

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

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STATE OF MAINE
One Hundred and Tenth Legislature
First Regular Session
JOURNAL OF THE SENATE

April 15, 1981

Senate called to order by the President.

Prayer by Ivan E. Forsythe of Waterville, Department Chaplain of the American Legion.
MR. FORSYTHE; Shall we all look to the Lord in prayer. Our Heavenly Father and our God, we thank You for the beauty of this day, for this season of the year, when new life is springing up all over. We thank You, God, for this Lenten season, for Him, our Christ, when we're all more loving, more forgiving.

We pray for this Senate here this morning and each one. May Thy holy presence speak to each heart, that they may do things pleasing in Thy holy sight, for other people are looking at them here now, for added health and strength.

We pray, Lord, for our nation, our President, and every citizen of these United States. Finally, O'God, have mercy, grant that everything we think, and say, and do here now, when night comes, we will know we have done our best this day, for God and country. In the name of Christ, our Saviour, we pray. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

The President requested the Sergeant-at-Arms to escort the Senator from Kennebec, Senator Pierce, to the rostrum to assume the duties of President Pro Tem.

The Sergeant-at-Arms escorted the Senator from Kennebec, Senator Pierce, to the rostrum, where he served as President Pro Tem.

The President then retired from the Senate Chamber.

Papers from The House
Non-concurrent Matter

Bill, "An Act to Clarify the Application of Military Service Credits to Retirement Benefits for Employees of Local Districts under the Maine State Retirement System." (S. P. 274) (L. D. 783)

In the Senate, April 8, 1981, Passed to be Engrossed as amended by Committee Amendment "A" (S - 99).

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H - 201) Thereto, in non-concurrence.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Somerset, Senator Teague.

Senator TEAGUE: I move we Recede and Concur.

The PRESIDENT Pro Tem: The Senator from Somerset, Senator TEAGUE, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

House Papers

Bill, "An Act to Define Eligibility for School Purposes and to Determine Financial Responsibility for the Education of State Wards." (Emergency) (H. P. 1344) (L. D. 1534)

Comes from the House, Referred to the Committee on Education and Ordered Printed.

Which was referred to the Committee on Education and Ordered Printed, in concurrence.

Bill, "An Act to Amend the Northern Maine General Hospital Charter." (H. P. 1338) (L. D. 1533)

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

Which was referred to the Committee on Legal Affairs and Ordered Printed, in concurrence.

Orders

Expressions of Legislative Sentiment recog-

nizing:

Irene C. Enrico of Brunswick, who has been selected as a "SupShip Bath Employee of the Year." (S. P. 566)

presented by Senator CLARK of Cumberland (Cosponsors: Representative MARTIN of Brunswick and Representative LIVESAY of Brunswick).

Mrs. Romaine Roethel, National Vice President of the American Legion Auxiliary, who will visit Millinocket on April 24, 1981. (S. P. 567)

presented by Senator CLARK of Cumberland (Cosponsors: Senator PRAY of Penobscot, Representative CLARK of Millinocket and Representative MICHAUD of East Millinocket).

The Hon. Michael J. Kogutek of New York, National Commander of the American Legion, who will visit this State. (S. P. 568)

presented by Senator CARPENTER of Aroostook (Cosponsors: Representative HANSON of Kennebunkport, Representative MARTIN of Van Buren and Representative MARTIN of Eagle Lake).

Which were Read and Passed.

Sent down for concurrence.

Committee Reports
House

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act Concerning the Registration of Voters in Small Communities." (H. P. 595) (L. D. 672)

Bill, "An Act Relating to Funding and Support for Alcoholism Treatment and Rehabilitation Centers." (H. P. 515) (L. D. 582)

Leave to Withdraw

The Committee on Business Legislation on, Bill, "An Act to Limit the Profit on the Resale of Tickets for Certain Performances and Events." (H. P. 720) (L. D. 852)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act to Revise the Small Claims Law." (H. P. 1182) (L. D. 1406)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass

The Committee on Public Utilities on, Bill, "An Act to Increase the Limit of Indebtedness of the Newport Water District from \$1,000,000 to \$1,500,000." (H. P. 964) (L. D. 1155)

Reported that the same Ought to Pass.

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

Which Report was Read and Accepted, in concurrence, and the Bill Read Once and tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Business Legislation on, Bill, "An Act to Overrule Federal Preemption of Certain Maximum Rate Ceilings of the Maine Consumer Credit Code." (H. P. 12) (L. D. 6)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H - 200).

