "for each year from 1969 to 1976 the Department of Human Services shall determine the cost and number of new cases under the aid to families with dependent children program, which could have resulted if the Department had used the same level of payment, but it also used the current years standard of need," etc. This would mean recalculation of roughly 280,000 AFDC cases for the seven year period. Much of this information, in fact, is not available.

The Department readily provides estimates of these costs and alternative costs, but I do not think we should require this by statute to recalculate, not only the existing information, but some information which no longer exists. I

think that this is unnecessary Legislation. The Department will provide estimates of this information and, in fact, cannot provide the information required by this law.

I, therefore, move indefinite postponement of this Bill and all accompanying papers.

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

Mr. CONLEY: Mr. President, may I inquire through the Secretary the history of this Bill?

The PRESIDENT: The Secretary will read the history.

History of Bill Read.

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

Mr. CONLEY: Mr. President and Members of the Senate: I would certainly be interested in hearing from the Committee on Human Resources in reference to this particular item. With the unanimous Committee Report, it seems to me there should be some explanation from a Member of that Committee.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question to the Chair to any Member of the Committee on Human Resources who may care to answer.

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Members of the Senate: I am wondering, I am not quite sure whether I was here when that Bill was heard, so I would suggest that until I can get my notes from the office, unless Senator Hichens was at the hearing, I almost think that I might have been in Florida at that time, I am not sure, but I cannot seem to place the bill. In fact, I did not realize the Bill was before the Committee on Human Resources, so I would ask somebody to table the Bill until I can check into it more thoroughly.

On Motion of Mr. Conley of Cumberland,

Tabled until later in Today's Session.

Pending the motion by Mr. Huber of Cumberland to Indefinitely Postpone the Bill and accompanying papers.

(See Action Later Today)

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

Mr. PRAY: Mr. President, in reference to L. D. 542 which I tabled until later in Today's Session, I wish to Move that we take it off the table at this time.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves the Senate remove from the Table L. D. 542. Is this the pleasure of the Senate. It is a vote.

The Chair recognizes the same Senator.

Mr. PRAY: Mr. President, to respond to the question by the Senator from Androscoggin, Senator Mangan, the Bill as it does what it does now establishes a list of priorities when a firm goes through insolvency or bankruptcy, that fringe benefits will be considered at the same priority as wages. Many of the firms that go through bankruptcy, wages come first, a number of other settlements are made and then fringe benefits are considered and this is to include fringe benefits along with those wages. It is a question of possibly being in conflict with tax laws. That may be true, and talking to several other individuals in reference to that, if that is the case, of course, Federal Law would prevail.

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

Bill, "An Act to Clarify the Authority of the Board of Registration in Medicine to Conduct Programs of Medical Education." (H. P. 1349) (L. D. 1621)

Which was Read a Second Time and Passed to be Engrossed, as amended, in non-concurrence.

Sent down for concurrence.

Senate

Bill, "An Act Concerning the Expiration of Motor Vehicle Inspection Stickers." (S. P. 329) (L. D. 1088)

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act to Provide for the Prevention of Alcohol Abuse." (S. P. 306) (L. D. 976)

Bill, "An Act to Clarify and Correct Laws Relating to Aeronautics." (S. P. 340) (L. D. 1154)

Bill, "An Act to Improve Public Access to State Agency Rules by Providing for their Publication in a State Register by the Secretary of State." (S. P. 415) (L. D. 1411)

Bill, "An Act to Create the Maine Administration Procedure Act." (S. P. 493) (L. D. 1768)

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

Sent down for concurrence.

Bill, "An Act to Amend the Child Abuse and Neglect Laws." (S. P. 337) (L. D. 1122)

Which was Read a Second Time.

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

Mr. SPEERS: Mr. President, in order to correct a conflict I present Senate Amendment "A" (S-297), and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now offers Senate Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read.

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

Mr. CONLEY: Mr. President, reading the Statement of Fact, I just want to congratulate the good Senator on the Bill that is in Second Reading so to becoming aware of this problem.

Senate Amendment "A" Adopted, and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

Bill, "An Act to Repeal Certain Laws Relating to Conservation." (S. P. 363) (L. D. 1224)

Which was Read a Second Time.

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

Mrs. CUMMINGS: Mr. President, I present Senate Amendment "A" (S-280) and move for its Adoption and would speak to my Motion.

The PRESIDENT: The Senator from Penobscot, Senator Cummings, now offers Senate Amendment "A" and moves its adoption.

Senate Amendment "A" Read.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate: This Amendment would allow the Vietnamese people of Maine to purchase resident licenses, which they are not presently allowed to do. These people should be accorded this privilege for the following reasons. They were expressly invited to resettle in Maine. They have resided here for the past two years with full intent to remain and become American citizens as soon as the Federal Law will permit them. In the meanwhile, they have become employed. They pay all the taxes required of them. They accept and discharge all responsibilities of a citizen and are solid, contributing members of our society. The Vietnamese population in Maine is now between 350 and 400. Several have obtained non-resident licenses, but the cost is prohibitive for most of them.

I assume many of you remember some of the newspaper reportings of some very bad treatment of some of the Vietnamese who are living in Augusta. I do not think that this is universal throughout the State, but this to my mind would

be a gesture of accepting them and then, of course, as the time comes when they are able to become citizens, then they would be considered either as the citizens of the State of Maine and pay that license, or else they would be considered non-residents. This has a time limit to it so that by the time they can become citizens then this would no longer hold true.

Senate Amendment "A" Adopted.

On Motion of Mt. Huber of Cumberland, Tabled for One Legislative Day pending passage to be engrossed.

Enactors

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

"An Act Creating the Maine Development Foundation." (H. P. 1012) (L. D. 1243)

On Motion of Mr. Huber of Cumberland; placed on Special Appropriation Table Pending Enactment.

"An Act to Promote the Sale of More Hunting License to Nonresidents Hunting Deer or Bear." (H. P. 1662) (L. D. 1858)

"An Act Amending the Maine Automobile Insurance Cancellation Control Act." (S. P. 118) (L. D. 277)

"An Act Providing for the Practice of Architecture through a Corporation or a Partnership." (S. P. 137) (L. D. 378)

"An Act to Clarify Physician Certification of Patient Deaths in Maine Nursing Homes." (S. P. 408) (L. D. 1416)

"An Act Concerning the Powers of Plantations under Land Use Regulation and Zoning Statutes." (S. P. 546) (L. D. 1881)

"An Act Granting Implied Powers to the Public Utilities Commission." (H. P. 295) (L. D. 352)

"An Act to Provide for 4-Year Terms of Office for Representatives, Governors and Lieutenant Governors of the Passamaquoddy Tribe of Indians." (H. P. 870) (L. D. 1063)

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

"An Act Relating to Motor Vehicle Fees Collected by the Public Utilities Commission." (S. P. 92) (L. D. 216)

On Motion of Mr. Carpenter of Aroostook, Tabled until later in today's session. Pending enactment.

