

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

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

Augusta, Maine
May 10, 1983

Senate called to order by the President.

Prayer by the Reverend Bill Shackelford of the Kennebec Valley Baptist Church of Waterville.

REVEREND SHACKELFORD: Shall we pray! Our Father in heaven, we thank You today for Your blessings; we thank You for this day that You've given us.

We pray now that as this Senate opens today, Father that You will be with each Senator, each decision that has to be made. May each piece of Legislation that is passed honor and glorify You.

Father, we thank You for young people, such as Samantha Smith, and Father we pray that You might bless her and her family.

Father, we pray now, that everything that is done here today, may it honor and glorify You. Give us laws and give us bills of honesty and decency. Bless us and use us now in Your service, for it's in Jesus' Name we ask it. Amen.

Reading of the Journal of yesterday.

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

BILL, "An Act to Allow the Training of Bear Dogs." (S. P. 371) (L. D. 1145)

In Senate May 4, 1983 Passed to be Engrossed as Amended by Committee Amendment "A" (S-87)

Comes from the House, bill and accompanying papers Indefinitely Postponed in non-concurrence.

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

Senator USHER: Mr. President and Members of the Senate, in regards to the very emotional issue I just want to inform the Senate that they do train dogs on rabbits, raccoons, and foxes, but after the testimony in the other Body, I realize that it can get very emotional, and I'll now move to Recede and Concur with the House.

On motion by the Senator Usher of Cumberland, the Senate voted to Recede and Concur with the House.

Non-concurrent Matter

BILL, "An Act to Require the Wearing of Protective Headgear by all Motorcycle, Motor Driven Cycle and Moped Riders." (H. P. 836) (L. D. 1072)

In House May 2, 1983 Minority Ought Not to Pass Report Read and Accepted.

In Senate, May 5, 1983 Passed to be Engrossed in non-concurrence.

Comes from the House, that Body Insisting and asking for a Committee of Conference.

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

Senator DANTON: Mr. President, I move that the Senate Insist and ask for a Committee of Conference.

The PRESIDENT: The Senator from York, Senator Danton, moves that the Senate Insist and Join in a Committee of Conference.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, I guess the issue has been very well defined in both Branches of the Legislature. I don't think there it is really of any significant value to debate it beyond this particular point. After observing yesterday the shenanigans that went on in the other Branch of the Legislature, it makes me wonder exactly how these things come about insofar as in the name of equity and fair play.

This morning, Mr. President, what I intend to do is ask the Senate to Recede from Passage to be Engrossed of this L. D., and I would ask for a Roll Call vote on that particular motion.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky has now moved that the Senate Recede.

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 Diamond.

Senator DIAMOND: Thank you, Mr. President. Men and Women of the Senate, I'm totally baffled at the term "shenanigans". I'm not sure all that was meant which was made reference to by the good Senator from Androscoggin, Senator Minkowsky. I truly have no idea what that means. I would say, though, that this Bill has been debated heavily, a lot of concern for this Bill on both sides. In this very Body we had 16 to 16 vote, in the other Body they had not such a close vote but certainly closer than in past years. So I would hope that you would allow, at least, those on both sides of this issue, to simply sit down and talk in a Committee of Conference. If that is not going to work out with a productive end so be it I can accept that. But I'd think that it might be appropriate given the closeness in this Body, at least, and the concerns that people have on both sides if we do sit down and at least talk about it. Thank you, Mr. President.

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

Senator DANTON: Mr. President and Members of the Senate, like the good Senator from Cumberland just stated, this Bill was debated very well, to say the least.

I just want to tell some of you Members who were not here a few years ago that as I said before, I voted to repeal the helmet law. There's one point that I did not make the other day. Back in '77 when I voted to repeal the helmet law and it went down to the Governor's Office, the Governor then was the late Governor Longley, an Independent. Anyone that knows anything about politics and the Governor's Office, in most cases, and almost in all cases if a Governor vetoes a bill, like the Governor did veto at that time the helmet law bill, it would have been sustained, either in that Branch or this Branch.

So, theoretically speaking, and I know that the bike riders are here today to listen to this debate, I want them to know that the last six years, actually, they've had a free ride without helmets. Had there been a Republican and a Democratic Governor, that bill never would have been repealed. His veto would have been sustained because the vote was that close in this Chamber, I can remember it. It certainly was close enough to take and sustain the Governor's veto. But at that time, I guess, it was the issue of the day for us to take and override the Governor's vetoes in fact, Governor Longley, the late Governor Longley took and vetoed more bills than all governors in the history of Maine and the Legislature overrode more bills, at that particular time, than all the governors of the State of Maine, so I just thought I'd make that point to the Senate this morning.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, both the good Senator from York, Senator Danton and myself have been here a number of terms, but let's not just place the onus upon the bikers who are here this morning it's not in good taste. These people really are the ones who understand what can happen. These are the people that are defensive drivers. These are the people who have been advocating for a number of years a man-

datory educational program. No matter how you try to cut this, from the statistics I read to you last week, pertaining to the State of Maine and Maine only you can have a helmet law but; as long as we have people out there who have one year of experience and I'm going to clarify that by further by saying, sixteen or eighteen weeks, which is the driving season in the State of Maine; as long as we have people who are motivated to drive motorcycles at a high rate of speed just like they drive automobiles; as long as we have people driving under the influence of drugs, a helmet is not going to protect them one iota. It's based upon common sense, and education, of what can happen to them on this two-wheeled motorcycle.

All the fatalities, if I understood correctly, came about with people with less than one season driving experience. If you look at the breakdown, helmet or no helmet, the intent very clearly was that they were going to get killed. In some cases, if they did have a helmet and did not have head injuries it was internal injuries, massive internal injuries.

It is not going to make one bit of difference. We advocate very strongly that people wear helmets. As I brought out last week in debate, there are many different qualities of helmets on the market. If you go by the Bill as it states very clearly, the Commissioner of the Department of Public Safety will set standards. If there is any relevancy to the sixty-eight thousand drivers on the road, in a short driving season in the State of Maine, does this mean all those inadequate helmets out there now that our State Troopers and our Municipal Police Departments will have them taken off. You can buy helmets for fifteen or twenty dollars and in most cases they will not stand an impact of five miles per hour drop. In some cases, where these people did have accidents and had these cheap helmets on their heads, it was more deleterious to their health, simply because they couldn't get the darn thing off. If you want to buy a quality helmet, you're going to pay a hundred fifty dollars to two hundred dollars, not twenty dollars, and there's that possibility of neck injuries from the impact. The human body is a very fragile thing. These are all viable considerations. I think, no matter how we have debated this a Committee of Conference is not going to solve the problem.

On motion by Senator Pray of Penobscot, Tabled until later in today's session pending the motion by Senator Minkowsky of Androscoggin.