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

The Committee on Labor on, Bill, "An Act Relating to Seeking Work and Accepting Suitable Work to be Eligible for Extended Unemployment Benefits." (Emergency) (H. P. 1190) (L. D. 1414)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H - 199).

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

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

The Committee on Transportation on, Bill, "An Act to Create the Casco Bay Island Transit District." (Emergency) (H. P. 1198) (L. D. 1351)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H - 203).

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

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

On motion by Senator Conley of Cumberland, under Suspension of the Rules, the Bill, as amended, Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Provide that Merit Increases for State Employees will Only be Awarded for Job Performance that is Meritorious." (H. P. 714) (L. D. 839)

Reported that the same Ought Not to Pass.

Signed:

Senator:

VIOLETTE of Aroostook

Representatives:

KANY of Waterville
WEBSTER of Farmington
DILLENBACK of Cumberland
MCGOWAN of Pittsfield
DIAMOND of Bangor
LISNIK of Presque Isle
PARADIS of Augusta

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

Signed:

Senators:

AULT of Kennebec
GILL of Cumberland

Representatives:

MASTERTON of Cape Elizabeth
SMALL of Bath
BELL of Paris

Comes from the House, the Majority Ought Not to Pass Report Read and Accepted.

Which Reports were Read.

On motion by Senator COLLINS of Knox, Tabled for 2 Legislative Days, pending Acceptance of Either Committee Report.

Senate

Ought to Pass — As Amended

Senator HICHENS for the Committee on Health and Institutional Services on, Bill, "An Act to Create a Department of Correction." (S. P. 376) (L. D. 1134)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S - 115).

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.

Enactors

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

An Act to Authorize County Commissioners to Charge Rent for Space Furnished to Other

Governmental Entities in County Court Houses and Other County-owned Facilities. (H. P. 753) (L. D. 890)

Which was Passed to be Enacted.
(See Action Later Today)

An Act to Improve the Administration of Workers' Compensation Hearings and Appeals. (H. P. 523) (L. D. 589)

An Act to Allow Savings Banks and Savings Associations to Accept Demand Deposits of their own Funds. (H. P. 519) (L. D. 585)

An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District. (H. P. 385) (L. D. 428)

An Act Concerning the Election Days in which Courts must Close. (S. P. 381) (L. D. 1139)

An Act to Amend the Workers' Compensation Law to Facilitate Ridesharing. (S. P. 286) (L. D. 812)

An Act Concerning Cases which may be Heard in the District Court for the Division of Western Aroostook. (S. P. 380) (L. D. 1138)

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 to Define a Loose Cord for Wood for Fuel Wood Sold on that Basis. (H. P. 1319) (L. D. 1517)

On motion by Senator Hichens of York, the Senate voted to Suspend its Rules.

On motion by Senator Hichens of York, the Senate voted to Reconsider its action whereby the Bill was Passed to be Engrossed.

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

Senator HICHENS: I now present an Amendment and move its Adoption.

Senate Amendment "A" (S-116) was Read and Adopted. The Bill, as amended, was Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

On motion by Senator Huber of Cumberland, the Senate voted to Reconsider its action of earlier in today's session whereby the Bill, "An Act to Authorize County Commissioners to Charge Rent for Space Furnished to Other Governmental Entities in County Court Houses and Other County-owned Facilities" (H. P. 753) (L. D. 890), was Passed to be Enacted.

On motion by Senator Huber of Cumberland, placed on the Special Appropriations Table, pending Enactment.

An Act to Control Brucellosis in Cattle. (H. P. 309) (L. D. 341)

On motion by Senator Hichens of York, Tabled for 1 Legislative Day, pending Passage to be Enacted.

RESOLVE, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory. (H. P. 931) (L. D. 1102)

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

The President Pro-Tem requested the Sergeant-at-Arms to escort the Senator from Penobscot, Senator Sewall, to the rostrum where he may assume his duties as President.

The Sergeant-at-Arms escorted the Senator from Penobscot, Senator SEWALL to the rostrum where he assumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Kennebec, Senator PIERCE, to his seat on the floor of the Senate.

The PRESIDENT: I know the Senate will join with me in congratulating Senator Pierce for a fine job this morning.

Senator Hichens of York was granted unanimous consent to address the Senate, On the Record.

Senator HICHENS: Thank you, Mr. President.

This is the fatful day of year when your income tax is due

And if you haven't sent it in, they'll soon be after you.

