

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred and Tenth

Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

INDEX

FOURTH SPECIAL SESSION

April 28, 1982 and April 29, 1982

INDEX

FIFTH SPECIAL SESSION

May 13, 1982

INDEX

SECOND CONFIRMATION SESSION

July 16, 1982

INDEX

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

Augusta, Maine

March 4, 1982

Senate called to order by the President.

Prayer by the Reverend William A. Dunstan of the First Baptist Church of Gardiner.

REVEREND DUNSTAN: Almighty God, as we come before Thee this morning, it is an acknowledgement of our dependence upon Thee, and our accountability to Thee.

We ask Thy blessing this morning upon this Legislative Body, give them strength throughout the long days of work, give them wisdom for the tremendous decisions that they are called upon to make, and give them courage to act always in the right as Thou doth guide them to see the right. We pray, Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

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

Bill, "An Act to Provide Equal Access to Justice." (S. P. 902) (L. D. 2046)

In the Senate, March 2, 1982, referred to the Committee on Judiciary and Ordered Printed.

Comes from the House, the Speaker Ruled Bill in violation of Joint Rules 4 and 37 and further ruled not properly before this Body.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Consideration.

Orders

On motion by Senator O'LEARY of Oxford, ORDERED, the House concurring, that the Resolve, Authorizing the Exchange of Certain Public Reserved Lands, House Paper 1739, Legislative Document 1728, be recalled from the Governor's desk to the Senate. (S. P. 909)

Which was Read.

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

Senator COLLINS: Mr. President, I think this is a rather important question and I would ask that the Senator from Oxford, Senator O'Leary, let us know the reasons that he is concerned about this. Otherwise, I think that we should not take this step.

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

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

Senator O'LEARY: Mr. President and Members of the Senate, I didn't have an opportunity to sign the jacket on this Bill.

I've been asking questions from a number of people trying to get answers so that I could determine whether I thought that this was a good land swap or not. The more I delve into it the more I find that we as guardians of the trust placed in this Legislature, as the keepers of public property, I find that what we are giving up is 457½ acres of prime wood land with a value of approximately \$81,000, for 545 acres of swamp with a value of \$20 per acre, for a total value of around \$11,000.

It is not my intention, Mr. President, to negate the land swap, it is my intention to have this Bill referred back to the Committee, so that we may have members of the Department in to see if we can't strike just a little bit better deal.

There is one section in this that really bothers me and that is a 2 acre holding for a private person within this land swap, which I find not really to be in the best interest of the State.

I sponsored a bill for a land swap with the Brown Company, I can't remember how many acres were involved in that, but acre for acre, value for value. There was, if you remember, a

bill Cobbes Bosebuck Camps which are situated on Aziscohos Lake in northern Oxford County. There was 25 acres involved in that, the Brown Company threw in the 25 acres and said you solve the problem, with Bosebuck Camps. We did not give up the 25 acres, we didn't sell that 25 acres, we leased that 25 acres.

It is not my intention, Mr. President, Members of the Senate, to kill this Bill or negate the swap, it is just to see if we can't get a better deal and get a better understanding with the people in the Department involved as to future land swaps. Thank you.

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

Senator McBREAITY: Mr. President and Members of the Senate: I don't think there will ever be any way that a Committee here can be really sure that these swaps are 100% correct. In order to do that, we would have to do much more research than we have the resources and ability to do, I guess.

The Committee did hold out on this swap, and got quite a few more acres. There's a whole island that we were only getting part of.

I think maybe the value of land depends on each individual's value that they put on certain areas. I'm sure that Senator O'Leary, perhaps, is right in saying that we swapped better timberland, but we got in return what some people consider valuable, and that's shorefrontage. I think we've done this in a lot of the swaps that we've made. We've swapped timberland inland for shorefrontage that people, some people feel is more valuable. Some of the rest of us would much rather have the timberland.

So, I can't see how the Committee could, where we could find the time to really do the research we need to do in this Session to make sure that this was the right swap, any more than we've had time on any of the other swaps.

So, I would hope that you would not Recommend it. I think, maybe, if we feel that we're not getting our fair swaps, we may have to set up something in the future so that the Bureau of Public Lands are not the people that do the swapping. If we want to do that, okay. Otherwise, we've entrusted them with the job of doing this. It's pretty hard to check them out completely on every swap. Thank you.

The PRESIDENT: Is it the pleasure of the Senate that this order receive Passage? The Chair recognizes the Senator from Aroostook Senator McBreaity.

Senator McBREAITY: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate, this Bill is on the Governor's desk and I believe he has 10 days whether to make a decision to veto it or to sign the Bill. I feel that Senator O'Leary might discuss this with the Governor and hope that somebody might Table this Order for 1 Legislative Day.

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

Senator O'LEARY: Mr. President, I have a note on my desk here that Mr. Flanagan, this was on my desk this morning, wishes to discuss the LD with me. If someone would Table it for one day, I would appreciate it.

On motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending Passage.