"An Act Prohibiting the Dissemination of Obscene Matter to Minors." (S. P. 533) (L. D. 1861)

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

Mr. MERRILL: Mr. President and Members of the Senate: I just want to draw the Senate's attention to the fact that this is a Bill which has been debated here before which pertains to the selling of obscene matters to minors. It is not the Bill that pertains to the covering of the items in the store, and I think that it is an unworkable Bill and, therefore, I suppose not threatening to anyone in the sense of ultimate disposition, but I continue to believe that it is a Bill that is not going to accomplish the purpose which it sets out to accomplish, and I would simply ask for a Division when the vote is taken.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the passage of L. D. 1861 to be enacted, please rise in their places to be counted.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: 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 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 pending question before the Senate is Enactment of L. D. 1861.

A yes vote will be in favor of Enactment. A nay vote will be opposed.

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

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, McNally, Minkowsky, Morrell, O'Leary, Pierce, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

NAY — Merrill, Pray.

ABSENT — Hewes, Martin.

28 Senators having voted in the affirmative, and 2 Senators in the negative, with 2 Senators being absent, this Bill was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

"An Act to Provide for Local Registration of all Motor Vehicles." (H. P. 847) (L. D. 1038)

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

Mr. O'LEARY: Mr. President, would you please have the Secretary read the Committee Report?

The PRESIDENT: The Secretary will read the Committee report.

Committee Report Read.

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

Mr. O'LEARY: Mr. President, I was not in the Chamber when this Bill was debated, and I was not here to vote on it for its first two readings. However, I know there is a problem with it, and I know that the small towns cannot handle this local registration.

Therefore, I Move the indefinite postponement of this Bill and all its accompanying papers.

This Bill puts a burden on some of these towns, which I know they cannot perform when it comes to titles for new vehicles. I have had a problem within the last few weeks with a title, and I know just what kind of a problem it is, so I know they cannot handle it at the local level.

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

Mr. CONLEY: Mr. President and Members of the Senate: This Bill was debated at some length. The Secretary of State, it is my understanding, has withdrawn all of his objections to this bill.

This bill is simply enabling legislation that allows communities to get into the position of distributing license plates, and it seems to me to make good sense, and although we adopted a new program a couple of years back dealing with the stickers themselves that go on the plates whereby the community picks up an additional dollar for the work that it does at the time that it puts out the excise tax, and when they make out the excise tax they can also buy the sticker for the plate at the same time and the community then picks up an extra dollar. No community has to become involved in this program at all. It is strictly and simply enabling legislation to allow communities to do it if they so wish.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Oxford, Senator O'Leary, that this Bill, L. D. 1038, "An Act to Provide for Local Registration of all Motor Vehicles, be Indefinitely Postponed."

A viva voce vote being had, The motion to indefinitely postpone does not prevail.

On Motion of Mr. Greeley of Waldo, Placed on Special Highway Appropriations Table, pending enactment.

An Act Relating to Reporting of Data of Abortions Performed by an Attending Physician. (H. P. 1628) (L. D. 1831)

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

Mr. TROTZKY: Mr. President and Members of the Senate, I read this Legislation, L. D. 1831, and something bothers me on the end of the Legislation. It states very clearly, and I want you to listen to the wording here, "A physician who reports data on an abortion pursuant to this Section shall be immune from any criminal liability for that abortion under Title 17, Section 51."

Now, what we are saying here in this law is there is a presumption of criminal liability under Title 17, Section 51, — Presumption. If you are saying a physician will not be criminally liable under that Section, you are assuming that that Section is valid, and yet the District Court, the United States District Court in the District of Maine, three judges stated very clearly that the above mentioned abortion statute of the State of Maine is declared to be unconstitutional and void in its entirety, and that it is wholly unenforceable, and yet we are putting this on the Books today.

Now I am not an attorney, but to me this appears to be bad Legislative practice, and just directly the Legislature states it does not recognize that decision of the Courts. When we came into the Senate here each of us took an oath swearing to uphold the Constitution of the United States and of this State, and consequently I believe that this is poor Legislation and directly confronting the District Court decision.

Consequently, I would request a Division on Enactment, Mr. President.

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

Mr. MERRILL: Mr. President and Members of the Senate, just in way of clarification, I do not think passage of this Bill in any way suggests that the Maine Legislature thinks that what the District Court of the United States has said is unenforceable is enforceable, and although I was not in on the drafting of this Bill or this Amendment by the Judiciary Committee, I would assume that it is there simply as a safeguard measure so that if this reporting procedure were set up and the Supreme Court of the United States were to change its position, and the law which is presently on the Books were to become enforceable again, in part or in whole, that then the doctors who are meeting this other requirement, this filing requirement, would not be in a position of having to expose themselves to criminal liability.

So, I do not see that there is a major problem here. It is a rather unusual thing to have in the statute, but it certainly is not the statement by the Maine Legislature that it disagrees with the District Court.

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

Mr. HUBER: Mr. President and Members of the Senate, I simply would like to repeat that this Legislation would be unnecessary duplication of reporting already required under existing statutes, reporting of information which is largely useless.

For those who are totally anti-abortion, I would also like to point out that this Legislation contains the one explicit statement that abortion is legal in Maine.

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

Mr. MANGAN: Mr. President, I have spoken on this one previously in debate. Again it is my basic impression that information on abortions performed in the State of Maine are necessary, including those of miscarriages, for the providing of medical information which we do not have today. There is nothing specifically relating to abortion that is being reported by doctors. This is an area where we are grossly lacking. It is needed for medical study in research later on, and further insofar as the honorable Senator from the County of Penobscot, Senator Trotzky's statements that he was sworn to uphold the Constitution of both the United States and the State of Maine, this is precisely what he is doing if he is voting for this Bill, because it says that anyone who is reporting, as they should under this law, will not be violating the Constitution by having committed some sort of a crime.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is Enactment of L. D. 1831 an Act Relating to Reporting of Data of Abortions Performed by an Attending Physician.

A Division has been requested.

Will all those Senators in favor of the Enactment of L. D. 1831, please rise in their places to be counted.

Will all those Senators opposed to the Enactment of L. D. 1831, please rise in their places to be counted.

18 Senators having voted in the affirmative, and 8 Senators in the negative, this Bill is Passed to be Enacted, and will be signed by the President and presented by the Secretary to the Governor for his approval.

Emergency

"An Act to Allocate Moneys for the Administrative Expenses of the Bureau of Alcoholic Beverages, Department of Finance and Administration and the State Liquor Commission for the Fiscal Years Ending June 30, 1978 and June 30, 1979." (S. P. 104) (L. D. 233)

Emergency

"An Act to Define and Regulate the Operation of Mopeds." (H. P. 174) (L. D. 212)

These being emergency measures and having received the affirmative votes of 26 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, Authorizing Health Insurance Coverage for Fifteen Retired State Troopers. (S. P. 262) (L. D. 822)

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: Before we vote on this emergency L. D. 822, I would just like to make a couple of statements on the record. As you probably remember, this is the Bill that I accepted Leave to Withdraw earlier in the Session, and we resubmitted it about a week and a half ago here.