It's also halfway through the month of April and Spring flowers

Are blooming in abundance amongst refreshing showers.

The wheels of State Government have just begun to spin

Any many bills presented are out rather than in.

The Education panel and those on PUC Under their Senate Chairman are as busy as can be.

For with an iron hand he rules — When he makes up his mind

It's just like batting a stone wall — and it is hard to find

An issue he's not up on and folks in Northern Maine

Regard him as a great guy, or in the neck, a pain.

With Buddy Frankland's blessing he's here with us today

Fighting for morality in his own unique way.

And though he's often skeptical of how things seem to be

He breezes through elections with a good plurality.

It's rumored he has aspirations for a higher plane

Of office and would like to serve his adopted State of Maine.

In Washington some future date — and should his dream come true

It's a sure bet he will be heard when he presents a view-point on the issues there at hand — So join with me today.

In wishing Happy Birthday — send good wishes on the way

To our colleague Howard Trotzky — and wish the very best

For him in days that lie ahead as he meets every test.

Senator Trotzky of Penobscot was granted unanimous consent to address the Senate, Off the Record.

Orders of the Day

The President laid before the Senate the first Tabled and specially assigned matter:

Bill, "An Act to Prohibit Taking Antlerless Deer in Certain Municipalities and Townships." (H. P. 217) (L. D. 254)

Tabled—April 13, 1981 by Senator PERKINS of Hancock.

Pending—Passage to be Engrossed.

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

Senator O'LEARY: I move the Indefinite Postponement of this Bill and all its accompanying papers.

The PRESIDENT: The Senator from Oxford, Senator O'Leary now moves that the Bill be Indefinitely Postponed.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, I request a Division. I'd like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator REDMOND: Mr. President, Members of the Senate, this Bill, in conjunction with LD 1007, had its public hearing and the work sessions, of the Committee on Inland Fisheries and Wildlife, we combined the two bills. LD 1007 would have permitted the Commissioner to do it on a state-wide basis. It just stated that he "may" limit deer hunting in certain areas to deer with antlers only. The two bills were com-

bined. We worked it out and come out with this Bill.

We have to bear in mind that the Department of Inland Fisheries and Wildlife is mandated by the Legislature to manage our fisheries and wildlife. Inasmuch as fish are concerned, they limit the sizes. They limit the length of the fish. Now where our deer management has become more and more refined, the burden is becoming heavier. There's more hunters.

The Commissioner was real pleased with the way this Bill come out, because he can block off some areas that are in trouble. Yet, it doesn't cut out hunting completely for those people who have bought their hunting licenses.

This Bill came out with a very substantial Ought to Pass Report. I hope that you will vote to kill this motion. I request, also, when the vote is taken, that it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President, I'd like to pose a question through the Chair to any member of the Fisheries and Wildlife Committee, two questions. First of all, is the Department in favor of this Bill? I've heard contrary from the Department.

Second of all, to the Chairman of the Committee, if he could tell me the size limit on trout and white perch in the State.

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

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I would like to have the Senator from Penobscot, Senator Pray, repeat the question. I didn't hear the question good. Is that possible?

The PRESIDENT: The Chair would hope so.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President. Mr. President and Members of the Senate, my concern here in the arguments that the Senator from Somerset, Senator Redmond, presented; was that one of his arguments in favor of this Bill was that the department now regulates the size of fish. For that reason, we probably ought to go along and give the Commissioner the authority to establish a buck only season.

There's only certain species which the Commissioner regulates the size of fish. I'll answer my own questions for him. First of all, not all species are regulated by size, or by number of fish that you can catch. I think that's a rather weak argument to say that the Commissioner now does that with fishing. Senator Brown, of course, knows that he can't do it with striped bass right now.

The arguments that I have against this Bill, basically relating to the allowing the Commissioner to establish a buck only season, is not only from four years that I served on the Committee, time and time again, when this issue came up, the department never really wanted it for state-wide. There was one area of the State, which he had grave concerns about.

I think that this Legislature gave it to him two years ago, to address that problem, to establish a state-wide buck only law, which is what it is, would be detrimental to the deer herd. A number of individuals who are successful hunters and are able to shoot a deer during the season, upon walking up to it, don't know if it's a buck or a doe. I would have reservations about a number of people who might do that. It would then be illegal for them to tag it. There would be a great waste of a resource.