Non-concurrent Matter

BILL, "An Act to Establish the Third-party Prescription Program Act." (S. P. 518) (L. D. 1539)

In Senate May 3, 1983 Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-209) in nonconcurrency.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending further consideration.

**Communications
State of Maine
House of Representatives
Augusta 04333**

May 9, 1983

Honorable Joy J. O'Brien
Secretary of the Senate
111th Legislature
Augusta, Maine 04333

The House voted today to Adhere to its action whereby it Indefinitely Postponed. An Act to Amend Maine's Wrongful Death Law (H. P. 398) (L. D. 481) (C. "A" H-141).

Sincerely,
S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

The Following Communication:
State of Maine
House of Representatives
Augusta 04333

May 9, 1983

Honorable Joy J. O'Brien
Secretary of the Senate
111th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The House voted today to Adhere to its action whereby it Indefinitely Postponed Bill "An Act to Increase Reimbursement for Professional Credits for Teachers" (S. P. 361) (L. D. 1074)

Sincerely,
S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

Orders

Joint Resolution

On motion of Senator DOW of Kennebec, under suspension of rules, the following Joint Resolution (S. P. 542) (Cosponsors: Senator CONLEY of Cumberland, Representative DAGGETT of Manchester, and Speaker J. MARTIN of Eagle Lake)

JOINT RESOLUTION RECOGNIZING SAMANTHA SMITH OF MANCHESTER, MAINE FOR HER HISTORIC CORRESPONDENCE WITH SOVIET LEADER YURI V. ANDROPOV

WHEREAS, it has been said "the children of today will be the architects of our country's destiny . . ."; and

WHEREAS, Samantha Smith, a beam of sunlight from Manchester, Maine, has sparked a glimmer of hope in the tense coldness of international relations; and

WHEREAS, a 10-year old school girl has succeeded where others have failed in initiating a candid dialogue with the leader of the Soviet Union; and

WHEREAS, this 5th grader's letter touched on the simple fundamental dream of all people everywhere "to live in peace, to trade and cooperate with all our neighbors on the globe"; and

WHEREAS, it is upon that foundation that the United States and the Soviet Union must build and to which Samantha has shed light and hope by her historic communications; now, therefore, be it

RESOLVED: That We, the Members of the Senate and House of Representatives of the First Regular Session of the 111th Legislature of the great and sovereign State of Maine, now assembled, pause in our duties to recognize this young diplomat from Manchester who seeks truth "the finest and noblest ground on which people can live" and above all to extend to Samantha and her proud parents Art and Jane Smith of Manchester, the admiration of the Legislature on behalf of the people of Maine for this unique and historic act of diplomacy; and be it further

RESOLVED: That a suitable copy of this Joint Resolution be prepared and presented to Samantha with every best wish and God-speed on her forthcoming trip to the Soviet Union.

Which was Read.

The PRESIDENT: I'm proud to have this opportunity to introduce to the Members of the Maine Senate, Miss Samantha Smith of Manchester.

I think it is safe to say that Samantha ranks as one of the most popular citizens, having received more attention than all of us combined, and for very good reason having accomplished one of the greatest diplomatic coups in recent history. Samantha has done well to steal her share of the headlines, even from Secretary Schultz.

We are all very proud to count on you as a fellow citizen, Samantha, and to have the oppor-

tunity to have you join us this morning. What you have done is, indeed, worthy of recognition. You have achieved something that even the most experienced diplomats have failed to do for almost thirty years...You are responsible for opening up new channels of communications based on honesty and trust. A lesson can be learned by all of us who hope to shape a future of peace for all of the world's citizens.

On behalf of all the Members of the Maine State Senate, I wish to extend to you our deepest thanks.

The President requested the Sergeant-at-Arms and the Senator from Kennebec, Senator Dow to escort Samantha to the rostrum for the purpose of making any remarks she cared to make. (Applause, the Members rising.)

Samantha SMITH: Thank you very much, and I just want to say that I'm proud that I was born and raised in Maine. (Applause, the Members rising.)

The Sergeant-At-Arms and the Senator from Kennebec, Senator Dow, escorted Samantha to her seat in the rear of the Chamber.

The PRESIDENT: The Chair is, also, pleased at this time to recognize in the rear of the Chamber her father and mother, Arthur and Jane Smith. (Applause, the Members rising.)

Which was Adopted.
Sent down forthwith for concurrence.

Committee Reports

House

Ought to Pass

The Committee on Transportation on BILL, "An Act to Authorize the Maine Turnpike Authority to Receive Applications and Approve Descriptive and Directional Signs on the Maine Turnpike" (H. P. 750) (L. D. 962) Reported that the same Ought to Pass.

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

Which Report was Read and Accepted in concurrence. The Bill Read Once and Assigned for Second Reading later in today's session.

The Committee on Judiciary on BILL, "An Act Repealing the Law on the Effect of Bail Following Conviction and Commitment" (H. P. 1115) (L. D. 1473) Reported that the same Ought to Pass.

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

Which Report was Read and Accepted in concurrence. The Bill Read Once and Assigned for Second Reading later in today's session.

Ought to Pass as Amended

The Committee on Transportation on BILL, "An Act Concerning Right-of-way for Emergency Vehicles" (H. P. 850) (L. D. 1100) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-206)

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-206)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-206) was Read and Adopted, in concurrence. The Bill, as amended, Assigned for Second Reading later in today's session.

Ought to Pass in New Draft

The Committee on Labor on BILL, "An Act Relating to Attendants for Power Boilers" (H. P. 404) (L. D. 487) Reported that the same Ought to Pass in New Draft under same title (H. P. 1180) (L. D. 1572)

Comes from the House, the Report Read and Accepted and the New Draft Passed to be Engrossed.

Which Report was Read and Accepted in concurrence. The Bill in New Draft Read Once and Assigned for Second Reading later in today's session.

The Committee on Transportation on BILL, "An Act to Suspend Operation Authority on Motor Vehicles which Fail to Comply with the Gasoline Reporting Law" (H. P. 886) (L. D. 1140) Reported that the same Ought to Pass in New Draft, under same title (H. P. 1183) (L. D. 1576)

Comes from the House, the Report Read and Accepted and the New Draft Passed to be Engrossed.

Which Report was Read and Accepted in concurrence. The Bill in New Draft Read Once and Assigned for Second Reading later in today's session.

The Committee on Agriculture on BILL, "An Act Concerning Solids in Milk" (H. P. 694) (L. D. 883) Reported that the same Ought to Pass in New Draft under same title (H. P. 1181) (L. D. 1573)

Comes from the House, the Report Read and Accepted and the New Draft Passed to be Engrossed.

Which Report was Read and Accepted in concurrence. The Bill in New Draft Read Once and Assigned for Second Reading later in today's session.

Divided Report

The Majority of the Committee on Business Legislation on BILL, "An Act to Amend the Unfair Trade Practices Law" (H. P. 570) (L. D. 718) Reported that the same Ought Not to Pass.