Expressions of Legislative Sentiment recognizing:

Ralph J. Brooks, American Legion Department Commander, for his outstanding work for the veterans, widows and orphans of Maine and the Nation. (S. P. 908) presented by Senator PIERCE of Kennebec (Cosponsors: Senator EMERSON of Penobscot and Representative REEVES of Newport).

The Gorham High School Rams, and coach

Tony DiBiase, winners of the State Class B Boys' Basketball Championship for 1981-1982. (S. P. 910) presented by Senator USHER of Cumberland (Cosponsors: Representative BROWN of Gorham and Representative GOWEN of Standish).

The Gorham High School Rams, and coach Tony DiBiase, winners of the Western Maine Class B Boys' Basketball Championship for 1981-1982. (S. P. 911) presented by Senator USHER of Cumberland (Cosponsors: Representative BROWN of Gorham and Representative GOWEN of Standish).

Which was Read and Passed.

Sent down for concurrence.

(Off Record Remarks)

**Committee Reports
House**

Leave to Withdraw

The Committee on Judiciary on, Bill, "An Act Concerning Negotiating a Worthless Instrument." (H. P. 1881) (L. D. 1874)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Local and County Government on, Bill, "An Act Concerning Reimbursement of Salaries of Persons Attending the Maine Criminal Justice Academy." (H. P. 1883) (L. D. 1876)

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 — As Amended

The Committee on Transportation on, Bill, "An Act to Require the Towing of Unauthorized Vehicles from Parking Areas Designated for Handicapped Persons' Vehicles." (H. P. 1819) (L. D. 1804)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-613).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-613) as amended by House Amendments "A" (H-619) and "B" (H-622) Thereto.

Which Report was Read and Accepted, in concurrence, and the Bill read Once. Committee Amendment "A" was Read. House Amendment "A" to Committee Amendment "A" was Read and Adopted, in concurrence. House Amendment "B" to Committee Amendment "A" was Read and Adopted, in concurrence. Committee Amendment "A" as amended by House Amendments "A" and "B" Thereto was Adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Senate

Ought to Pass — As Amended

Senator AULT for the Committee on State Government on, Bill, "An Act Revising Executive Salary Ranges." (S. P. 813) (L. D. 1909)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-397).

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.

Second Reader

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

House — As Amended

Bill, "An Act to Prohibit Drinking on School Premises Without Requiring Prior Warning by a Law Enforcement Officer." (H. P. 1929) (L. D.

1912)

Which was Read a Second Time.

On motion by Senator Collins of Knox. Tabled until later in today's session, pending Passage to be Engrossed.

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

Papers from the House House Papers

Bill, "An Act to Revise the Term of Appointment of Legislative Directors and Officers. (H. P. 2143) (L. D. 2049)

Bill, "An Act to Authorize the Repair, Maintenance and Improvement of the Building and Grounds of the Statehouse. (H. P. 2144) (L. D. 2050)

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

Which were referred to the Committee on State Government and Ordered Printed, in concurrence.

There being no objections all items previously acted upon were sent forthwith.

On motion by Senator Collins of Knox. Recessed until 4:30 o'clock this afternoon.

Recess

After Recess

The Senate called to order by the President.

Under Suspension of the Rules, the Senate voted to consider the following:

Papers from the House Joint Orders

Expressions of Legislative Sentiment recognizing: Dan Philippon, of Bangor, who has been named to the 1981 Maine Class AA All-State Football Team. (H. P. 2138)

Stu Gerow, of Bangor, who has been named to the 1981 Maine Class AA All-State Football Team, second team. (H. P. 2139)

The Central Aroostook High School Girls' Basketball Team, which one the Eastern Maine Class C Sportsmanship Award for 1982. (H. P. 2141)

The Central Aroostook High School Girls' Basketball Team and coach Dick Barstow, for winning the State Class C Championship for 1982. (H. P. 2140)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Orders

Expressions of Legislative Sentiment recognizing:

Steven Skaling and Raymond Hanson of Stratton and Claude Pepin of Coplin Plantation for their heroic efforts in rescuing several snowmobilers when the ice on Flagstaff Lake collapsed beneath the snowmobilers. (S. P. 912) presented by Senator REDMOND of Somerset (Cosponsor: Representative DEXTER of Kingfield).

the Houlton High School Girls' Basketball Team, which won the Eastern Maine Class B Sportsmanship Award for 1982. (S. P. 913) presented by Senator CARPENTER of Aroostook (Cosponsors: Representative INGRAHAM of Houlton and Representative SMITH of Island Falls).

the Houlton High School Boys' Basketball Team, which won the Eastern Maine Class B Sportsmanship Award for 1982. (S. P. 914) presented by Senator CARPENTER of Aroostook (Cosponsors: Representative INGRAHAM of Houlton and Representative SMITH of Island Falls).

Emman Sawyer, of Freeport, a remarkable woman who at age 101 received a golden head cane in honor of the community's oldest living resident. (S. P. 915) presented by Senator

CLARK of Cumberland (Cosponsor: Representative MITCHELL of Freeport).

Which were Read and Passed.

Sent down for concurrence.