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

Senator O'LEARY: Mr. President, and Members of the Senate, if you will refer to House Amendment 179, "taking of antlerless

only." It says "notwithstanding Subsection 1, the Commission may regulate the number of each sex of deer taken in any part of the State." If you refer to 7457, it names certain islands, certain communities, certain sections of the State now where it is illegal to shoot deer. Under Section E of 7457, the Commissioner may shorten the open season on deer in part of the State, provided that and there are conditions sat down.

Mr. President, Members of the Senate, my concern is the number of deer that will be left in the woods. Last year, the Commissioner of Inland Fisheries and Wildlife saw fit to close my section of the State to a two-week season. Having to apply for my vacation before February 15 of each year, I chose the week before Thanksgiving, and Thanksgiving week as my hunting weeks. However, in perhaps May of that year, the Commissioner established a season that would forbid me to hunt deer in my area Thanksgiving week.

I spent the first week in my area hunting. I was unsuccessful, although I did see a number of deer, I didn't fire a shot. I went to the adjoining district for the Thanksgiving week. My first hour in the woods, I was on the top of a ridge. There were two others with me. They were coming along through the side. I could look down through the open hardwood and see a deer. I knew it was a buck. I didn't know how many deer there were down there. I had only seen the one.

I didn't have an opportunity to get a shot at that moment. So I moved off in another direction and I see a movement. I knew it was a deer. I fired, I see the buck take off. I thought I had missed. So I went down to see if I had even touched it. There I had a little small doe.

Under this Bill, I would have illegally killed a deer. There's no way that I would have taken that deer out and registered it. No way.

Mr. President, and Members of the Senate, I hope you will go along with me on the Indefinite Postponement of this Bill.

(Off Record Remarks)

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

Senator BROWN: Thank you, Mr. President. It is interesting to see the sometimes conservationist that we have in this Body. Sometimes we're conservationist that does not affect a particular area or issue that we have feelings about.

I would hope that we would go along and defeat the motion by the good Senator, and allow the Commissioner to do his job.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Mr. President, Members of the Senate, when the Bill was submitted to the hearing there was opposition from the Department. Then there was another bill coming down that we knew about approximately 2 weeks later, so we held all our work shops until after we heard the other bill.

The Department sat in on the work shop, and after we worked out the solution, the solution that we have before you, it was in agreement with the Department.

It does give regulations to the department. It does not mandate them to do it next year, or even 3 years, or maybe 5 years down the road. It does relate to the situation where Senator O'Leary was involved, in his part of the State. The deer herd was down in his area, and I believe, in my own opinion, that it is still down in that area.

This is a regulation that has to go into effect more than one year to show any affect. If the Commissioner receives this power of regulation he can set it in any game management area of the State. There are 8 different game management areas. It does not say what area

of the State. It does not say the whole State. He can pick any game management area, where there is a decline in the deer kill, and if he sees a major problem.

It is a source of conservation.

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

Senator PERKINS: Mr. President, I am not a hunter, so I would admit this first hand. My store is a pharmacy or a drug store, rather than a sporting goods store, so I really would not have much excuse to sell rifle scopes within that store, although I might, and there are some that do.

I would suggest that maybe passing this Bill would increase the market on scopes for rifles, because short of having the Commissioner paint buck, doe, and lamb, and sex on the deer. I do not know, short of a scope, how they are going to decide, what they are going to shoot and whether they can shoot.

To my knowledge, the harvet of this game has not depreciated to any degree, the license fee has not been lowered, in fact that you are certainly going to decrease the availability of game, that they may shoot. Just the fact that it encompasses the whole State bothers me. In that the bills that were heard at the hearing were for certain areas, and were for 1 week, and not for the whole and only season. These areas, are the main reason why I sat the Bill aside. I still have grave concerns to give this power, when actually the Commissioner now has the power to increase and decrease the whole season, and in areas.

I see no reason now to give the area, if there are problem areas then let us try these areas and see what happens, but let's not give the whole State, just for one problem area.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, Members of the Senate, there is only one thing that I would like to advise the good Senator from the coastal area, Senator Perkins, that we are not authorizing the Commissioner to set a season as per se.

I think that the good Senator will agree with me, that we like to support professionalism in management of our wildlife resources.

I would like to remind the members of the Senate, here, that this Bill is not something that we are doing just for fun. We have spent several million dollars in management of our deer, deer management. We have the experts and I would like, also, to mention that there are many times, in any form of life that sometimes there are diseases that lend themselves and that are more difficult on males, or females, and they have to be treated different. Sometimes supposing the biologist or those professional managers find that they want to protect the males. They may probably have us taking only females, if that is the case. In this case here, it is to protect the females, in those areas where ever they find that it is necessary that we do that.