Signed:

Senators:

SEWALL of Lincoln
CHARETTE of Androscoggin

Representatives:

BRANNIGAN of Portland
CONARY of Oakland
TELOW of Lewiston
PERKINS of Broosville
MacBRIDE of Presque Isle
MARTIN of Van Buren
POULIOT of Lewiston

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass in New Draft under same title (H. P. 1178) (L. D. 1567)

Signed:

Senator:

CLARK of Cumberland

Representatives:

MURRAY of Bangor
RACINE of Biddeford
STEVENS of Bangor

Comes from the House the Minority Report Read and Accepted and the New Draft Passed to be Engrossed.

Which Reports were Read.

On motion by Senator Clark of Cumberland, the Minority Ought to Pass, in New Draft. Report of the Committee was Accepted, in concurrence. The Bill, in New Draft, Read Once and Assigned for Second Reading later in today's session.

Divided Report

The Majority of the Committee on Judiciary on BILL, "An Act to Improve Access to Small Claims Court" (H. P. 480) (L. D. 577) Reported that the same Ought Not to Pass.

Signed:

Senators:

VIOLETTE of Aroostook
TRAFTON of Androscoggin
COLLINS of Knox

Representatives:

DRINKWATER of Belfast
FOSTER of Ellsworth

LIVESAY of Brunswick
SOULE of Westport
REEVES of Newport
JOYCE of Portland

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

Signed:

Representatives:

BENOIT of South Portland
CARRIER of Westbrook
HAYDEN of Durham
HOBBINS of Saco

Come from the House with the Minority Report Read and Accepted and the Bill Passed to be Engrossed.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton. Senator TRAFTON: Mr. President, I move the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton moves that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President, I ask for a Division and I wish to speak to the motion.

The PRESIDENT: The Senator has the floor.

Senator KANY: Thank you. I hope that you reject the Ought Not to Pass Report and go with the Bill. I urge you to look at this little Bill, L. D. 577 all it does is ask that each district court with a small Claims Court be open one hour, one evening a month. Is that too much to ask of our Government to serve the people that it represents instead of holding hours that are convenient to itself?

I urge you to go along with Passage of this Bill. It would be most helpful to the working people of the State, who now have to leave their work in order to go to Small Claims Court, which was set up just for them, so that they would not need to have an attorney to represent them when they are seeking to be compensated for a claim.

I urge you to vote against the pending motion.

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

Senator TRAFTON: Mr. President and Members of the Senate, often we see very small bills that create large problems. I suggest that this Bill is an instance where a large problem would be created.

First, I'd point out that this proposal has been tried in the past. The Municipal Court in Brunswick was open in the evenings for both the filing and hearing of small claims complaints. In fact, very few people if any, showed up at these evening hours. They were unsuccessful and they were discontinued, basically due to the lack of use.

The Judiciary, as you know, has been sorely strapped for funds in the last few years. In fact the Judiciary did come before the Appropriations Committee, earlier in this session, and had to request 1.1 million dollars to fund their budget, which had fallen in the red. These overruns are not uncommon with the Judiciary, even though the Judiciary does have an income which goes into the General Fund contributes actually approximately 60% of its ongoing budget. There are additional monies needed and funds are tight.

The Administrative Office of the Courts indicates that this Bill would place additional costs upon the Judiciary System. They indicate that this Bill would mean further overtime costs where courts have limited number of employees. There would be further reimbursement for meals and lodging; for the extended days for these employees; particularly, the judges that were unable to travel back home. They would have to either spend the nights, at

a distant location or be, at least, reimbursed for the dinner meal. There would be an additional janitorial cost necessary to extend these working hours in the court system.

In short, this Bill would create an additional financial burden on the court system that is already severely strapped. I point out to you that a majority of the Judiciary Committee voted Ought Not to Pass on this particular proposal. This proposal is not a new one it has been heard several sessions in a row; before the Judiciary Committee; on the floor of this Body and the Body down the Hall. It has never received favorable passage due to these problems which I raised today.

I urge you to Accept the Majority Committee Report of Ought Not to Pass and thank you very much.

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

Senator KANY: Mr. President and Members of the Senate, the other Body, Passed this Bill.

The PRESIDENT: The Chair would remind the Senator that what has taken place in the other Body is not up for debate in this Branch.

Senator KANY: I apologize, Mr. President.

I would point out that L. D. 577, I would refer you to the Statement of Fact. The Chief Judge of the District Court can indeed set the hours for the courts and there is no reason why this Bill should cost an additional cent. The Chief Judge can accommodate the judges by having one hour less of court during the day, so that the people can have one hour, once a month in the peoples' court, in the evening, so that they would not have to leave their work place.

I urge you to go along with this Bill which really is a Bill for the people, in that we would be accommodating them instead of our Government, the judges.

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

Senator TRAFTON: Mr. President and Members of the Senate, I've spent many hours in Small Claims Court, it's not where I prefer to spend my time, but I suggest that the majority of cases before the Small Claims Courts are collection cases by small businesses and large businesses trying to collect monies that are due to them, as opposed to the small consumer who brings a case against a neighbor, or a grocery store, or some other person against which he has a complaint.

If the majority of these cases are collection cases and if the employees are being paid as they are, to my knowledge, then I see no problem with continuing our current arrangement for daytime court. As I indicated it has been the history of this proposal to not be successful, it was tried, it failed.

Again, I urge you to Accept the Majority Ought Not to Pass Report.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

Will all those Senators in favor of the motion by Senator Trafton of Androscoggin that the Senate Accept the Majority Ought Not to Pass 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.

19 Senators having voted in the affirmative, and 11 Senators having voted in the negative, the motion to Accept the Majority Ought Not to Pass Report in non-concurrence. Prevailed.

Sent down for concurrence.

Senate

Leave to Withdraw

The following Leave to Withdraw reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act Placing the Burden of Justification for any Land Use Control Measure on Municipalities once a Prima Facie Showing of Exclusion has been Demonstrated" (S. P. 83)

(L. D. 214)

BILL, "An Act Relating to the Fee for Camp Lot Leases on Public Lands" (S. P. 201) (L. D. 623)

Ought to Pass

Senator COLLINS for the Committee on Judiciary on BILL, "An Act Relating to Forged or Illegal Prescriptions" (S. P. 492) (L. D. 1491) Reported that the same Ought to Pass.

Which Report was Read and Accepted. The Bill Read Once and Assigned for Second Reading later in today's session.

Ought to Pass — as Amended

Senator CLARK for the Committee on Business Legislation on BILL, "An Act to Restructure Maine's Insurance Management Program" (S. P. 482) (L. D. 1464) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-106).

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "A" (S-106) was Read and Adopted. The Bill, as Amended, Assigned for Second Reading later in today's session.