Enactors

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

AN ACT to Establish the Position of Director of Engineering Within the Public Utilities Commission. (H. P. 1789) (L. D. 1779)

AN ACT to Exempt Portions of the Central Maine Air Quality Control Region from Petroleum Liquids Transfer Vapor Recovery Requirements. (H. P. 1836) (L. D. 1833)

AN ACT to Provide for Special Warehouse Storage Facilities for Liquor. (S. P. 828) (L. D. 1936)

AN ACT to Reduce Burdensome Fees for Businesses Incorporating or Expanding with No Par Value Stock. (H. P. 2006) (L. D. 1977)

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

Emergency

AN ACT to Allocate Funds from the Low-level Waste Siting Fund. (H. P. 1751) (L. D. 1741)

Emergency

AN ACT Amending the Charter of the Boothbay-Boothbay Harbor Community School District. (H. P. 1902) (L. D. 1887)

These being emergency measures and having received the affirmative votes of 26 Members of the Senate, with No Senators having voted in the negative, were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

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

Committee Reports House

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

Bill, "An Act Relating to Wild Birds and Wild Animals Kept in Captivity." (H. P. 1720) (H. P. 1705)

Bill, "An Act to Strengthen the Fire Control Laws." (H. P. 1913) (L. D. 1899)

Ought not to Pass — As Amended

The Committee on Public Utilities on, Bill, "An Act to Clarify Certain Provisions of the Public Advocates Statutes. (H. P. 1735) (L. D. 1720)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-621).

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

The Committee on Transportation on, Bill, "An Act Relating to Maintenance and Snow Removal in Compact Areas. (Emergency) (H. P. 2075) (L. D. 2018)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-620).

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.

(Off Record Remarks)

Committee Report

House Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Equalize the Price of Liquor throughout the State. (H. P. 1918) (L. D. 1895)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-625)

Signed:

Senator:

SHUTE of Waldo

Representatives:

COX of Brewer

STOVER of West Bath

McSWEENEY of Old Orchard Beach

SWAZEY of Bucksport

SOULAS of Bangor

TREADWELL of Veazie

PERRY of Mexico

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

Signed:

Senators:

VIOLETTE of Aroostook

CHARETTE of Androscoggin

Representatives:

DUDLEY of Enfield

STUDLEY of Berwick

BOISVERT of Lewiston.

Comes from the House, Bill and accompanying Papers, Indefinitely Postponed.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: I move Acceptance of the Majority Ought to Pass Report.

The PRESIDENT: The Senator from Waldo, Senator Shute, now moves that the Senate Accept the Majority "Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: Mr. President, and Ladies and Gentlemen of the Senate, I would hope that the Senate would reject that motion and would Concur with the House in Indefinitely Postponing this measure.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, this Bill came out of Legal Affairs as we did have a Study Order over the past year concerning the liquor prices in the State of Maine, to equalize liquor prices. The majority of the Committee felt that it would be fair to equalize the prices in the State, and if not do that in the Legislature, at least, put this out to referendum to the people and let them decide once and for all, the discrimination in the liquor prices in the State of Maine.

One of the strong arguments the opponents have on this Bill to put it out to referendum is, that the people probably would pass it. Therefore, we shouldn't put it out to referendum. I have no doubt, but what they would pass it, overwhelmingly.

The other argument is that we'd have a loss of revenue. I kind of dispute that loss of revenue, even though the Liquor Commission feels there would be a loss of revenue. The figures for the sale of liquor in southern Maine, and this is only southern Maine from Portland south, since 1973 when the Kittery store was opened, the few stores from Portland south did \$22,000,000 worth of business. In 1974, those same stores did \$50,000,000 worth of business. They dropped \$7,000,000 in one year.

Kittery did \$15,000,000 worth of business in the first year. The next year Kittery did \$17,000,000 worth of business. Why did they drop from \$17,000,000 down to \$8,000,000? They dropped down, because we passed a law here that said the restaurant owners and other re-

tailers couldn't go to Kittery to buy their liquor, like they had been doing.

Between 1975 and 1976, that same period of time, when Kittery dropped \$9,000,000 those same stores just in southern Maine increased their revenue \$5,000,000.

So, I guess the Liquor Commission would have to come out with some harder figures than they have, that doing away with the equalizing of prices of liquor in the State of Maine would cost the State \$2,000,000 or \$2,500,000.

I don't see any reason why people in southern Maine should feel that they should get liquor, a State monopoly, run by a State monopoly here why they should have liquor cheaper than those that live in eastern Maine, or central Maine.

We've heard arguments in previous years on this same bill, that this is not discrimination because everybody else in the State can go to Kittery and buy their liquor if they wanted. So, therefore, it is not discrimination. I wonder if it would be discrimination if every tarred road in the State was in Kittery, and the rest of the State had gravel roads or dirt roads? That probably still wouldn't be discrimination, because we could still travel to Kittery and drive on the tarred roads down there. In effect, it wouldn't be discrimination.

We've spent a great deal of money in the State to do away with discrimination. We've put wheelchair ramps in for people to get into public buildings. We've made voting places accessible to people that have to use wheelchairs. We've made our electric rates within a power company, we've made those equal. We don't drop the price off as they get closer to the New Hampshire border. They still pay the same as I do, as far as rates go.