Much work has been done, we have worked in cooperation with the Department of Inland Fisheries, and Wildlife, and I hope that the Senate will vote to kill this motion.

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

Senator O'LEARY: Mr. President, and Members of the Senate, I am not a lawyer, however I am not a liar either. This amendment is correct in its wording, in the word "notwithstanding the provision of Sub-section 1", sub-section 1, of the law at present the seasons are established. So under this Bill as it is presently before us, the Commissioner will have the right to establish seasons, as well as the regulation of does or bucks.

The PRESIDENT: A Roll Call has been requested. Under the Constitution in order for the Chair to order a Roll Call it requires the affir-

mative votes of one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, would it be possible to have the Committee Report read before we take the vote?

The Committee Report was Read.

The PRESIDENT: The pending motion before the Senate is the motion by the Senator from Oxford, Senator O'Leary, that LD 254, and all of its accompanying papers, be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Bustin, Carpenter, Devoe, Du-tremble, Emerson, Gill, Kerry, Minkowsky, O'Leary, Perkins, Pray, Shute, Sutton, Teague, Trafton, Violette.

NAY — Brown, Clark, Collins, Conley, Huber, McBreaity, Najarian, Pierce, Redmond, Sewall, C.; Trotzky, Usher, Wood.

ABSENT — Charette, Hichens.

A Roll Call was had.

17 Senators having voted in the affirmative, and 13 Senators in the negative, with 2 Senators being absent, the motion to Indefinitely Postpone L. D. 254, in non-concurrence, does prevail.

Sent down for concurrence.

The President laid before the Senate the second Tabled and specially assigned matter:

SENATE REPORTS — from the Committee on Election Laws—Bill, "An Act Relating to Political Fundraising by State Employees." (S. P. 258) (L. D. 740) MAJORITY REPORT OUGHT TO PASS; MINORITY REPORT OUGHT NOT TO PASS.

Tabled—April 13, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

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

Senator COLLINS: Mr. President, I move that this matter be Tabled.

The PRESIDENT: The Senator from Knox, Senator Collins, moves that L. D. 740 be Tabled.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I would request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of the one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until 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 Knox, Senator Collins, that L. D. 740 be Tabled.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, would it be in order to move that this be Tabled for 2 Legislative Days?

The PRESIDENT: The Chair would answer in the affirmative.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Conley, that L. D. 740 be Tabled for 2 Legislative Days, please rise in their places to be counted.

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

16 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion to Table for 2 Legislative Days, does not prevail.

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

Senator CONLEY: Is the motion now to lie on the Table?

The PRESIDENT: The Chair would answer in the affirmative.

The Senator has the floor.

Senator CONLEY: I request a Roll Call.

The PRESIDENT: A Roll Call has been ordered.

The pending question before the Senate is the motion by the Senator from Knox, Senator Collins, that L. D. 740 be Tabled.

A Yes vote will be in favor of Tabling L. D. 740.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Collins, Devoe, Emerson, Gill, Hichens, Huber, McBrearty, Perkins, Pierce, Redmond, Sewall, C., Shute, Sutton, Teague, Trotzky.

NAY — Brown, Bustin, Carpenter, Clark, Conley, Dutremble, Kerry, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher, Violette, Wood.

ABSENT — Charette.

A Roll Call was had.

16 Senators having voted in the affirmative, and 15 Senators in the negative, with 1 Senator being absent, the motion to Retable does prevail.

The President laid before the Senate the third Tabled, and specially assigned matter:

SENATE REPORTS — from the Committee on Health and Institutional Services—Bill, "An Act Promoting the Availability of Health Care Services." (S. P. 303) (L. D. 847), MAJORITY REPORT OUGHT NOT TO PASS; MINORITY REPORT OUGHT TO PASS as Amended by Committee Amendment "A" (S-105)

Tabled—April 13, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

On motion by Senator GILL of Cumberland, the Minority Ought to Pass, as amended Report of the Committee Accepted. The Bill Read Once. Committee Amendment "A" (S-105) was Read.

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

Senator WOOD: I offer Senate Amendment "A" to Committee Amendment "A" under filing number S-109 and move its adoption.