Second Readers

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

House

BILL, "An Act to Amend the Law Governing Traveling Shows" (H. P. 1179) (L. D. 1569)

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

House — as Amended

BILL, "An Act to Amend Certain Provisions of the Law Defining Sex Offenses" (H. P. 864) (L. D. 1113)

BILL, "An Act to Amend the Protection and Advocacy Agency for the Developmentally Disabled in Maine Statutes" (H. P. 932) (L. D. 1177)

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

BILL, "An Act Relating to the Licensing of Dental Radiographers" (H. P. 996) (L. D. 1329)

Which was Read a Second Time.

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

Senator DANTON: For the Committee on Bills in their Second Reading, I offer Senate Amendment "A" to L. D. 1329 and move its Adoption.

The PRESIDENT: The Senator from York, Senator Danton offers Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-109) was Read and Adopted.

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

Sent down for concurrence.

Senate — as Amended

BILL, "An Act to Clarify the Administration of the Department of Labor" (S. P. 333) (L. D. 978)

Which was Read a Second Time.

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

Senator DANTON: For the Committee on Bills in their Second Reading, I offer Senate Amendment "A" to L. D. 978 and move its Adoption.

The PRESIDENT: The Senator from York, Senator Danton offers Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-108) was Read and Adopted.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following: An Act to Establish a Chief Justice of the Su-

perior Court (S. P. 146) (L. D. 437)

An Act to Clarify, Simplify and Improve Certain Sections of the Labor Laws of Maine (S. P. 497) (L. D. 1503)

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

An Act Relating to the Humane Treatment of Animals (S. P. 515) (L. D. 1530)

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

Senator HICHENS: Mr. President and Members of the Senate, in reference to L. D. 1530, I rise in opposition to passage of L. D. 1530, the redraft of L. D. 218 which has caused so much consternation between agricultural groups within the state.

You have heard the good Senator from York last week, Senator Wood, give his version of developers since he first introduced L. D. 218 and I am not standing to refute his statements although I do not fully agree with everything he has stated. There has been a lot going on, and many false rumors instigated by a highly paid lobbyist have been misinterpreted to members of the legislature.

It has been stated that many people who originally opposed L. D. 218 are now in favor of L. D. 1530. To tell the truth, many of the organizations representing agriculture and animal welfare in the state have not had opportunity to read L. D. 1530, it having been put in our books the same day the report appeared on our calendar. Originally the Maine Fair Association, the Federation of Maine Dog Clubs, the Sportsman's Alliance of Maine, the Maine Poultry Federation, the Maine Farm Bureau, the Maine Draft Horse & Ox Association, the Animal Welfare Advisory Board, and the Maine Federation of Humane Societies Board, opposed L. D. 218. Some of these groups have already expressed opposition to L. D. 1530 while other groups are hastily calling meetings to discuss the redraft and have asked that the bill be held up until they have opportunity to give an opinion. Four associations have voted to oppose L. D. 1530. The Sportsman's Alliance, the Equine Advisory Board, the Maine Association of Agricultural Fairs and the Maine Federation of Humane Societies Board.

Unfortunately, the bill is being rushed through so that the other associations opportunity to give opinions has been prohibited. In all fairness to concerned persons all around the state, I now move that L. D. 1530 be recommitted to the Committee on Agriculture so that everyone might be given opportunity to fairly assess L. D. 1530.

The PRESIDENT: The Senator from York, Senator Hichens has moved that L. D. 1530, "An Act Relating to the Humane Treatment of Animals (S. P. 515) (L. D. 1530) be Recommended to the Joint Standing Committee on Agriculture.

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

Senator WOOD: Mr. President, Members of the Senate, I rise to oppose that motion, and would point out that the very day that this Bill first appeared on our calendar there were nine other Bills that were New Drafts, three of them went to the point of New Drafts and New Title's none of those Bills including the obscenity ordinance that the good Senator put in, were recommitted for a new hearing, although they were substantially changed. We have had many New Drafts this session and none of those New Drafts have been recommitted to a committee.

This Bill has been around for a week, more than a week, people have had ample opportunity to review it. I think that if you look at the votes that have been taken all along, if you look at the vote that was taken yesterday in the House, and the substantial margin by which it passed, you'll see that people have reviewed

the Bill and have not found problems with it.

I did have some problems with the letter that passed our desks pointing out organizations that had taken a position, because when I called those organizations they had not taken a position. They had taken a position against LD 218, but not against the new bill. In fact one of those organizations the Animal Welfare Advisory Board took a position against my bill on March 24, the irony is that the New Draft was not presented until April 21. So, I asked the person how they were able to take a position on a bill that did not exist? She said you can simply point out to people that we took our position on the 24th and the Bill was presented on April 21 almost a month later.

I think that this Bill has been debated, I think that people are well aware of the issues, and I think that it would serve no purpose to recommit it this time.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion by Senator Hichens of York to Recommit to the Committee on Agriculture, please rise in their places to be counted.

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

6 Senators having voted in the affirmative, and 26 Senators having voted in the negative, the motion to Recommit, Failed.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President and Members of the Senate, with my request that this Bill be recommitted to the Committee denied, I now move for Indefinite Postponement of LD 1530 and all of its accompanying papers, and would like to speak on my motion.

The PRESIDENT: The Senator has the floor.

Senator HICHENS: I do not want to bore you with facts but I feel that you should all know why LD 1530 is before you for enactment this morning.

Ten years ago, protection of animals in Maine was in a very poor state, to say the least. At that time I was asked to sponsor a bill establishing a division of animal welfare within the Department of Agriculture and the bill was accepted by the Legislative Council for introduction in the special session of the legislature. The bill became law and the division was established with a Mr. Stanley Browne named director. Mr. Browne had a tremendous job ahead of him and was handicapped in his job by having a limited number of full-time humane agents to cover the state, along with a few part-time humane agents. An unpaid advisory board of nine members assisted Mr. Browne in his decisions.

Up until this year, the division was well received and although there were some complaints, the vast majority of people who were concerned with animal welfare were satisfied that the director was doing a good job.

In early January of this year, I was approached by a certain Mr. Pachios, and asked if I'd be interested in cosponsoring a bill to strengthen the division of animal welfare. I was told that a constituent of mine who has faithfully kept me advised regarding the care of animals within the state was in favor of such a bill. I told Mr. Pachios that I would wait a few days and give him my answer.

The following week I was informed by a deputy commissioner of the Department of Agriculture that a certain person was trying to get rid of Mr. Browne as director of the Division of Animal Welfare. Then after contacting my constituent and learning that she really didn't know what was going on, I refused to cosponsor the bill. I then became deluged with letters in support of LD 218 and when I called several of these people, they said they had been asked to write by a certain Mr. Keddy of Windham but did not really understand what was going on.