I just want to make it very clear on the record, for possible future reference, that this Bill is not the intention of this Legislature that this shall be construed to be a precedent for other retired State employees other than the 15 that are specifically mentioned in this Bill, or specifically referred to in this Bill. This is a case of what the Legislature feels to be an injustice where 15 quite elderly people were initially accepted back into the health plan and then rejected, and were left basically with no health insurance coverage. Now they, some of them, have been picked up on a variety of different programs, none of which are probably adequate for their advanced years, and this Bill has been gone over and approved by Commis-

sioner O'Sullivan in the Finance and Administration Department, and I just want to make it very clear that this not opening the door or should not be construed as precedent setting for other retired State employees, and I hope that you will vote for Enactment. Thank you.

This being an emergency measure and having received the affirmative votes of 23 members of the Senate, was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Bond Issue

"An Act to Authorize a Bond Issue in the Amount of \$10,000,000 for Energy Conservation Improvements for State-owned Buildings and Public School Buildings." (H. P. 166) (L. D. 1856)

On motion of Mr. Huber of Cumberland, Placed on Special Appropriations Table pending Enactment.

Orders of The Day

The President laid before the Senate:

House Report — from the Committee on Judiciary — Bill, "An Act Relating to Irreconcilable Marital Differences as Grounds for Divorce and Mental Illness as an Impediment to Divorce." (H. P. 1367) (L. D. 1596) Ought to Pass as Amended by Committee Amendment "A" (H-658)

Tabled — June 20, 1977 by Senator Huber of Cumberland

Pending — Motion of Senator Farley of York to Indefinitely Postpone Bill and Papers

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

Mr. CURTIS: Mr. President, I oppose the pending Motion for indefinite postponement of this Bill, and the reason is because we were presented with some testimony at the public hearing so significant that I think we ought to review very carefully and then decide to amend those laws which provide for grounds for divorce in the State of Maine.

The entire Bill is located now in the Amendment which is Filing No. H-658 and the key language, the whole language really, provides for this new ground for divorce, Mental Illness requiring confinement in a Mental Institution for at least seven consecutive years prior to the commencement of the action. Now those of us who have been in the Legislature for a few terms will recall that this Bill has been here before, and has been sponsored usually from the same section of the State, and as you might guess, there are probably very few people in the State of Maine who will be directly affected. As I understand it, the best estimate is about 10 people.

I would like to read to you from a letter that was written by one of those people, Mrs. Ethel L. Chapman from West Bethel, Maine. It says, "I am writing in hopes a Bill I am interested in will be presented. It is about a divorce from the mentally ill that have been in the State Hospital for a period of time and cannot be released from there. My husband has been there 18 years. I know it is not his fault, but no one else is to blame either. And 18 years is a long time. I feel sorry for him, as I would anybody, but I would like to have a chance to have a life of my own. As things are, it does not help anybody. It is like sacrificing one life for another."

I think the heart of this piece of Legislation is included in that letter, and it is a Bill which comes from the Judiciary Committee with a recommendation that it ought to pass as amended. The new provision for divorce is extremely strict. After all, it provides that the grounds would be available only for somebody who has been required to be confined in a mental institution for at least seven consecutive years without a break.

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

Mr. KATZ: Mr. President, this is not a new piece of Legislation. It has been before us many times before, but let me suggest to the Senate that this year it is a little different than it ever has been before.

When I first came into the Legislature we used to warehouse our people across the river in the Augusta Mental Health Institute. We used to call it, we went from the insane asylum to the Augusta Mental Health Institute, with a couple of other names in between, but now we treat our people. We do not cure them. We treat them, and they go back out into the community and they function. They function as human beings. They function as fathers and mothers, and husbands and wives, and maybe they can only function successfully for three months or six months at a time before they have to go back in for future treatment. This Bill deals with a very, very small group of people. They are people who are in there for seven consecutive years, and with the new approach to mental health treatment we are talking about people who just cannot function under ordinary human relationships.

It occurs to me I have voted against the Bill way back when we used to warehouse people, but because I think it is a different ball game today and our approach to mental health treatment is so completely different, I think this is a Bill that the Senate should support at this time.

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

Mr. HICHENS: Mr. President, I rise to support the Motion to indefinitely postpone this Bill.

I certainly sympathize with these 10 or 12 people who are so directly involved, but those are one of the things that come to us in life. Fortunately, I have not had to put up with it, or I do not think our Senators or maybe most of our Legislators have had to put up with it, and we know that the marriage vows have been drastically changed, drastically abused, but I believe everyone of us when we took that vow said that we would live in sickness or in health. This is a sickness, just as much as a physical sickness, and I know of people who have been burdened with a marriage where the partner has been crippled, hopelessly crippled in the home, have never been a marital partner as far as marriage is concerned, but yet the people involved have never thought of having a divorce on that account, and I believe that same stands on this case, and again as I sympathize with these 10 people, or more as it may be, I feel that this law is unnecessary and very discriminatory.

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

Mrs. CUMMINGS: Mr. President, I disagree with the previous speaker to the extent that I feel that his ideas and reactions to the marriage vows are, of course, the way they were intended to be, but I do not think that we should legislate one person's philosophy, one person's point of view for everyone else to live according to. They can make their own decisions.

In this particular instance, I think it is too bad to deprive children of the possibility of a new parent, and I think in this particular instance we are condemning a person to live alone and try to raise children alone, which is extremely difficult, and I would like to see this passed.

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

Mr. MANGAN: Mr. President and Members of the Senate: Everybody has their own frame of reference as far as marriages are concerned. I have mine. I think mine primarily agree with the Honorable Senator from the County of York, Senator Hichens.

However, I am an attorney, and I have done several divorces, and I feel that I cannot impose my moral backgrounds on those of others, and I have had the situation as an attorney where a

woman did come in to me and several years ago, five or six years ago, her husband did, it was a tough situation. There was a lot of pressure in her family. They had seven kids, and it was awful tough making ends meet and her husband put a gun to his head and he missed, but he did blow out quite a section of his brain, and he is pretty well considered a vegetable, and I had to refuse her the divorce on the grounds that she had no grounds for a divorce. Now she is destined to raise seven kids all by herself, and I think that there has to be some degree of equity that we must provide for this poor woman and give her at least a chance to make it, and I feel that this will provide that. We are not talking about these outpatient clinics. We are not talking about someone who has not had the problem for three, four or five years. We are talking about somebody who has been in an institution for seven consecutive years. I think that is pretty stringent, and I would urge you to vote against the motion to indefinitely postpone.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would just like to make an inquiry through the Chair to someone on the Judiciary Committee, or anyone else who feels that they can answer.

A few years ago when we passed a law allowing divorce on the grounds of irreconcilable differences, or grounds without fault or without the necessity to prove wrong-doing, that we had a requirement that there be counseling, and, of course, a person who is mentally ill could not participate in the counseling process in a meaningful way, and so that avenue is not available. But now, as I understand it, and I am not expert on the law that we passed to the extent of being sure of every exact provision, but as I understand it, we have passed, and I think the Governor has signed a law, which removes that requirement. And, if that is the case, then I wonder if there is any bar to a person now in these circumstances from having a divorce granted to them on the basis of irreconcilable differences.