The PRESIDENT: The Senator from York, Senator WOOD, now offers Senate Amendment "A" to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-109) to Committee Amendment "A" was Read.

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

Senator BUSTIN: Mr. President and Members of the Senate, I rise today to ask for your vote on the Majority Ought Not to Pass Report of the Committee, not because I want to oppose the professional health care providers, of the State, but because I think that this is a badly drafted and ill-conceived bill.

It is badly drafted because it is too broad. If you will look at its wording, despite the amendments to make that wording palatable you will read, no governmental, quasi-governmental, or private regulatory agency, or organization

may impose any administrative rules, regulatory policy, planning guidelines, or similar directives which shall or may have the affect of restricting the registration and licensing of health care professionals by reason of number, location, and specialty training.

I have some questions in my own mind, as to what the means. Does that mean that the professionals will now be able to dictate to the towns and cities of this State? That despite anything that they may decide to the contrary that they can't tell a doctor that his location in town, supercedes the towns' needs to regulate in the planning process, their environmental concerns, their land use concerns? Is this what this Bill does?

If passed is not possible for a health care professional to quote, 22 M.R.S.A., 253A, if told by town officials they can't local in a specific spot, for any reason other than zoning? Keep in mind some towns and cities, and Augusta is one of them, don't have zoning laws.

It is ill-conceived because the law is not necessary. It is not necessary because there is no attempt at present to impose any quotas or restrictions, other than the existing Certificate of Need, on the health care community.

To quote Steven Mansfield, of the Maine Health Systems Agency, in written testimony submitted to the committee, "The agency is in basic agreement with the need to bring additional health care professionals into the State of Maine, and that we do not find any need at this time to impose licensing or registration restrictions on such individuals desirous of coming into our State." He goes on to say, "the most significant concern in manpower planning is distribution, not necessarily the quantity of the individuals available on a State-wide or even a regional basis. That is, we would like to see more services made available to residents of our rural areas, rather than a continued buildup of resources in the State's metropolitan area."

Again to quote, Frank Stread, executive director of the Maine Medical Association, in his testimony to the committee. "If however you begin to see the lobbyists and staff from the Department of Human Services taking a position against the attempt to assure freedom of occupation for health care professionals, you will know that they are serious in their intentions to stifle the competition and improved health care practices that a continuing supply of well trained young professionals can bring to us."

I have not been approached by anyone to pressure me to take my position on this Bill. I read the Bill when it was presented to me at the beginning of this session. They wanted me to co-sponsor it. I told them the wording was too broad but, I would be happy to consider co-sponsoring if they would tighten up the language.

I did not see the Bill again until it was presented in committee, intact. As a result of the hearing and concerns of the committee, amendments were added. The language is still too broad. The Bill is still unnecessary.

Another testimony presented to our Committee, was by Gordon Brown, representing the Bureau of Health Planning and Development in Human Services speaking neither for nor against this Bill, but one observation he did make, "with the exception of the Maine Certificate of Need Act, the department has no authority to restrict the registration or licensing of health care professionals so as to limit number, location or specialty training of such professionals. The department has not attempted to secure such authority and is not seeking such authority."

The Bill reminds me of the cowardly lion in the Wizard of Oz where he said, "put them up, put them up." Are we boxing with shadows in the night, on this Bill. I hope that we realize when we vote on this matter, that it also prevents any action having a positive impact on

the medical community.

To quote one of the members of the lower Body. "If it is not broken, don't fix it."

I urge your support of the Majority Ought Not to Pass Report.

The PRESIDENT: The pending question before the Senate is the Adoption of Senate Amendment "A" to Committee Amendment "A".

Senate Amendment "A" (S-109) to Committee Amendment "A" Adopted. Committee Amendment "A", as amended, by Senate Amendment "A" Adopted.

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

Senator BUSTIN: I would ask for a Division.

The PRESIDENT: The Chair would advise the good Senator from Kennebec, Senator Bustin, the only motion available to her at this point is to move the Indefinite Postponement of this Bill and its accompanying papers, since the Senate has already accepted the Minority Report, and has adopted the amendments.

Senator BUSTIN: I would like to request Indefinite Postponement of the Bill, and all of its accompanying papers.

The PRESIDENT: The Senator from Kennebec, Senator Bustin has moved that LD 847 and its accompanying papers be Indefinitely Postponed.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President, I request a Division on that.

The PRESIDENT: A Division has been requested.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending the motion by the Senator from Kennebec, Senator Bustin.