A hearing on LD 218 was held on February

9th in a crowded room 113, where Mr. Browne was chastised by several people and information give that the division was doing a poor job in animal welfare cases throughout the state. These charges were refuted by the Commissioner of Agriculture, Mr. Smith, and several others. The sponsor of the bill, Senator Wood, seemed ready to ask for Leave to Withdraw but when the House chairman became ill shortly following the hearing, the bill was held up in committee.

The next thing I knew was that the bill was being entirely redrafted by Senator Wood, Mr. Pachios and the same deputy who had first warned me that Mr. Browne's job was in jeopardy. Heavy lobbying which included many false statements ensued, and LD 1530 was presented to the agricultural committee and discussed in a work session. Many people, who were asked to attend the work session were upset because they were not given opportunity to speak.

At the following work session, a straw vote was taken with eight members present. Four members voted for the redraft, four against. Immediately a former commissioner of agriculture approached some of the committee members who had voted against the bill and convinced them that they were voting wrong and they signed the Ought to Pass Report. The other Legislator came to me last week and claimed that he was only given one report to sign and as a freshman legislator, not knowing all legislative procedures, signed the Ought to Pass Report. The House chairman who has not been present, was also listed as an Ought to Pass signer and upon questioning, I was informed that the Speaker had signed for him. The Committee Report came out 12-1 Ought to Pass, as a result.

The Bill, LD 1530, appeared in our books last Monday, the same day the Committee Report was listed in our calendar. I did not contest the sponsor in getting to his feet and denying accusations that had never been vocally made.

The good Senator from York, Senator Wood, in his speech, stated that several associations who had opposed the original bill had changed their minds and were in favor of LD 1530. A fact he has already stated again this morning. I have mentioned these groups in my prior speech this morning and also the fact that the Maine Federation of Humane Societies Board Sportsman's Alliance, the Equine Advisory Board and the Maine Association of Agricultural Fairs all met last week and are opposed to LD 1530. The Maine Farm Bureau has taken a no opinion stance and the other boards have not held meeting since the redraft was presented. Meanwhile many of you have received letters endorsing the bill. I have called some of these people and they tell me that Mr. Keddy has called them again for support.

I commend Attorney Pachios for a determined lobbying effort at \$60. to \$100. Per hour salary in the 5-month period, paid for by one Mr. Keddy. Quoting from a letter received from the same lady that he informed me back in January favored a change, quote "It is sad that I have had to live so long to learn what the expression 'Dirty Politics' means." unquote.

I'm sorry to have been so lengthy in my presentation this morning but I feel that before the vote is taken, that this information should be on the Record.

Regarding LD 1530, the main thrust of the bill is to establish another board appointed by the Governor. This will be the 8th board in the Department of Agriculture and another board added to the over 300 agencies already appointed by the Executive branch.

The Commissioner of Agriculture will serve as a non voting member as he does on the other 7 boards. What I ask you is the need for a Commissioner of all of these boards make the decisions for him?

Thank you very much.

The PRESIDENT: The Chair recognizes the

Senator from Oxford, Senator Erwin.

Senator ERWIN: Mr. President, Ladies and Gentlemen of the Senate, I think that this Body is extremely fortunate to have such a dedicated individual as Senator Wood. Some of you may be aware of what he has gone through in these many weeks that he has been working on this Bill. He has discussed the Bill with every group that really wanted to discuss it with him, despite what the rumors maybe. He has talked over the phone with everyone who wanted to discuss the Bill with him.

This Bill does not actually change the laws under which the Humane Society will operate. What it changes is it creates a Board that will replace a Division in the Department of Agriculture. It will still be operating under the Department of Agriculture.

Any appointment to this Board will be screened by the Committee on Agriculture, that nomination then if successful would come to the Senate for your approval.

We have deliberately put three members on the Board, first term for one year, giving plenty of opportunity if there is a problem to correct it.

In our last work session we were fortunate in having a former Commissioner of Agriculture present. He appeared to indicate that he was not for this Bill when it was first presented, however he was heartedly for it now. One of the statements that he made was the Board of Pesticides went through the same problems that we are going through now. Many of the people who detested the proposed bill then on pesticides now are very glad that they have that Board. The former commissioner predicted that this would be the feeling a year from now about this Bill.

He said that for the first time people that have been fighting each other like some of the animals that they choose to protect will now be forced to be in the same room to have discourse to discuss things, the problems and perhaps for one of the first times in the history of this State the humane societies and other groups will be working together. Thank you.

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 York, Senator Hichens to Indefinitely Postpone L. D. 1530, please rise in their places to be counted.

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

4 Senators having voted in the affirmative and 25 Senators having voted in the negative, the motion to Indefinitely Postpone, Failed.

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

Emergency

An Act to Override the Federal Preemption of State Authority to Regulate Alternative Mortgage Transactions (H. P. 790) (L. D. 1082)

This being an emergency measure and having received the affirmative vote of 32 members of the Senate, with No Senators having voted in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

On motion by Senator Pray of Penobscot, the Senate voted to take from the Table:

BILL, "An Act to Require the Wearing of Protective Headgear by All Motorcycle, Motor Driven Cycle and Moped Riders." (H. P. 836) (L. D. 1072) Tabled earlier in today's session, on motion by Senator Pray of Penobscot pending the motion by Senator Minkowsky of Androscoggin to Recede. (A Roll Call having been Ordered)

The PRESIDENT: The Chair recognizes the

Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, and Members of the Senate, part of the rational that I would like to put on the Record this morning, as to why I have moved and why I have been an advocate, of, for the continued repeal of the Helmet Law is partly because of what is contained in this study, that I hold in my hand, entitled, "The Wisconsin Motor Cycle Helmet Law: A Before and After Study of Helmet Law Repeal."

One of the things that came out of this study and I would like to read it for your edification this morning, this was undertaken by the Department of Transportation in the State of Wisconsin, and it says, "It is our conclusion that the study contains ample evidence that helmets save lives and prevent head injuries. We hope that cyclists will study the data and subsequently wear helmets. We do not, however, see in the study a mandate for reinstatement of the mandatory helmet law."

Why? Since the study shows that helmeted riders suffer head injuries in one out of four accidents, and that is in the State of Wisconsin, it is clear that the motorcycle safety problem can not be solved by any single measure. By any single measure. Instead an effective motor cycle safety program must concentrate on preventing the accident from happening in the first place.

Now how did the State of Wisconsin approach this? The Department of Transportation came up with some recommendations, which we in the State of Maine through the United Bikers of Maine have been attempting to do since the repeal of the helmet law in 1977. Their recommendations, and I'll just put a few of these into the Record. Number one, continuing the equal rights,—interesting term isn't it?—campaign through the media and other means to education the other drivers about cycling rights.

The second recommendation, continue emphasis on the other driver actively looking for cyclists in traffic, in addition to others looking for larger vehicles. I call that defensive driving.