The general bar which has existed as a matter of Court Law to getting a divorce from a person who was, to use the old word, insane, now mentally ill, was basically on the fault principle. In other words, because you had to get a divorce and by proving the other partner was guilty of some wrong-doing, the Court felt that because the person was mentally ill they could not be held accountable and, therefore, that would not be grounds for divorce. But irreconcilable differences, of course, is not based on the concept of fault, and it is my opinion, after reading the cases two years ago rather closely in which the Court has held that mental illness as a bar, that it would not pertain to irreconcilable differences if the counseling requirements did not get in the way, and I wonder if someone might respond to that, so that we could be clear when we vote on this issue as to whether or not there is now a means available to one who would get a divorce who is in these circumstances.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, has posed a question through the Chair.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I am not a learned authority in that field, but it would be my view, as I recall the Act that we passed earlier, that the present law would not be sufficient to permit divorce for mental illness.

The reason is that the law has always been very zealous in protecting the rights of those under disability. The mentally ill person is under disability, and I think that, of course, would be extremely reluctant to use their irreconcilable differences method as the basis for divorce.

There is one other feature of this Bill that I

think should be mentioned. The Bill contains a provision that when any action might be taken under this provision, that a guardian for that specific purpose would have to be appointed to represent the interests of the person who is mentally ill and has been confined for seven years or more. That guardian's duty would be to raise all possible issues against the divorce if it seemed that the divorce was not in the best interest of the mentally ill person, and with this sort of provision I feel that I can support this Bill.

I have had two cases involving inmates in the State Hospital for the mentally ill. One involved a case of more than 20 years of confinement, and the other, I think, was for the seven years, and in both of those cases when I talked with the psychiatrists at the hospital they advised me that they thought it would be in the best interest of the patient if the divorce were granted. The law of contract does provide, and we are talking about the law of contract, that there are circumstances in which the facts are drastically changed, drastically different from those contemplated in the original making of the contract when the matter may be reviewed and sometimes rescinded as a matter of equity, and I think this principle can be applied here with fairness to all, and I would urge you to vote on the pending motion.

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

Mr. DANTON: 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 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 Kennebec, Senator Levine.

Mr. LEVINE: Mr. President and Members of the Senate: This has been debated at length. I should like to add just one thing here. I am in perfect agreement with the Senator from Kennebec, Senator Katz. We are not dealing here with things that are being done the way they were in "the old days" when someone is institutionalized and kept there forever.

I think we have to understand what confinement for seven years means without a break. For all practical purposes, although the term itself, mental illness, means that there is a cure there, for all practical purposes a patient who has been confined without a break for seven years should be considered to be someone who very likely will never return to society, and I can well understand the problems of someone who would like to be divorced from this person in order that their children or that themselves may have a full and complete life, and let us remember the fact that these children. It is very difficult at best for a child to try to conceive of one of their parents having, for all practical purposes, an incurable mental illness. We are not speaking of someone who is injured in an auto accident and might not walk, someone who can at least be in the home and be a father or mother figure to them and perform a role function for them.

As I say for all practical purposes someone who is confined in this day and age to a mental institution for seven consecutive years very likely would be considered someone who is incurably mentally ill, and to my mind it is a very difficult situation at best for all members of the family concerned, even if a divorce should be granted and the spouse should be able to remarry.

Therefore, I would urge the Senate to vote against the motion to indefinitely postpone.

The PRESIDENT: The pending question before the Senate is the motion by the Senator

from York, Senator Farley, that this Bill L. D. 1596 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, Danton, Hichens, Minkowsky, O'Leary, Redmond.

NAY — Carpenter, Chapman, Collins, D.; Collins, S.; Cummings, Curtis, Greeley, Huber, Jackson, Katz, Levine, Lovell, Mangan, McNally, Merrill, Morrell, Pierce, Pray, Snowe, Speers, Trotzky, Usher, Wyman.

ABSENT — Farley, Hewes, Martin.

6 Senators having voted in the affirmative, and 23 Senators in the negative, with 3 Senators being absent, the Motion to indefinitely postpone does not prevail.

Ought to Pass as amended Report accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" Read and Adopted, in Concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate:

Bill, "An Act to Repeal Certain Laws Relating to Domestic Relations." (H. P. 1627) (L. D. 1830)

Tabled — June 20, 1977 by Senator Collins of Knox

Pending — Passage to be Engrossed

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

Mr. COLLINS: Mr. President, I move the Senate suspend its rules and reconsider its action whereby it adopted House Amendment "A" to L. D. 1830.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate reconsider its action whereby it adopted House Amendment "A" to L. D. 1830.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate reconsider its action whereby it adopted House Amendment "A" to L. D. 1830, under suspension of the rules. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I now offer Senate Amendment "A" (S-295) to House Amendment "A" and move its adoption.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read and Adopted. House Amendment "A", as amended, Adopted. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

The President laid before the Senate:

Resolution, Proposing an Amendment to the Constitution to Mandate the Appropriation of Funds for State Employee and Teacher Retirement Costs. (H. P. 2) (L. D. 2)

Tabled — June, 1977 by Senator Huber of Cumberland

Pending — Enactment

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

The President laid before the Senate:

Bill, "An Act Relating to Judicial Review of Public Utilities Commission Decisions." (H. P. 226) (L. D. 290)

Tabled — June 20, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mr. CONLEY: Mr. President, I move that this be tabled until later in Today's Session.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that L. D. 290 be tabled until later in Today's Session, pending passage to be Engrossed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I now withdraw my Motion.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now requests leave of the Senate to withdraw his Motion to table this item until later in Today's Session. Is it the pleasure of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, is the posture of the Bill at the present time that we have accepted the Bill and placed on it Senate Amendment "A"?

The PRESIDENT: The Chair would answer in the affirmative.

The Chair recognizes the same Senator.

Mr. MERRILL: Mr. President, I would now move reconsideration of our action whereby we adopted Senate Amendment "A" to this Bill, and would speak just briefly to my motion.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now moves the Senate reconsider its action whereby it adopted Senate Amendment "A" to L. D. 290. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I now offer Senate Amendment "A" to Senate Amendment "A" (S-299).

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now offers Senate Amendment "A" to Senate Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" to Senate Amendment "A" Read.

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

Mr. MERRILL: Mr. President, the Amendment that I am amending, the Amendment that was offered by the Senator from Penobscot, Senator Curtis the other day left the powers with the Supreme Court to issue a stay order in these cases where they are being taken from the PUC and appealed to the higher Court. This simply provides another alternative to the Court to the issuance of a stay order, and would allow the Court, when faced with these situations to continue to issue a stay order if they wish or with the thrust of Senator Curtis' proposal would remain, but also they would have the possibility, if they did not or if their later decision changed the amounts of money that would be required, either as a refund or as a surcharge to make up the difference, this Amendment would allow the Court to impose or to have the PUC impose such a surcharge or refund.

It is my understanding that this Amendment is supported by both sides in this dispute and would hope the Senate would adopt it as in essence a friendly Amendment to the Senate Amendment of Senator Curtis.