The President laid before the Senate the fourth Tabled and specially assigned matter:

HOUSE REPORTS—from the Committee on Election Laws — Bill, "An Act Concerning Residing Prior to Voting in an Election." (H. P. 793) (L. D. 947), MAJORITY REPORT Ought Not to Pass; MINORITY REPORT Ought to Pass.

Tabled—April 13, 1981 by Senator Collins of Knox.

Pending—Acceptance of Either Report.

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

Senator CONLEY: Mr. President and Members of the Senate, in conferring with the Majority Floor Leader earlier today, there is presently an inquiry before the Attorney General's Office with respect to the constitutionality of this particular legislation, it is my understanding that the Senate will place this on the Table until we receive an answer to the inquiry from the Attorney General.

On motion by Senator Pierce of Kennebec, Retabled.

The President laid before the Senate the fifth Tabled and specially assigned matter:

House Reports — from the Committee on Health and Institutional Services—Bill, "An Act Relating to Radiological Exposure" (H. P. 555) (L. D. 631), Majority Report Ought to Pass as Amended by Committee Amendment "A" (H-194); Minority Report Ought Not to Pass.

Tabled—April 14, 1981 by Senator Collins of Knox.

Pending—Acceptance of Either Report.

On motion by the Senator from Cumberland, Senator Gill, the Minority Ought Not to Pass Report of the Committee, was Accepted, in non-concurrence.

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

Senator BUSTIN: I would like to urge the Senate Accept the Majority Ought Not to Pass Report on this Bill. All this Bill does is make the public aware of the dangers and the desirability of keeping records on the x-ray exposures

that people are exposed to. It doesn't require them to give those records out to anybody. It just makes them available upon our request.

The PRESIDENT: The Chair understands that the Senator from Kennebec, Senator Bustin, now moves that the Senate Reconsider its action whereby it Accepted the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: I request a Division on that motion, Mr. President, and I'd like to speak.

The PRESIDENT: The Senator has the floor.

Senator GILL: Mr. President and Members of the Senate, I oppose this particular Bill on several grounds, largely because there is no demonstrated need for it. Therefore, it creates just one more unnecessary burden upon a large segment of our health professionals, including dentists, chiropractors, osteopaths, and allopathic physicians.

At the public hearing on this Bill, it was pointed out that there is no dangerous cumulative affect when a patient receives, by undergoing diagnostic x-rays over his entire life span.

This Bill will not do anything to reduce radiation exposure. Radiologists testifying at the hearing, indicated that it is inconceivable, in their opinion, that say a 49 year old patient, because that's what I was the other day, having the need for a diagnostic x-ray, would ever choose not to have an x-ray, for its critical diagnostic purpose, simply because he had had one x-ray of that particular area some prior time in his life.

I am not saying that no precautions need to be taken with respect to diagnostic radiation. Indeed, both federal and state agencies and this Legislature have taken many steps to improve the administration of diagnostic x-rays.

Just one year ago, this Legislature passed a law authorizing the Department of Human Services to write rules pertaining to ionization, radiation, requiring that qualified consultants periodically calibrate x-ray machines in the State.

In addition, there have been many improvements in the scientific area. The radiologists testifying noted that the most significant improvement in this area has been the development of something called "a rare earth screen." These screens reduce the dosage of radiation by one half, and in some types of x-ray, as much as six times what is now required for certain x-rays. Plans are being made to install these particular rare earth screens at the Maine Medical Center, the Central Maine Medical Center, and Eastern Maine Medical Center.

These technological advances will do much to reduce radiation exposure.

The Bill, however, will do nothing to reduce radiation exposure, but will increase the cost of the delivery of health care. The Bill, as amended, would require persons administering diagnostic or therapeutic use of radiation make a record including all data sufficient to provide an estimate of exposure, in roentgens, and millirems for each exposure for each patient. These records would then have to be made available to the patient upon request, and would have to be kept so long as other records are kept for that patient.

The Bill, therefore, would require additional time for both the radiologists, a clerk, and storage space. Remember again, that we're not talking just about hospitals, but any physician in their individual offices, dentists in their individual offices, if they have x-ray equipment, and chiropractors, any other limited license practitioners utilizing x-ray equipment. These people are already heavily regulated by the Federal government including the Nuclear Regulatory Commission, the Department of Human Services through its Bureau of Radiological Health, and also various licensing boards such as the J.H.A.