Number three, encourage rider training programs so that all beginning cyclists have access to an accredited training program. We have been attempting to do this for a long time. Attempts have been made through the Maine Highway Safety Committee, through the Department of Transportation, through the Secretary of State's Office, but again a lot of it revolves around the fact that we have a very, very exceedingly short driving season in Maine.

Number four, provide advance rider training programs. We have attempted to do that, also.

Number five, that the Department of Transportation make grants to responsible groups, public and private to augment and help fund programs to accomplish the above recommendations.

The next recommendation that the Department of Transportation continue to encourage voluntary use of helmets and other safety gear. I'll reemphasize that point, that the Department continue to encourage voluntary use of helmets and other safety gear, and support legislation to improve motorcyclists visibility such as modulating headlights.

The final recommendation that the Department of Transportation in the State of Wisconsin not support any attempt to reinstate a mandatory helmet law that may detract from the comprehensive motor cycle safety program.

All that we are asking for is an opportunity to continue trying to indoctrinate the number of cyclists in the State of Maine with a mandatory educational program. This is the solution to the problem, not mandating, regulating, and over-regulating our citizens of the State of Maine.

Bear in mind of the sixty-eight thousand cyclists in Maine they are not all young people,

many of them are senior citizens. It was actually interesting the senior citizens who have contacted me who were outraged at the reinstatement of the helmet law.

I think that it is really of significant value, and it was interesting using that term "equal rights", I used "freedom of choice" last time, now I have a new phrase that we can actually capitalize on this morning.

I would hope that the Senate would accept the motion that I made earlier to Recede from Passage to be Engrossed, when I requested a Roll Call vote, and then at that particular point we can make another decision.

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

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate, I have consistently voted against the reinstatement of the mandatory helmet law for the motorcyclists and moped riders across our State thus far in this Session, and that is exactly where my sentiments are this morning. However I have great concern about the pending motion to Recede because there was in this Body this morning a young girl named Samantha Smith, who promoted communication, communication between a girl and a major world leader, and communication between two major countries. It would seem that if we supported the pending motion that we would indeed be denying an opportunity for representative of both sides of this issue to meet and consult in a Committee of Conference.

I believe in "freedom of choice" and I believe in "equal rights" I, also, subscribe to usually the results of honest and sincere communication. It is in that spirit that I am going to be voting against the motion to Recede and hope that the Members of this Body will then Join in a Committee of Conference with the other Body. Thank you, Mr. President.

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

Senator MCBREARTY: Mr. President and Honorable Members of the Senate, I am one of those senior citizens that still ride the motor cycle when I have time, you people down here don't give me much time any more. I think that we are being very inconsistent when we require senior citizens to wear a helmet to ride a motorcycle and let young kids, five-years-old, if they wish, go out on these heavily trafficked streets with bicycles with no education, no restrictions whatever.

Now, I know of many people who have brought moped's in the last few years. They enjoy them, they ride around town a little bit. Now some day that it is ninety degrees in the shade their not going to enjoy that trip very much if they have to put one of these heavy helmets on. So I would hope that which ever move we make that we finally eliminate, or kill this Bill. Thank you.

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

Senator DIAMOND: Thank you, Mr. President, Members of the Senate, I will be very brief, we have kind of missed the issue this morning. We have heard about senior citizens, and five-year-olds and middle age, and all the folks that ride on bikes and I appreciate that, in fact, I was a little surprised to get the senior citizens involved in this issue.

The issue before us is do we allow two groups on either side of this issue to set down and talk about it? That is the issue, and that is the only issue that we have left.

I am not naive enough to think that anything of gigantic value is going to come out of it in terms of turning a lot of people around. I do think though that communication is important and that is the issue before us now, and I hope that we can get on with that vote. Thank you, Mr. President.

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

Senator DANTON: Mr. President, and Mem-

bers of the Senate, the good Senator from Androscoggin, Senator Minkowsky went on and told us about these reports from Wisconsin, for the many years that he has served in the Maine Senate, why hasn't he taken the leadership if he is so concerned about equal rights and safety and everything else that he mentioned in his speech? But he has done nothing, and he knows that he has done nothing. He's just doing today what is popular, not responsible.

What are we asking for? We are asking for a Committee of Conference to get both sides together like the good Senator from Cumberland just stated. Not kill the Bill, do away with it, try to mislead people that no one is getting killed on our highways. Those are out and out lies if anyone thinks that. I would be surprised if anyone in this Senate Chamber thought that anyone riding a motorcycle without a helmet was a safe as could be. Let's not be like an ostrich and bury our heads into the sand.

Now when we talk about high rates of speed you can wear twenty-five helmets it doesn't make any difference, because at that point you being a projectile and whatever you hit you've had it.

I think that the main concern about helmets, the main concern about helmets, is at low speeds, and as far as mopeds are concerned maybe something can be worked out in the Committee of Conference, but at least give both sides that opportunity. Not just kill the Bill and say that there is nothing wrong just to go home and be popular with whatever person rides a motorcycle and get a vote to get re-elected.

You know we got elected to the Maine Senate to come here and try to do what we feel is responsible, not just popular and the good Senator can take and give us all the citations, he wants from a report in Wisconsin. What has Maine done for motorcycles and motor cycle riders?

I want them all to ride their motorcycles. I want them all to enjoy riding their motorcycles. I want them all to be safe with then ride their motorcycles.

I gave you the figures just a week or so ago, how motorcycle riding has increased in the last ten years how accidents have gone from four hundred to almost twelve hundred in the last ten years. Is there any truth to that? There must be it came from Public Safety and they really haven't got a good statistical record keeping process going on over to the Department.

Why doesn't the good Senator from Androscoggin, Senator Minkowsky think of a way to fund that Department, but all I know is that every time we ask for funds he votes against it, because that is the popular thing to do back home.

I just ask you the Members of the Senate there is nothing wrong with a Committee of Conference. Those of us that understand that process know that nothing really happens in one way or the other, there is a common ground, maybe. In most cases there is not. At least give it an opportunity to try to work.

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

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate, I don't think any Committee of Conference would do much on this Bill. Now I have been here fourteen years and I have been on a few Committee of Conferences and I have seen quite a few, probably a hundred, and I doubt that I have ever seen one thing come out of one Committee of Conference yet, and I don't think that you would this year.

Now I think that we have done enough to protect the people this year, we have given them the Child Restraint Bills, and so the Children will be safe and the parents that don't have enough common sense to take care of their children will be taken care of.

If your going to have a helmet bill put in on

the children with the bicycles, don't put it on the adults. I think that the adults have enough common sense to ride safe, but I am not sure that the children do. So if you are going to do something for safety, do it with the children. We did it with the Child Restraint Seat thing, so let's do it with the helmet the children and not for the adults.

I think that we have another Bill in to require safety belts on everyone in an automobile. Now how far are we going this session, this year, to make people safe?