So, I think to settle this question once and for all, and not have it up here every year, and have the Legislature possibly pass it, and then the Appropriations Committee kill it because of lack of funds, I think it should go out to the people and let the people decide this issue once and for all. Then the Legislature wouldn't be bothered with it again.

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

Senator VIOLETTE: Mr. President, Ladies and Gentlemen of the Senate, I'll be very brief. I think the reason for those of us that are opposed to this particular Bill is that we're not necessarily opposed to the concept of lowering prices. That, in my opinion, is not the issue here.

The issue is whether or not, it was the Legislature that created the Kittery Liquor Store, and the question is simply whether or not this issue should go to referendum. I think it's the responsibility of the Legislature to decide on the merits of this issue. I think we're just putting aside our responsibility by sending this to referendum.

I, quite frankly, expect that there will probably be another bill coming out of Committee if this one fails. I think that the Legislature can vote on that bill and the merits of centralizing or equalizing prices in the State.

So, I would hope today that we wouldn't put aside our responsibility. Quite frankly, we've been elected to serve here and I would hope that we would go along with the House in Indefinitely Postponing this measure today. Thank you.

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

Senator CHARETTE: Thank you, Mr. President. I concur and agree with my good friend Senator Violette. I, also, agree with all or at least most of my good friend Senator Shute from Waldo. I do believe equalization of liquor prices is something that is talked about a lot, certainly in my community. People certainly would like to see the price of liquor at the same level throughout the whole State. Many tell me that they feel that they're being discriminated by that difference.

However, I do agree with Senator Violette. I

think it's something that this Legislature has created. It's this Legislature who has lowered the price at Kittery. Therefore, I feel that it's this Legislature that should make that final step and if it is to equalize prices then it should be done right here.

For that reason, I voted for the Minority Report. I think we should grab the bull by the horn and do our work as we should. Thank you.

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

Senator PRAY: Thank you, Mr. President. Ladies and Gentlemen of the Senate, perhaps for clarification because of the debate that has already taken place on the Committee Amendment, it would be my understanding, first of all, prior to even the Committee Amendment being considered on the question of referendum, would be the Adoption of the Ought to Pass Report, which, first of all, would be the Legislation, which has no referendum on it.

Thus, at that point, we would be presented with then the argument of Adopting the Amendment which calls for the referendum.

My concern is, because I do think that the decision should be made here, and I do support basically the concept of the original Bill itself: One, I don't feel that the State should be in the liquor business to start with. Since it is in the liquor business, then the question is because it has a monopoly on it, should it not treat all of its citizens on an equitable and nondiscriminatory basis? That, I believe they should.

My concern is, perhaps to a member of the Committee which may answer it, is does the Bill itself, in any other format, differ from the Committee Amendment except for the referendum clause? If it does, or does not, excuse me, does not, then I'm in favor of the original proposal as submitted, and would hope that we would Accept the Ought to Pass Report, and then kill the Committee Amendment and let this Body make the determination as to how it would treat its citizens instead of sending it to referendum.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, as I said before, this Body has dealt with this issue before, several times. It has been passed in this Body. When it winds up on the Appropriations Table, we are not doing our duty when we let Leadership decide which bills are going to be passed. Which bills aren't going to be passed. We're not going to make the decision at the end of the Session if another bill should be passed, whether that bill is going to be passed. That decision is going to be made by Leadership, not by us. We can pass all the appropriations bills we want to, deappropriation bills. The decision won't be made by us.

There was one question, if this Bill differed any from the other Bill. I think the difference is that if the people pass this bill in a referendum, if this referendum is passed, the next Legislature would make the decision on what price level, where the price level should be set of the monopoly of the State liquor stores and agency stores. I feel that would be appropriate, seeing as they might need sometime to study this and see where we might receive the least, the smallest amount of revenue loss.

I guess, as a closing statement, if those that oppose this Bill would like to have this Bill Tabled until the other one comes out and we pass that Bill, I'd be certainly in agreement to do that.

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

Senator VIOLETTE: Mr. President, and Ladies and Gentlemen of the Senate, if one were to Accept the Report as it is today, I can't, quite frankly, see how. What we have basically, LD 1895, and you look at it. In the Statement of Fact, it says: "this Bill places the

liquor setting authority with the State Liquor Commission, rather than setting a statutory mark-up or consumer tax as in the present law."

I don't think that it's within our prerogative to give up our Constitutional authority to place a consumer tax on alcohol and to simply give that authority to the State Liquor Commission. I think, probably, it is unconstitutional. At least, that's what the Attorney General's office felt. I certainly don't think we want to give up that authority. I think that authority ought to be here in the Legislature.

If one looks at LD 1895 without this Amendment, because this Amendment strips the whole Bill. So, if you remove this Amendment and just Accept this Report, this LD, the purpose of this LD is to give our authority to set the consumer tax on alcohol to the State Liquor Commission. I don't see how we can do that.

So I would hope that we would Indefinitely Postpone this Bill, in concurrence with the House.