We all talk about and promote the idea of less paperwork and less regulation for Maine citizens. Here is an excellent place to start, by not passing another law, which will require more paperwork, and which if passed will create no known benefit.

To put the Bill in further perspective, you might be interested to know that it is as much a risk for anyone driving your automobile for 21 miles, as there is in undergoing a barium enema.

I hope that you will Accept the Minority Ought Not to Pass Report of this Committee.

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

Senator BUSTIN: When the good Senator from Cumberland, Senator Gill talks about the medical community or the radiologists having to make a record, what they're going to be making is an estimate of the exposure. One of the things that we discussed quite a lot in committee was the fact of the measurement of the exposure and how difficult it was, and how expensive to have the proper machines to give you an exact estimate. The Bill does not call for that. It calls for an estimate. That's all.

If what is happening, that those records are not being kept, then I become even more concerned, because if I go back and I want to know how much I've been exposed to x-rays, I would like to think that I can call my doctor, and my dentist, and whoever else I've gone to and had x-rays done, and they could tell me.

Does the good Senator from Cumberland, Senator Gill, mean to tell me that these records are not being kept. What this Bill does is open these records to me.

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

Senator GILL: I would just say that all these records are available from your physician, or dentist at this present point in time. For any x-rays that were taken at a hospital, a person can simply ask for their record at the hospital and pay for it, pay for the printing of that information, and they will receive their own records from the hospital. That's your information that you're entitled to receive already. There is no need for this Bill. All that information is at hand at the place of origin, where the x-rays were taken.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Kennebec, Senator Bustin, that the Senate Reconsider its action whereby it Accepted the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I'd like to pose a question through the Chair to the good Senator from Cumberland, Senator Gill. That is, when a patient has an x-ray taken, don't they pay for it when it's being taken? Is she saying that if we want a copy of that x-ray, we must repay another fee to have a copy of that x-ray?

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

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: To respond to the good Senator from Cumberland, Senator Conley, when a person has an x-ray taken, they, or the third party insurance company pays for it, you get results of that x-ray from the physician. All that information is given you from the physician. If you request a written copy at a later point in time, if you want someone to go back, in my case, my last 49 years, to see what I've had for x-rays taken, I would have to go to the hospital to require that information. All they ask is for a fee for printing the material that they have in their files already, or the doctor would request a fee for printing of that information. It's just strictly a fee for the paper and that Xerox machine printout. That's all. That

information is given to you. If I went in and had an upper G.I. series, I would get the results of those x-rays. I would be told, if I requested, what millirems were involved there. If I wanted to keep a record, I personally could keep a record. If I, in two years down the road, had stomach trouble again, I certainly, myself, would not deny having another x-ray because I had so many upper G.I. series in the past.

All this information is available from your doctor, dentist, chiropractor, or hospital.

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

Senator BUSTIN: Mr. President, and Members of the Senate, I would simply say that, as in all legislation, we're not legislating for those people who already are meeting the standards that we require as individuals in this State. What we are doing is legislating for those people who are not keeping those records. I think that's a terribly important distinction. I move that we Accept the Ought Not to Pass Report.

The PRESIDENT: The Chair would advise the Senator she has a pending motion to Reconsideration before the Body.

A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Bustin, that the Senate Reconsider its action whereby it Accepted the Minority Ought Not to Pass Report, please rise in their places to be counted.

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

13 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion to Reconsider does not prevail.

Sent down for concurrence.

The President laid before the Senate the sixth Tabled and specially assigned matter:

Bill, "An Act to Allow Voter Registration and Party Enrollment on the Same Form." (H. P. 520) (L. D. 586)

Tabled—April 14, 1981 by Senator Collins of Knox.

Pending—Consideration.

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

Senator PIERCE: Mr. President, I move the Senate Adhere.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, moves that the Senate Adhere.

Is this the pleasure of the Senate?

The motion prevailed.

The PRESIDENT: The Chair lay before the Senate, Bill, "An Act Promoting the Availability of Health Care Services." (S. P. 303) (L. D. 847), Tabled earlier in today's session, by Senator Pray of Penobscot, pending the motion by the Senator from Kennebec, Senator Bustin, that the Bill and all its accompanying papers be Indefinitely Postponed.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: I would request a Division on that motion.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Indefinite Postponement of LD 847, please rise in their places to be counted.

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

11 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion to Indefinitely Postpone does not prevail.

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

On motion by Senator Pierce of Kennebec, Adjourned until 9:30 o'clock tomorrow morning.