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

Mr. CURTIS: Mr. President, I have spent some time analyzing the Senate Amendment "A" (S-288), and find now that we are not dealing with that Amendment which was previously distributed by the Senator from Cumberland, Senator Merrill, so I have not had a chance to really look at (S-299), but I am now, and I heard the Senator say that this Amendment, if adopted, would give the Law Court the possibility of providing for a surcharge or rebate, and if I read the Amendment correctly, I read the language shall, so that the first sentence, for example, reads if the Law Court finds in an

appeal from a Commission order or ruling that any rates, tolls, charges or joint rates approved by the Commission were just and reasonable as defined by Sections 51 and 52, it shall direct the Commission to provide for a surcharge to be applied equitably to all rate payers.

One of my concerns about the previously distributed Amendment and the language seems to be the same in S-299 is that there is a little leeway provided to the Law Court for determining whether or not there should be a surcharge provided. It seems to be an automatic situation. Once the Law Court determines that the Commission Order as approved by the Commission was not just and reasonable, then automatically there would be a surcharge or a rebate.

I heard the Argument made that both sides in this situation approved this Amendment, and I have heard the same comment in the hallway, but there is another side that is not very well represented some times on the third floor of the State House, and that is the ratepayers, the consumers, the people who are going to have to pay the surcharge if it is indeed applied, and I guess I would have some concerns about the length of time over which the surcharge might be collected, the beginning point at which it would be ordered, and some problems regarding what happens if one of the ratepayers moves out of state, this happens quite frequently in the town that I come from, and what will happen to the money which is either to be paid back as a rebate or collected as a surcharge if the ratepayer who had been in residence is no longer locatable.

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

Mr. MERRILL: Mr. President and Members of the Senate, the Senator from Penobscot's concern for the ratepayer is laudable and I would hope that his concern on reflection would lead him to support this Amendment.

When I said that this Amendment added new discretion to the Court, what I meant to say, and let me make it clear now, if I can, is that the Court now faced, let us say, with an order of the Public Utilities Commission to reduce the rates of a utility, faced with that decision, really is faced with a dilemma, because if they do not order a stay in that situation, they do not have the powers later on to deal with the problem in terms of the loss that would be to the utility if the decision were made the other way.

In a similar circumstance, of course, if it were an increase that the utility was asking for, and the PUC granted, and one of the ratepayers brought the appeal to the Court, the Court is faced with a similar dilemma. Even recognizing that in most instances that it ultimately agrees with the Public Utilities Commission, it is faced with the dilemma of having to put on the stay and not having any remedy should their decision be contrary to what the PUC wants to do.

Now the Court when faced with this situation would know that it could continue to issue the stay, as it presently has the power to do, and as Senator Curtis' Amendment leaves them the power to do, or if it did not want to do that, they would know that on their final determination, assuming they made a different decision than the Public Utilities Commission, they would have a way to make amends, either to the ratepayer or to the utility, depending on who is the beneficiary of the review.

Now the reason that there is no discretion once the decision has been made by the Court is in its original form I had the word made there is that people who are very adamant on the side of consumers and people whose job it is to represent the utilities both agree that in that situation that there should not be discretion on the part of the Court, but that the Court should be required to, in essence, make good on the monies that were due over the period of the appeal.

The only difference between this Amendment and the Amendment that was placed on everyone's desk yesterday is that there is now a definition of the effective date. An effective date is the period to which the rebate or surcharge has to correct back to, and this Amendment would have that be corrected back to, in essence, the time when the Public Utilities Commission issued its decision, and the new rate would have gone into effect but for the appeal to the higher Court. So I think that the Amendment just adds a new power to the Court, and one which I do not think either the consumers or public utilities ought to be concerned about.

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

Mr. COLLINS: Mr. President, the Senate will recall that I was in opposition to positions of the Senator from Cumberland, Senator Merrill, and the Senator from Penobscot, Senator Curtis, the other day when we debated this. I have accepted defeat as to my position, which was to keep the status quo, and I think that both Senators are to be commended in their interest in trying to preserve the best features of the Law Court's participation in the process. While I would like to have the Court stronger, I think that this is a constructive move. I would be happy with either the word shall or the word may in the Amendment proposed by Senator Merrill.

In discussing this with those in the lobby who have had more experience than I in utility regulations and in representation of intervenors who are in opposition to rates, I find surprising acceptance of this position and, therefore, I would support both the Amendment by Senator Curtis and the Amendment by Senator Merrill.

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

Mr. CURTIS: Mr. President, I appreciate the changes which have been made and the description of them by the sponsor of the Amendment to the Amendment. I think that we are going to see this Legislation in the future.

There was, of course, no public hearing on this concept of a surcharge or a rebate. I foresee some terrific accounting problems, and some terrific problems in trying to locate people in order to either bill them or pay them back what they may have been overcharged, and I think that the customers who budget their utility bills so very closely, and there are some in this State who do that, are going to be most concerned with the way the Public Utilities Commission carries out its mandate here to establish rules and regulations. The provision in the Amendment gives great powers to the PUC to supervise the collection and assessment of surcharges and payment of refunds, and I certainly hope that as they may do that, they do it in a reasonable fashion. It would seem to me that given the support from the two sides that are represented on the third floor of the State House that this Amendment will be adopted. I would predict however, that we will see a good deal more of this particular problem and the matter will be brought back to us probably for additional solutions in the future.

Senate Amendment "A" to Senate Amendment "A" Adopted. Senate Amendment "A", as amended. Adopted and the Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

The President laid before the Senate: Bill, "An Act Concerning the Fees for Filing Municipal Tax Liens." (Emergency) (H. P. 1724) (L. D. 1884)

Tabled — June 20, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mr. O'LEARY: Mr. President, I present

Senate Amendment "A" (S-298) and move its passage.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" Read.

On Motion of Mr. Jackson of Cumberland, Tabled until later in Today's Session pending adoption of Senate Amendment "A".

The President laid before the Senate:

Bill, "An Act to Revise the Maine Tort Claims Act." (Emergency) (H. P. 1689) (L. D. 1874)

Tabled — June 20, 1977 by Senator Collins of Knox

Pending — Passage to be Engrossed

On Motion of Mr. Collins of Knox,

Retabled until later in today's session.

The President laid before the Senate:

House Reports — from the Committee on Labor — Bill, "An Act Permitting Binding Arbitration for Public Employees in Critical Public Services." (H. P. 1317) (L. D. 1553) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass

Tabled — June 20, 1977 by Senator Speers of Kennebec

Pending — Acceptance of Either Report

On Motion of Mr. Speers of Kennebec,

Retabled One Legislative Day.

The President laid before the Senate:

House Reports — from the Committee on Labor — Bill, "An Act to extend the Exemption for Certain Individuals Engaged in Fishing from Coverage Under the Employment Security and Workmen's Compensation Laws." (H. P. 198) (L. D. 259) (Emergency) Report "A" — Ought Not to Pass; Report "B" — Ought to Pass as Amended by Committee Amendment "A" (H-673)

Tabled — June 20, 1977 by Senator Redmond of Somerset

Pending — Motion of Senator Pray of Penobscot to Accept Report "A"

On Motion of Mr. Speers of Kennebec,

Retabled One Legislative Day.