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

Senator PRAY: Thank you, Mr. President. Ladies and Gentlemen of the Senate, it's been a long session and little to debate about. It seems there's a few issues that always bring a great amount of debate, and one of them is liquor, and of course the State's role in it.

The argument presented by my good colleague from Aroostook Senator Violette, I think is a rather shallow one in reference to the proposal itself. If the Bill itself was Adopted, the Committee Amendment was eliminated, then we could still have on the Second Reading the opportunity to leave the statutory powers up to setting the tax rate on alcohol.

I see this as an opportunity to establish the policy, though we may have done in the past. It is not up to this Body to make the determination in reaction to the other end of the corridor down there. We're here to act upon what we believe to be our constituency's concerns and desires of this State. We act accordingly in this Body. What the other one does is sometimes out of our control.

I would just point out, in correction to the good Chairman of the Committee, in reference to the powers of authority of Leadership, that this Body has the authority when the Appropriations Table is cleared, to vote its conscience and to overrule us. They have done that on other occasions. They probably will do it on future occasions as well.

The issue here is a clear issue. The question is that the State controls the alcohol in this State. On those liquors which are controlled either by the agency stores or the State Liquor Stores, that there is a discrimination now taking place by this Body, and that is a geographical discrimination as to where you live in this State. If you live next to the New Hampshire border, because New Hampshire's price is cheaper, then we're going to offer it to them cheaper there. If we take that same type of argument and carry it though to other issues, then probably those counties that border New Hampshire probably shouldn't have a Sales Tax.

No matter what anybody's opinion is as to the loss in the question of the revenues, I think we should discuss the basic premises to the State's role in the liquor business, not the question of the revenues at this time. That will be debated when we measure our priorities with other issues on the Appropriations Table. Every member of this Body, at some stage of the game, will have a voice in that decision-making process.

I notice by reading the proposal and the Amendment, no matter who sets up the statutory mark-up price, it is still the question of the price tag on the Amendment is \$2,500,000. That, I would take it, is presuming that the mark-up rate stays the same. You could raise the New Hampshire prices, and I don't think that the,

I'm sorry, the Kittery price, and that the loss would be \$2,500,000. The \$2,500,000 loss would come if you lowered all the other State stores down to the New Hampshire price, down to the Kittery price. I keep saying New Hampshire because the people up north don't stop in Kittery on the way down, because they feel as though they are so discriminated against that they do go into New Hampshire and buy their alcohol.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: I would just like to clarify one point and I won't belabor the issue any further. I think the good Senator from Aroostook, Senator Violette, I guess maybe he was talking about the original bill. On the Statement of Fact of the Amendment, that power of price-setting is with the Legislature, it's not with the State Liquor Commission.

The new Amendment does change over who would set the price. That would be the 111th and 112th Legislatures.

The PRESIDENT: Is the Senate ready for the question?

Will all those Senators in favor of the motion by the Senator from Waldo, Senator Shute, that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee, please rise in their places to be counted.

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

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: I 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 at least 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 Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate, I remember last year, we had a bill before us that was certainly well talked about, about going to referendum of the people again. That was dealing with the so-called "State Lottery".

I never supported the Lottery, even when it was sent to referendum.

The fact of the matter was, everybody was concerned about the \$800,000 or \$900,000 that was being brought into the State's coffers, into the General Fund, to support many of the programs that the State finances.

We keep hearing the word "discrimination" being used with respect to the sale of alcoholic beverages in one area of the State as compared with the rest of the State. We're talking about a loss of something in the area of \$2,800,000. That means another \$2,800,000 that we have to pickup somewhere else.

I can remember since the middle of the 1950 era, that this State floated bonds to, build what we call, or construct the Maine Turnpike spoke of discrimination in those days any one of us who lived in the central part or the southern part of the State and wanted to go through to Boston that the best ways of finding a road of nice transportation means, we took the Turnpike and we paid dearly for it.

Since that time, the 95 system has been built all the way from the Capitol City right through to that great, outstanding community called Houlton. It's a beautiful ride. Not only has it been laid out in a beautiful manner in a sense, the fact is that we have a four lane highway, two lanes on each side. It's just great. It's tremendous.

People that drive that don't pay one red cent. If you still want to go to Boston, or if you still want to go to the southern part of the State, you can ride down as far as Biddeford on I-95, or

South Portland, but if you really want to get on what you call a safe roadway, you get back on the Pike and you continue to pay that discriminatory fee to use that lovely highway on down into Portsmouth, or Kittery.

So if you want to yell discrimination, discrimination has been about with respect to fees for years. I'm probably one of the very few, excepting perhaps Senator Hichens from York County who can speak in a fashion of not being discriminatory in a sense, because I don't believe, neither he nor I willingly or unwillingly imbibe in the fruits of nectar, so whether we pass this bill or we don't isn't going to affect my back pocketbook at all, other than the fact that you're going to tap it to pick up that \$2,800,000 that has been lost.

So I want to support the two Senators who have signed out the Ought Not to Pass Report, the good Senator from Aroostook, Senator Violette, and the good Senator from Androscoggin, Senator Charette, because I think they've exercised good common sense.