I've heard comments here this year about a gas tax, I think they were referring to, well I think that everyone here knows that last session of the Legislature a good many people voted for that gas tax but other ones didn't. So I think that if we're going to be up front about the whole thing let's kill this Bill and let the people have a little say about their own safety.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate last time that I spoke on this Bill I stood here and tried to convince you that we should not tell bike riders, adults, that they had to do something.

I stand here today and say that I think that we ought to offer or agree with the offer from the other Body that we ought to set and talk about this issue.

I have concerns about people who have just started riding motor cycles, and I think that that is one area that could be compromised on. I will not vote to Recede and then kill the Bill, this morning, I will be voting for a Committee of Conference, and I would ask some of the people who supported my position the last time to join in that effort.

I think that there is definitely some movement from all sides in this issue, and I think that there is something that can be worked out in this session something significant. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, I have listened very attentively to the remarks made by my very dear friend the Senator from York, Senator Danton. I believe that he is a fine human being, and I don't think that he sincerely means what he has said, that I have attempted to mislead anybody in this Maine Senate.

My assessment of this Bill is that I have addressed it from a very ethical, hopefully a very honest, and constructive point of view. All I projected to the Senate was the statistics drafted by the Department of Transportation, Department of Public Safety of actually what has happened here in the State of Maine and the basic causes for those accidents.

In regards to the very very clear remarks made by that good Senator from Androscoggin, and Cumberland, Senator Clark. I have not stymied communication. I'm an advocate for communication, and we have been communicating ever since this Bill has been in this Legislature, time is precious, time is of essence and as others have brought out, the end result before the Committee Conference is going to fail. Everything has been discussed and has been said, everybody understands the issue very clearly.

I brought in the senior citizens, because they do represent a large segment of our riding population, not only on mopeds, I might say, but on regular motorcycles. Yet, we had no difficulty taking away that mandatory test when those people reach seventy-five years of age, as a regular bill and coming in with an Emergency Preamble after that to be sure that they were not, and some of these people who drive vehicles, drive motorcycles. If we certainly can go through that particular scenario and say to these people no longer will they be required

after age seventy-five to have examinations. Why should we compel the people who are professional riders who have the expertise, as I brought out previously, to wear helmets.

No one in the association, the United Bikers of Maine or anybody else who has been a rider for several numbers of years is opposed to wearing helmets. You'll find that most of these people here this morning do wear helmets. We do not want to be mandated. The statistics don't warrant it. That is what I brought out before.

In a free society in a State as large as Maine, people are fed up with regulation and over-regulation, intrusion into our lives, enough is enough, and we've got to that particular point. Whether it's the bill that is coming up later on relevant to mandating seatbelts or whether it's the bill we passed last week on the child restraint seats, we're going overboard. People in this State have enough common sense to do what they feel is right and proper, they don't have to be told by a Legislature.

I can assure you, Ladies and Gentlemen of the Senate, I did not get involved in this Bill for popularity, or for political expediency in the next campaign those thoughts never entered my mind. I'm truly disappointed that my very dear, dear friend would allude that that was my intent and the objective I had in mind. I have been consistent over the years. From the time I served on the illustrious Transportation Committee when this bill was repealed, based upon facts, based upon studies not only in the State of Maine, but in other states.

I would hope that each and everyone of you this morning would look to how your constituents have reacted towards this. If you are not home, I'm sure when you do get home there will be a number of telephone calls, as we do get in many other bills, that will tell you how disenchanted the citizens of Maine are in being dictated to again for the short season that we actually have in the utilization of motorcycles or mopeds.

The responsible thing for anybody to do this morning as the other Branch did but flipped flopped on it, and I think that was a proper term I had used earlier. I don't want to find the Maine Senate doing the very same thing. I think we owe this courtesy to our constituency to say to the people of the State of Maine, you had enough trust and confidence to elect us, certainly we have trust and confidence in you to make your own personal decision whether you shall wear a helmet or you will not.

Again, freedom of choice is a right that should not be denied any citizen in the State of Maine.

(Off Record Remarks)

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Minkowsky that the Senate Recede.

A Yes vote will be in favor of the motion to Recede.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Dow, Emerson, Erwin, Hichens, Kany, McBreairty, Minkowsky, Redmond, Sewall, Shute, Teague, Twitchell, Usher, Violette,

NAY—Baldacci, Brown, Bustin, Carpenter, Charette, Clark, Collins, Danton, Diamond, Du-tremble, Gill, Hayes, Najarian, Pearson, Perkins, Pray, Trafton, Wood, The President—Gerard P. Conley

Senator Violette of Aroostook was granted permission to change his vote from Yea to Nay.

A Roll Call was had.

13 Senators having voted in the affirmative and 20 Senators in the negative, with No Senators being absent, the motion to Recede, Failed.

Is it now the pleasure of the Senate to Insist and Join in a Committee of Conference?

It is a vote.

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

Senator Usher of Cumberland was granted unanimous consent to address the Senate, Off the Record.

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

On motion by Senator Carpenter of Aroostook, Recessed until 4 o'clock this afternoon.

Recess

After Recess

The Senate called to Order by the President.

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

Order

Joint Order

On motion by Senator Najarian of Cumberland, the following Joint Order (S. P. 544)

Ordered, the House concurring, that "AN ACT to Promote the Development of Human Resources in Rural Areas of Maine," S. P. 441, L. D. 1348 be recalled from the Governor's desk to the Senate.

Which was Read and Passed.

Sent down forthwith for concurrence.

Orders of the Day

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

BILL, "An Act to Extend Consumers Freedom of Choice Regarding Insured Mental Health Services" (H. P. 743) (L. D. 955)

Tabled—May 6, 1983 by Senator PRAY of Penobscot.

Pending—Passage to be Engrossed.

(In House May 4, 1983 Passed to be Engrossed as Amended by Committee Amendment "A" (H-190)

On motion by Senator Pray of Penobscot, Retabled for 1 Legislative Day.

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

SENATE REPORT—from the Committee on Labor on BILL, "An Act to Prohibit Residency Requirements for Municipal Employees" (S. P. 61) (L. D. 167) Ought to Pass as Amended by Committee Amendment "A" (S-90).

Tabled—May 6, 1983 by Senator PRAY of Penobscot.

Pending—Acceptance of Committee Report.

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

Senator COLLINS: Mr. President, this Bill that was established a prohibition against residency requirements is of particular concern to some of the municipalities in my own district.

If I were on a municipal body, I might very well accept the general outlines of this Bill as good municipal policy, however, the problems that I have at this level is that it means that we in Augusta will be telling all of our municipalities what they should do in terms of where their employees reside. I think that our municipalities are perfectly capable of deciding that for themselves, and therefore, I hope that we will not Accept the Ought to Pass Report and would request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President, Ladies and Gentlemen of the Senate, this is my Bill, and it is not any type or piece of radical Legislation. It says that a—it sets some guidelines

for people who are employed by a municipality. All it says is that if you are in an emergency situation working a job that might be an emergency nature, like a firefighter, or a person that works on the ambulance crew, or a person who is in the police department, the town may impose upon you a distance requirement, you have to live within so many miles, or within so many minutes response of the job that you have to perform.