The President laid before the Senate:

Bill, "An Act Relating to Private Visitation and Rehabilitation Process at Correctional Institutions." (H. P. 698) (L. D. 880)

On Motion of Mr. Speers of Kennebec, Retabled until later in today's session.

(See Action Later Today)

(Off Record Remarks)

The President laid before the Senate:

Bill, "An Act Concerning Solicitation by Law Enforcement Officers." (H. P. 547) (L. D. 664)

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

Mr. PIERCE: Mr. President and Members of the Senate: I would like to clarify for the record exactly the question which was brought to the attention of the Senate by Senator Mangan, and that is when policemen have certain events such as their annual ball and so forth how they can be involved in it, and it is with the Amendment they can run any event for their Benevolent Association but not solicit directly. In other words, if they want to put on an event which benefits their Benevolent Association, they have to sell tickets at the door, although they can advertise through newspapers or through ordinary ticket outlet stores downtown and so forth. If they want to have another type ball where they are running it for charity, they themselves can sell the tickets directly, and that is the difference between the present law and the Bill as presented in the amended form.

If anybody has any further questions I would be happy to clarify them.

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

Mr. MANGAN: Mr. President and Members of the Senate: I have also been given to understand that the wives of police officers can sell tickets to the ball for the Policemen Benefit Association, and that these police officers may sell at the door since they are not officially soliciting.

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

Mr. MERRILL: Mr. President, as I understand this Legislation as presently written, it does not apply to District Attorneys and their helpers, and, you know, if the intent here is that we are going to try to isolate everyone from being able to raise money to be in a position to use his situation to subtly coerce or where the impression subtle coercion may be created, we are starting down a road if we are going to be consistent that is going to have us limiting the activities of a great number of individuals, and I do not think there is anyone who is familiar with the enforcement of our laws who would argue that a District Attorney, for example, does not have great discretion as does a police officer, which raises problems, I suppose, with his collecting funds. I am not suggesting that they ought to be prohibited from doing so, but it does seem to me to be a little bit of an unfair distinction to say that the police officer will not be allowed to because of this possible coercion, and to say that the District Attorney will be allowed to.

I wonder if this problem was addressed by the Business Legislation Committee.

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

Mr. PIERCE: Mr. President and Members of the Senate: The question was addressed, and I think the distinguishing factor why District Attorneys, Sheriffs and so forth do not come under certain aspects of this Bill is because they are elected officials, whereas policemen and so forth are not, so as pertaining to Section 3703 of the Bill nothing in this chapter shall prevent any person from soliciting funds to pay obligations incurred or about to be incurred in the furtherance of or as a result of the campaign by a law enforcement officer for a public office, and that is the difference.

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

(Off Record Remarks)

There being no objection, all matters previously acted upon were ordered sent forthwith.

On Motion of Mr. Huber of Cumberland, Recessed until 3:30 this afternoon.

(Recess)

(After Recess)

Senate called to order by the President.

(Off Record Remarks)

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

Non-concurrent Matter

Bill, "An Act to Amend the Powers and Duties of the Maine Committee on Aging." (H. P. 229) (L. D. 292)

In the House June 17, 1977 Passed to be Engrossed as amended by House Amendment "A" (H-701).

In the Senate June 20, 1977 Minority '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.

On motion of Mr. Collins of Aroostook, the Senate voted to insist and join in a Committee of Conference.

Papers from the House

Joint Orders

Expressions of Legislative Sentiment recognizing that: William R. Wilson, an educator of Stonington, has entered retirement after 42 years of service in the teaching profession. (H. P. 1742)

The Portland High School Varsity Baseball Team has won the State Class A Baseball Championship for the second consecutive year. (H. P. 1743)

Mrs. Adeline Dexter, of Bethel, has received the Senior Citizenship award from the Greater Bethel Chamber of Commerce for her continuing active work in the community. (H. P. 1745)

Kimberly Kay Whitten of Andover, has been recognized for her outstanding academic record by being chosen Salutatorian of Telstar Regional High School. (H. P. 1746)

Dr. Sidney W. Davidson has received an award from the Greater Bethel Chamber of Commerce for his work as a trustee of Gould Academy and for his help in establishing the Moses Mason House. (H. P. 1747)

Thomas Lowell Wight, of Newry, has been recognized for his outstanding academic record by being chosen Valedictorian of Telstar Regional High School. (H. P. 1748)

Come from the House, Read and Passed.

Which were Read and Passed in concurrence.

Joint Resolution

A Joint Resolution in Memory of: Thomas A. Martin of Brunswick. (H. P. 1744)

Comes from the House, Read and Adopted.

Which was Read and Adopted, in concurrence.

Orders

On motion of Mr. Lovell of York, ORDERED, the House concurring, that Bill, "An Act to Exempt Property under Construction from Real Property Taxation," House Paper 1327, Legislative Document 1554, be recalled from the Legislative Files to the Senate. (S. P. 565)

Which was Read.

On Motion of Mr. Speers of Kennebec, Tabled One Legislative Day, pending passage.

Committee Reports

House

Ought to Pass — As Amended

The Committee on Judiciary on, Bill, "An Act Concerning Debtor's Property Exemptions from Attachment and Bankruptcy Proceedings." (H. P. 1361) (L. D. 1677)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-657).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-739) thereto.

Which Report was Read and Accepted, in concurrence.

The Bill Read Once. Committee Amendment "A" Read, House Amendment "A" Read and Adopted in concurrence.

Committee Amendment "A", as amended, adopted, in concurrence.

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

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Revise the Maine Tax Structure." (Emergency) (H. P. 732) (L. D. 971)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington
MARTIN of Aroostook
JACKSON of Cumberland

Representatives:

MAXWELL of Jay
TWITCHELL of Norway
CAREY of Waterville
COX of Brewer
TEAGUE of Fairfield
POST of Owls Head
CHONKO of Topsham

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-745).

Signed:

Representatives:

CARTER of Bangor
MACKEL of Wells
IMMONEN of West Paris

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

Majority Ought Not to Pass Report Read and Accepted in concurrence.

Orders of the Day

The President laid before the Senate:

Bill, "An Act to Require an Annual Adjustment in the Standards of Need for Families Receiving Aid to Dependent Children." (H. P. 1124) (L. D. 1342)

Tabled — Earlier in the Day by Senator Conley of Cumberland

Pending — Motion of Senator Huber of Cumberland to Indefinitely Postpone Bill and Papers

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

Mr. LOVELL: Mr. President and Members of the Senate: After getting my notes on this material, I find that the Amendment which is H-653 rewrites the entire Bill and is now a Resolve, and this Resolve is for the Department of Human Resources to take up the budget, market budget in Portland, Maine, which is the City that the Department of Labor of Washington designated as the rateable city or community for the State of Maine for the AFDC benefits, and it suggested to their work there.

Now actually they have not done any total market budget in Portland since 1967, and this Resolve does not cost anything, but this Resolve is asking that yearly the ADC benefits be adjusted, and that after they are adjusted to the amount that is in the fund, then that amount is divided up equally among the ADC beneficiaries. Actually the first, well they will have to report to the Joint Standing Committee on Human Resources for the first time January 15, 1978. Now in other words, it was felt by the Committee that the Department of Human Resources should study the cost of living in Maine and actually decide whether or not the amount that the ADC benefits were or the amount of money they have, if it should be divided in the manner which has been suggested.