We're not in an era today where we can afford to lose any dollars that are coming in. We certainly established a cheaper price down at the very tip of York County, because of the great loss of revenue that was taking place in the State with respect to the sale of alcohol. That was the entire reason for doing it.

I realize that future Legislatures can always make changes in the law. I think this one has stood the test year, after year, after year. I don't believe that it's in the best interests of the citizens of this State to just shovel \$2,800,000 out the window.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, it's nice to know that the good Senator from Cumberland doesn't mind paying a discriminatory tax to drive down the Turnpike and that he supports the payment of the toll on the Turnpike. That's good to know.

Really, the issue here is not whether we're going to lose \$2,800,000 out of General Funds or not. I agree with the good Senator from Penobscot, I don't believe the State should be in the liquor business either. I think New Hampshire is a prime example of a State trying to live off sin taxes. It's no way to go.

If we are going to be in the liquor business, what we're talking about is the quality. That's what this Bill is all about. It will never be addressed in this Legislature. It will never get passed in this Legislature. The only way, and here we are representing the people who I'll guarantee you will pass it if they're given the opportunity, but we as their representatives never will.

That's what the referendum is all about. I would certainly urge that we put it out to referendum strictly in an equitable manner.

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

Senator PIERCE: Mr. President and Members of the Senate, I think that we can talk about highways and we can talk about being in the liquor business, or out of the liquor business and we can talk about money, but the real issue here is fairness.

My very first session down here as a House member, I put in a bill to equalize prices, worked hard on it, got it through the House, and it died in the Senate.

The next session I came back at the question again, worked on the bill, got it through the Senate, and it died in the House.

I think that if we ever got together all the people who buy their liquor in New Hampshire, we couldn't hold them in Yankee Stadium.

You know most issues, I agree, we should deal with here in the Legislature and not put out to referendum. But I would submit that we are a captive of the bureaucracy. We can't deal with this issue, because the bureaucracy is loading it.

When I used to talk about equalizing prices, I

was told the first time around that it would cost \$6,000,000. The next time around I was told that it would cost \$9,000,000. Now we are being told that it will cost \$2,500,000. What the real answer is, is that nobody knows what it would cost, and nobody knows that it would cost us anything.

I would submit that if we could get all the Maine people who buy their liquor out-of-state to buy it in-state we wouldn't have to raise liquor prices one single bit, in fact we could have them all lower, all over the State.

I think that this is an issue that the only way that it is going to be resolved is to let the people do what's right, since we in the Legislature can't seem to accomplish it.

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

Senator HICHENS: Mr. President, and Members of the Senate, I wholeheartedly agree with the good Senator from Cumberland, that whatever they do on this Bill isn't going to affect my pocketbook one iota, except for the fact, as he said, we are going to lose \$2,000,000 in revenue, which might increase my taxes. But for every dollar that we take in in revenue in the State of Maine, it is costing the taxpayers \$7, to take care of those alcohol problems. So I think that I would be saving \$6. on every \$1. that we lost.

I think that this should go to the people. If they're worried about them buying their liquor in Kittery, at a reduced price, well I can inform you that a great many people buy their liquor in New Hampshire because it is still cheaper than what they buy in Kittery. A lot of people in my area go over to New Hampshire and buy their liquor, whether they should or not.

I think that if people are going to buy their liquor that they should be able to buy it for the same price throughout the State of Maine, but let the people decide that, because it isn't going to be decided here in these halls.

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

Senator PRAY: Thank you, Mr. President. Ladies and Gentlemen of the Senate, not to belabor the issue, but earlier today I had an opportunity to talk with the Senator from Kennebec, Senator Pierce, and we were debating another issue and we agreed, and he said one of us must be wrong we agreed.

Now that he is up on the same side of the issue as myself again, I am wondering which one of us is wrong.

When one looks at the State of Maine geographically and surveys the population you will find that within 90 miles of the City of Portland, 70% of the State's population exists. Then, again, the majority of it is going towards the southern direction from Portland down.

I can remember standing in this Chamber just a year or so ago, when the Senator from Aroostook, Senator Violette, stated at that time that his people would happily pay a fee to have a road of the quality of the Maine Turnpike going from the end of Interstate 95 north up into the Saint John Valley and up to the Canadian Border at the top.

There has always been a great discussion in reference to the tax revenues even to highways as to proportionally as to whether or not they go back to the areas that the should go back, be it liquor, transportation or other areas. of the State.

I believe that the referendum issue itself is not a good issue because when you throw out those dollar figures then those individuals become concerned as the good Senator from York, Senator Hichens pointed out is it going to come from some other place such as my income tax, or other taxes?

Let us make the decision here today. I would hope that we would accept the Committee Report, and then deal with the Committee Amendment at that time as to whether or not we are going to have the referendum.

The PRESIDENT: Is the Senate ready for

the question?

The pending question before the Senate is the motion by the Senator from Waldo, Senator Shute, that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee.

A Yes vote will be in favor of Accepting the Majority Ought to Pass Report.

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the roll.