So I think that the Bill as a whole will upgrade and update the ADC program, and in many cases it will eliminate and in some cases it may increase the number of ADC beneficiaries. So I would hope that the Senate would go along with the unanimous report of the Committee.

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

Mr. HUBER: Mr. President and Members of the Senate: This Bill, as I said this morning, would require the recomputation of roughly 40,000 cases a year above actual ADC cases, and some that did not qualify when they applied for the program. This would be for each year, and this information would be required for a seven year period, or roughly in the neighborhood of 280,000 recalculated cases.

The fact is the Commissioner does not have information on those people who did not qualify. He cannot reconstitute or remake this information. The Commissioner tells me that there is

absolutely no way that he can accomplish the specific requirements of this Bill.

He further states that he would be glad to supply estimates as accurate as he can make them, but there simply is no way that the requirements of this Bill can be satisfied, and could they be satisfied it would be an enormous job to do this.

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

Mr. CONLEY: Mr. President, I want to commend the good Senator from York, Senator Lovell, for his explanation of this very simple Resolve.

It is really a question as to who is running the Legislature again, whether it is the Legislature or whether it is the bureaucrats. Now I think if everyone just looked at the redraft of the Bill, which as the good Senator from York, Senator Lovell, has stated, is H-653 — very simple, simple Amendment. It takes no time at all to read, and so that no one will have to strain themselves, I would be very happy to do it for you. It says Resolve to Require the Department of Human Services to Provide the Legislature with information relating to the determination of needs under the Aid to the Families with Dependent Children Program, and then said further Resolved that for each year from 1969 to 1976, the Department of Human Services shall determine the cost and the number of new cases under the Aid to Families with Dependent Children program which could have resulted if the Department had used the same level of payment, and it also used the current year standard of need, based on the cost of living statistics of the United States Department of Labor, and be it further Resolved that the Department shall study all terms as for funding the cause of using a more recent standard of need figure for determining benefits under the Aid to Families with Dependent Children program.

Now I ask you, is that asking the Department of Human Services for too much. The last I knew, the program, AFDC, whether we like it or whether we do not, the fact is it is a Federal program that the State supports it, and if we did not support it our welfare benefits on the local level would just be insurmountable. Now the last I heard was that the standard of needs figures as to what these people were being paid on under AFDC was 80 percent of the figure of 1976. Excuse me, we will just strike that from the record. I am not absolutely sure on that. I am sure the good Senator from Cumberland, Senator Huber, in the budget hearings that he has been holding, would be more familiar with that. It is an outright disgrace.

All this is is a simple Resolve and is not going to cost penny one to the State, and it provides the necessary information for us to more intelligently be able to arrive at what way we should be heading as far as funding these programs as far as money is concerned. I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I have had very good working relationship with the present Commissioner of Human Services, and it bothers me a little that he did not come to the Committee or to the Committee Chairman, at least, and express his concerns over this.

As I remember the hearing on the Bill, which was somewhat different than the Amendment, in which these people who are receiving aid asked for some sort of an increase and this does not. It just evaluates the need as compared to the standards of the State at the time in which it was reviewed, that the Commissioner was not there or did not have anyone else there to oppose this Bill. Then we get this opposition through one of the other Members of our Senate, and that bothers me somewhat.

I agree with the good Senator from Cumberland that this would be worth a try, and I do not see that it would be that hardship on the Department, or an expense for the State of Maine to implement.

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 L. D. 1342 and all its accompanying papers be indefinitely postponed.

A Division has been requested.

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

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

7 Senators having voted in the affirmative, and 20 Senators in the negative, the motion to indefinitely postpone does not prevail.

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

The President laid before the Senate:

Bill, "An Act Relating to Motor Vehicle Fees Collected by the Public Utilities Commission." (S. P. 92) (L. D. 216)

Tabled — Earlier in the Day by Senator Carpenter of Aroostook

Pending — Enactment

On Motion of Mr. Speers of Kennebec, Retabled One Legislative Day.

The President laid before the Senate:

Bill, "An Act Concerning the Fees for Filing Municipal Tax Liens." (Emergency) (H. P. 1724) (L. D. 1884)

Tabled — Earlier in the Day by Senator Jackson of Cumberland

Pending — Adoption of Senate Amendment "A" (S-298)

Senate Amendment "A" Adopted.

The Bill, Passed to be Engrossed, as amended, in non-concurrence, without Reference to Committee.

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act to Revise the Maine Tort Claims Act." (Emergency) (H. P. 1680) (L. D. 1874)

Tabled — Earlier in the Day by Senator Collins of Knox

Pending — Passage to be Engrossed.

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

Mr. PIERCE: Mr. President, I would move that we reconsider our action whereby Senate Amendment "A" failed of adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now moves the Senate reconsider its action whereby Senate Amendment "A" failed of adoption.

The Chair recognizes the Senator from Knox, Senator Collins.

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

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that this item be tabled for One Legislative Day, pending the motion of the Senator from Kennebec, Senator Speers.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

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

The PRESIDENT: A Roll Call has been requested on the Tabling Motion. 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 Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, so as to refresh the memory of the Senate, I now request that the Legislative history of this Bill again be read.

History of the Bill read.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator Collins, that this Bill, L. D. 1874, be Tabled for One Legislative Day, pending the Motion of the Senator from Kennebec, Senator Pierce, that the Senate reconsider its action.

A yes vote will be in favor of tabling for One Legislative Day. 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.; Curtis, Greeley, Hichens, Huber, Jackson, Katz, Lovell, McNally, Morrell, Pierce, Pray, Redmond.

NAY — Carpenter, Conley, Cummings, Danton, Farley, Levine, Mangan, Merrill, Minkowsky, O'Leary.

ABSENT — Hewes, Martin.

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

Mr. CONLEY: Mr. President, I move the Senate stand adjourned until 9:30 tomorrow morning.

The PRESIDENT: For the Senate's edification, the Chair would quote from Mason's Legislative Manual, Section 202, when a Motion to Adjourn is in order, and under Item 1 (a) it is not in order during the taking or verification of a vote.

The Secretary will proceed with calling the Roll.

YEA — Snowe, Speers, Trotzky, Wyman.

NAY — Usher.

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

Mr. PRAY: Mr. President, I wish to switch my vote from yea to nay.

The PRESIDENT: The Senator from Penobscot, Senator Pray, changes his vote from yea to nay.

18 Senators having voted in the affirmative, and 12 Senators in the negative, with 2 Senators being absent, the Motion to table this Item for One Legislative Day does prevail.

The President laid before the Senate:

House Reports — from the Committee on Health and Institutional Services Bill, "An Act Relating to Private Visitation and Rehabilitation Process at Correctional Institutions." (H. P. 698) (L. D. 880) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-687); Minority Report — Ought Not 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 Androscoggin, Senator Snowe.

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

The PRESIDENT: The Senator from Androscoggin, Senator Snowe, now moves the Senate Accept the Minority Ought Not to Pass Report of the Committee.

The Senator has the Floor.

Mrs. SNOWE: Mr. President and Members of the Senate: This Bill would extend the privilege of private visitations as well as conjugal visits between husband and wife at the Prison and also at the Correctional Center. The Bill also requires that this kind of visit can take place once every eight weeks for three hours minimum. The privilege would only be extended to those prisoners who are non-eligible for furloughs at this time.

I oppose this legislation because I do not believe the Legislature should adopt this kind of philosophy and policy for our penal system. The question this Bill obviously raises is what kind of privileges should be extended to a person once they are incarcerated for committing a crime. As it stands now the Department's present furlough policy is surprisingly liberal. I think we would be amazed to know how soon after a person is imprisoned he may be released on a furlough. Currently 77 percent of the prisoners are eligible for the furlough program. A prisoner only has to serve one-third of his term before he becomes eligible for a furlough, and, in addition, a prisoner may be eligible for an escorted furlough no sooner than six months prior to their standard furlough eligibility date. Also, the Warden may elect to grant under unusual circumstances special furloughs for deserving inmates independent of the usual furlough eligibility criteria.

I recognize the humanistic viewpoint attached to this Legislation; however, I guess at some point we must draw the line. Prisoners are there to pay for a crime committed. Last year there were over 2,000 furloughs permitted at the prison. It seems to me that furlough program is an affective rehabilitative tool and serves to strengthen family ties so the person is able to maintain a link with society until he can be released.

The Maine State Prison sponsors a number of family affairs, such as picnics, suppers, and church services, so it does give the inmates an opportunity to spend some time with family and friends. I might also mention that neither institution has adequate facilities and that problem would have to be addressed if this Legislation were to pass.

Therefore, I urge the support of Minority Ought Not to Pass Report.

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

Mr. PRAY: Mr. President and Members of the Senate: I was a signer of the Minority Ought Not to Pass Report, as were all of the Senators on that Committee, but I am going to oppose the motion made by the good Senator from Androscoggin, Senator Snowe, out of courtesy to allow the Senator from Penobscot, Senator Curtis, to offer an Amendment which he has for the Majority Ought to Pass Report, and I would like to see that Amendment considered, so I would wish that the Members of this Body would, at this time, defeat the pending motion so that the Minority Report could be adopted, and the Senator from Penobscot could have the opportunity to offer his Amendment.

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

Mr. CURTIS: Mr. President, the Amendment which was just mentioned is at the printers right now and should be available and distributed shortly, but because you do not now have an opportunity to look at it I would like to say that it does address some of the questions which were raised by the Chairman of the Committee which reported the Bill, and it would provide that the private visitations would be limited to inmates who are not participating in a furlough or a work release program, and would be provided once every two months rather than once per month, and there are some other provisions in the Amendment that I think are interesting and it would be helpful to the rehabilitation process.

I would hope that the Senate would defeat the pending motion so that this Bill can remain alive for Amendment.

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

Mrs. SNOWE: Mr. President, I again would urge the acceptance of the Minority Ought Not to Pass Report. The Committee on Health and Institutional Services gave this lengthy consideration, and all aspects were considered, and

if this was the approach that should have been taken originally then that is what should have been done.

Therefore, I would ask for a Division.

The PRESIDENT: A Division has been requested.

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

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President, I have had an inquiry already about the Amendment, and one other thing that the Amendment would do would be to eliminate the provision regarding conjugal visits, and restrict them simply to private visits, and I think you will find it interesting and I think a very helpful Amendment if we have an opportunity to discuss it.

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

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

Mr. PRAY: Mr. President and Members of the Senate: I would like to have the record show clearly that the intention of some individuals in this Body to vote against the pending motion is so that an Amendment can be considered. As an individual who personally has been very much a hard-liner on cases such as this, I would not want any misinterpretation.

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

Mr. CONLEY: Mr. President, I would like to make it clear that I do not want any misunderstanding. I do not care whether there is an Amendment offered or not. If this Senate was aware of the amount of homosexuality taking place in our State Prison and our County Jails across this State, it would support this Bill in a minute.

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

Mr. FARLEY: Mr. President and Members of the Senate: For the record, the Bill in its present form I would not support. However, I will vote against the pending Motion to hopefully take a look at the Amendment.

The PRESIDENT: Is the Senate ready for the question?

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

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, Ladies and Gentlemen of the Senate. I had not expected to speak on this Bill, but this Bill was before Senator Hichens from York and myself two years ago on the Committee on Health and Institutional Services, and we defeated the Bill, feeling that it was not with the capacity at Thomaston of 400 and with the capacity of the other prisons at the full extent, that no matter what the Amendment might be, there just is not rooms enough for all the people to go in there and visit privately.

Now we say that the Amendment that is going to be put on, they are going to have a telephoto lens to look down on the man and woman in the room so that they cannot get away with anything. But on the other hand this woman coming in, unless she is very carefully

searched, I am sure could bring in heroin on some part of her body that might not be suspicious, and that she would get drugs into the prison, so I do not think that they should — they are giving furloughs to the prisoners. I think I might want to go along with the good Senator from Androscoggin, Senator Snowe, on this Bill.

The PRESIDENT: Is the Senate ready for the question?

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

The doorkeepers will secure the Chamber.

The Secretary will Call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Collins, S.; Cummings, Danton, Farley, Greeley, Hichens, Huber, Jackson, Lovell, Mangan, McNally, Minkowsky, Morrell, O'Leary, Pierce, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

NAY — Conley, Curtis, Katz, Levine, Pray.

ABSENT — Hewes, Martin, Merrill.

24 Senators having voted in the affirmative, and 5 Senators in the negative, with 3 Senators being absent, the Motion to Accept the Minority Ought Not to Pass Report does prevail.

Bill Recalled.

Bill, "An Act Establishing the Maine Small Business Loan Authority." (H. P. 1004) (L. D. 1244)

Recalled from the Governor's Office per Joint Order (S. P. 562)

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

Mr. HUBER: Mr. President, under suspension of the rules, I move that the Senate reconsider its action whereby this Bill was Passed to be Enacted.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves the Senate suspend its rules and reconsider its action whereby L. D. 1244 was Passed to be Enacted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I pose a question to the good Senator as for what reason does he want to suspend the rules.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: In a flurry of enactors from the House, both the Legislative Finance Office and I missed this Bill, which has a \$200,000.00 appropriation, and I am trying to reconsider Enactment so that it can be placed on the Special Appropriations Table to be considered with all other appropriations matters.

The PRESIDENT: Is it now the pleasure of the Senate that the rules be suspended and that the Senate reconsider its action whereby L. D. 1244 was passed to be Enacted? It is a vote.

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

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

Mrs. SNOWE: Mr. President, I move we reconsider our action whereby we accepted the Minority Ought Not to Pass Report, and hope you will vote against me.

The PRESIDENT: The Senator from Androscoggin, Senator Snowe, having voted on the prevailing side, now moves the Senate reconsider its action whereby it accepted the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President does the Senate

have any provision for recycling an unused Amendment?

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

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland,
Adjourned until 9:30 tomorrow morning.