ROLL CALL

YEA—Ault, Carpenter, Clark, Gill, Hichens, McBreairey, Perkins, Pierce, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague.

NAY—Brown, Bustin, Charette, Collins, Conley, Devoe, Emerson, Huber, Kerry, Minkowsky, Najarian, Trafton, Trotzky, Usher, Violette, Wood.

ABSENT—Dutremble, O'Leary.

A Roll Call was had.

14 Senators having voted in the affirmative, and 16 Senators having voted in the negative, with 2 Senators being absent, the motion to Accept the Majority Ought to Pass Report does not prevail.

The Minority Ought Not to Pass Report of the Committee Accepted.

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

Senator CONLEY: Mr. President, having voted on the prevailing side, I now move that the Senate Reconsider its action and I would urge the Senate to vote against me.

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

Will all those Senators in favor of Reconsideration, please say "Yes".

Will all those Senators opposed, please say "No."

A Viva Voce Vote being had, the motion to Reconsider does not prevail.

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

Paper from the House Joint Order

WHEREAS, settlers along the Allagash, St. John and Fish Rivers in Northern Maine were subject to the hardships and violence of a rugged environment; and

WHEREAS, no general medical and surgical treatment center existed north of Bangor to meet the needs of this remote Northern Aroostook community; and

WHEREAS, under the guiding hand of Reverend Joseph S. Marcoux, these isolated citizens, many of whom shared a common language, faith and customs, united to build a general hospital; and

WHEREAS, Northern Maine General Hospital, located at Eagle Lake, has endured through the years to serve this area as a glowing tribute to Father Marcoux and his followers and has become part of a rich tradition in this close-knit community; and

WHEREAS, the institution has evolved from a general hospital to a nursing home, boarding care facility and a mental retardation center to be known as the Powell Memorial Center; now, therefore, be it

ORDERED, the Senate concurring, that the members of the 110th Legislature take this opportunity to commend Father Marcoux and his followers for their foresight in founding Northern Maine General Hospital at Eagle Lake, and in recognizing February 19, 1907 the 75th anniversary of its founding, extend gratitude of the deepest sense to all those who have dedicated themselves over the years to the success of this outstanding medical facility; and be it further

ORDERED, that a duly authenticated copy of this Joint Order be transmitted forthwith to

the appropriate officials of Northern Maine General Hospital with best wishes for continued success. (H. P. 2137)

Comes from the House. Read and Passed.

Which was Read and Passed, in concurrence.

Committee Report Senate

Ought to Pass — As Amended

Senator TEAGUE for the Committee on Aging, Retirement and Veterans on, Bill, "An Act to Permit the Town of Freeport to Withdraw from the Maine State Retirement System. (Emergency) (S. P. 837) (L. D. 1960)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-398).

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

(Off Record Remarks)

Orders of the Day

The President laid before the Senate:

Bill, "An Act to Provide Equal Access to Justice (S. P. 902) (L. D. 2046)

Tabled—Earlier in the Day by Senator COLLINS of Knox.

Pending—Consideration.

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

Senator COLLINS: Mr. President, I move that the Senate Recede and Concur with the House.

The PRESIDENT: The Senator from Knox, Senator Collins, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

The President laid before the Senate:

Bill, "An Act to Prohibit Drinking on School Premises Without Requiring Prior Warning by a Law Enforcement Officer." (H. P. 1929) (L. D. 1912)

Tabled—Earlier in the Day by Senator COLLINS of Knox.

Pending—Passage to be Engrossed.

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

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, we have had distributed Senate Amendment S-400, which I believe you'll find on your desks. Before I make a motion, I'd like to explain what that Amendment tries to do and then, if you concur with me, we'll go through a series of parliamentary motions.

What we've done here conceptually is to create a separate offense, you might say, for drinking on school premises. We have tried to carve it out of the general public drinking statute. As you know, I have been opposed to this Bill, but I regarded this as a friendly amendment to the general concept of trying to address the problem of drinking on school premises. I am against it, and I hope that no one construes my opposition in debate on previous days on this matter as any acknowledgement of the fact that I approve it, because I do not.

What this Senate Amendment does is to state that a person is guilty of public drinking on school premises if he drinks liquor on the premises of a school knowing that he is not licensed or privileged to do so, unless he has been given written permission to do so by an authorized person.

That language is in the present law, is in the present amendment that we have passed yesterday. The next sentence is new. It says "the written permission shall be prominently posted and shown to a police or other law enforcement officer upon request. Failure to present the written permission upon request raises an evidentiary presumption that the person does not

have the required permission."

Senate Amendment 400, also, incorporates the changes that were contained in Senator Hichens's Amendment yesterday, expanding the definition of school to include private as well as private schools, still keeping school as meaning elementary or secondary school.

Now, I think another benefit of this Amendment is that it does not prohibit the use of school premises for social functions such as a Fireman's Ball, or a rally, or a meeting at which public groups are going to hold social events there. You could have a group of alumni coming back to a high school where drinks could be served. If that were the case, all that the municipality would have to do is have its school superintendent or governing body of the municipality give their permission for that event to take place, drinks to be served or consumed on the premises, and post some kind of written sign on the premises near the entrance, two or three places that that permission were given.

Mr. President, with those preliminary remarks, I would now move that the Senate Reconsider its action by which it Adopted Committee Amendment "A".

On motion by Senator Devoe of Penobscot, the Senate voted to Reconsider its action whereby Committee Amendment "A" to LD 1912 was Adopted.

On motion by Senator Devoe of Penobscot, the Senate voted to Reconsider its action whereby Senate Amendment "A" to Committee Amendment "A" was Adopted.

On motion by Senator Devoe of Penobscot, Senate Amendment "A" to Committee Amendment "A" was Indefinitely Postponed.

On motion by Senator Devoe of Penobscot, Committee Amendment "A" was Indefinitely Postponed, in non-concurrence.

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

Senator DEVOE: Mr. President, I now present Senate Amendment "A" to LD 1912 with filing number S-400 and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, now offers Senate Amendment "A" to LD 1912 and moves its adoption.

Senate Amendment "A" (S-400) was Read and Adopted.

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

Senator CONLEY: Mr. President and Members of the Senate, I've given this particular Bill some thought over the last few days. When this Bill first came before this Body, the good Senator from Penobscot voted against it. I voted for it. It's quite contrary to my philosophy and quite contrary to really, I guess, my beliefs with respect to some of our youngsters of this State.

I realize that we have a problem with youngsters from school age attending many of the dances or other things that may be held during the school year.

I'm concerned now as to whether or not, and I think we all should be concerned, as to whether or not we want to give a youngster of school age a criminal record for drinking on the premises of school grounds.

I've read the Amendment that the good Senator from Penobscot has put on the Bill. It certainly clarifies the Bill much better than the original draft or the Amendment that was placed on here yesterday.

Today, I'm not going to vote for this Bill. I just in good conscience can not do it. If someone wants to make it a civil violation, I would support that. I don't think we want kids of this State at the age of 16, 15, 14, or whatever, to obtain a criminal record and have to go through life or the rest of their days with that.

Therefore, Mr. President, I now move that this Bill and all its accompanying papers be Indefinitely Postponed.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate. I would point out to you that under present law, as enacted by this Legislature last year, I believe that's exactly the situation. The only difference being that on school premises, a child, an underage person, a minor, or an adult, and this Bill was aimed at the adults every bit as it is aimed at the young people, now could be convicted of the crime, minus a warning. That's the only thing that's different.

If the good Senator from Cumberland, Senator Conley, feels so strongly that minors shouldn't receive criminal records for public drinking, then I wonder why he didn't amend the law. The bill that we passed here last year to exclude minors from that public drinking bill. That's only the difference the warning. That's the only difference.

So don't be fooled by the red herring. This is not going to make some kind of a horrible criminal out of anybody caught drinking. On school premises you don't have to give the warning, as I understand the good Senator from Penobscot's Amendment. That's the only difference. Under present law, if I'm 16 years of age, or if I'm 36 years of age, and I'm on school property or any other public building, I can get a criminal record by one drinking, being warned, and drinking again, or having an open container of alcohol, being warned, and drinking again. That's how I get a criminal record. That's how a 16 year old would get a criminal record, under existing law.

The only difference in this Bill is that we're doing away with the warning on school premises. So don't be fooled.

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

Senator BROWN: Thank you, Mr. President. Members of the Senate, I heard several people yesterday, and perhaps the day before, talk about the fact that this was not a necessary Bill, and they would just let it go. I heard the good Senator from Aroostook, Senator Carpenter, mention red herring. I thought it was a fishing bill for a moment, it threw me off.

I would like to support very much the good Senator from Cumberland, Senator Conley's, suggestion. I'm not novice when it comes to dealing with young kids in schools, whether it be an athletic event or a social event. We have a problem with drinking in school. There's no one in this Chamber that will deny that. We have a problem with youngsters and adults when it comes to functions at the high school.

This Bill's not going to do anything about that. This Bill will do nothing further to correct the situation, a bad situation that exists. If we've got a problem now, we can correct it. This Bill does nothing whatsoever, and I urge that we Indefinitely Postpone it.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Conley, that LD 1912 be Indefinitely Postponed, please rise in their places to be counted.

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

10 Senators having voted in the affirmative, and 15 Senators having voted in the negative, the motion to Indefinitely Postpone LD 1912 does not prevail.

Which was Passed to be Engrossed, as amended, by Senate Amendment "A" in non-concurrence.

Sent down for concurrence.

Segator Trafton of Androscoggin was granted unanimous consent to address the Senate, On the Record.

Senator TRAFTON: Thank you, Mr. President. Men and Women of the Senate, yesterday was a momentous day for the City of Auburn. Our numbers swelled by one. I was the proud Senator of a new constituent, Scott Paul Min-

kowsky, the son of Steve and Denis Minkowsky, and the grandson of Senator Carroll Minkowsky. I would hope you would all join with me in congratulating Grandpa.

(Off Record Remarks)

On motion by Senator Pierce of Kennebec. Adjourned until 12 o'clock tomorrow.