It goes on to say that if you don't do those types of jobs, that you should not be required to live in the town.

The PRESIDENT: Will all those Senators in favor of Accepting the Ought to Pass 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.

21 Senators having voted in the affirmative, and 6 Senators having voted in the negative, the motion to Accept the Ought to Pass as amended Report, Prevailed.

The Bill Read Once.

Committee Amendment "A" (S-90) was Read.

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

Senator DUTREMBLE: Mr. President, I offer Senate Amendment "A" (S-107) and move its Adoption.

The PRESIDENT: The Senator from York, Senator Dutremble offers Senate Amendment "A" to Committee Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-107) to Committee Amendment "A" was Read.

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

Senator COLLINS: Mr. President, I'd like to pose a question through the Chair, as I understand it this Amendment would further refine this invasion into municipal powers by making local collective bargaining contracts the standard and prohibiting any ordinances that relate to employee residence.

It seems to me, again, that we're moving from government at the State level and something that could well be local, to government by collective bargaining agreement. I wonder if the good Senator might comment on that.

The PRESIDENT: The Senator from Knox, Senator Collins has posed a question through the Chair to any Member of the Committee who may wish to respond if they so desire.

The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President and Members of the Senate, this Amendment clarifies the original Committee Amendment where we had on one portion of the Bill stated that a municipality may not enact ordinances concerning residency requirements then further on in the Bill we said that they could either enact ordinances, or through collective bargaining enact ordinances that would set the minimum requirements that are specified by the Committee Amendment.

The problems we had with that, was, of course, the municipality could choose either one they wanted to and be covered by the law, as it was written. This Amendment is drafted so that if a municipality does not have collective bargaining, then it could still enact ordinances stated those requirements that are mentioned in the Amendment.

Senate Amendment "A" (S-107) was Adopted.

Committee Amendment "A" as amended by Senate Amendment "A" thereto was Adopted.

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

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

BILL, "An Act Concerning Public Easements for Access to Harvested Lands and Cemeteries" (S. P. 326) (L. D. 971)

Tabled—May 6, 1983 by Senator PRAY of Penobscot

Pending—Enactment

(In House May 5, 1983 Passed to be Enacted)

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Members of the Senate, L. D. 971, "An Act Concerning Public Easements for Access to Harvested Lands and Cemeteries" the title of this Bill, under Title 23, Section 3022, now allows municipal officials to layout a public easement in certain cases.

A public easement is a right-of-way allowing the public to cross over another's land to gain access to land, or water not otherwise connected to a public way. This right-of-way must connect with a town way or a highway.

Under the present law, the only ones allowed to petition the municipality for a public easement are occupants of land or owners cultivating land. This Bill is intended to clarify the meaning of the word "cultivate" to conform it with present law. It adds only one new category of people who may petition the town for a public easement. Those wishing access to a cemetery. The present law allows those who cultivate land to petition a town and this term confuses some people who believe towns have the power to lay out an easement only if the person cultivates farm crops, such as, hay, or corn, or cabbage, or turnips.

However, under the law cultivate has a broader meaning than that. The dictionary, the definition means "to help plants grow by labor and care. To produce by culture." This includes all plants, including trees. Maine has a long history of cases where the Supreme Judicial Court expanded the word cultivate even further. Under Maine Law, cultivated land, is land under improvement of any type, not just tilling by farm machinery. One case even stated that "A Mill site upon which a mill is erected is cultivated or improved land." Therefore, the current word cultivate already includes the growing of trees. This fact is reflected in the word "silviculture," which means "the cultivation of woods or forest. The growing and tending of trees as a branch of forestry."

Therefore, the law in the books today already covers the cultivation and growing of trees and would allow such landowner to petition the municipality for a public easement.

The reason I introduce this Bill to add the words, or harvested lands is to clarify the present law and reduce confusion in peoples' minds. Many laymen do not realize that the law already includes woodlands in the definition of cultivated lands. The word harvested is a common term and will make it clear to municipalities and residence that this right exists under the law.

The part of the Bill allowing in petition for public access to a cemetery is a new provision. There are many people who had feelings of deep respect for their predecessor. This has a long world tradition. As you may know, one of the important teachings of Confucius was veneration of one's ancestors. This respect is also, shown by many people who observe Memorial Day here in Maine by beautifying cemetery lots. These traditions are receiving new interests now from cemetery associations restoring historical cemeteries; artists doing grave rubbings of old markers, and especially, from genealogists. This is one of the Nation's fastest growing hobbies. There are already many who travel to Maine to learn about their ancestors. These ancestors were the backbone of our Nation. With the State increasing its efforts to promote tourists and economic development, and with our fine State Library with its good genealogy collection, it's likely that more people seeking their roots will return to our towns. Perhaps buying a pair of L. L. Bean boots, or other local supplies, and hike up old roads searching for the ruins of their ancestors, lands and grave sites.

The municipalities should be free to encour-

age such explorations and also to allow local people to show respect for their ancestors.

I urge you to vote for this worthy piece of Legislation. Ladies and Gentlemen of the Senate, the Maine Forest Products Council has no problem with this. I even asked Ms. Tara from the Conservation Department, they have no problem with this. This is a peoples' bill, that came out of Committee unanimous Ought to Pass. It flew through the House and has been Tabled in the Senate, and again, for the people of Maine, I urge you, please Enact this Bill this afternoon.

The PRESIDENT: Mr. President, Men and Women of the Senate, I never thought that I'd ever have a title of a Bill that I'd be able to address a problem that I have on.

Last year, well probably seventy-five, eighty years ago, I had an uncle who died as a teenager, and he was buried in the back woods of Mattawamkeag from a family who was very, very poor, I guess, scraped together enough money to put a tombstone down. The people who were dealing in forest products in that area, harvested it last year and removed the tombstone, cut the tree down; we can't find the grave; tombstone has been pushed away; we know where that is. My cousin, who is the first selectman of Mattawamkeag, and I plan to get in there this spring, late this spring and remove that tombstone and bring it to his grandparents grave in Mattawamkeag, because, that's all there is that's left to it.

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

Senator PRAY: I move that L. D. 971 lie on the Table 2 Legislative Days.

The PRESIDENT: The Senator from Penobscot, Senator Pray moves that L. D. 971 be Tabled 2 Legislative Days.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I request permission to Withdraw my motion.

The PRESIDENT: Senator Pray of Penobscot, now requests Leave of the Senate to Withdraw his motion.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the Senate, the reason I asked to Withdraw my motion to make something perfectly clear.

I was asked this morning if I would allow the Senator from Oxford, Senator Redmond to speak on this Bill before it was put on the Table. I extended that courtesy to him, told him that I would give him that opportunity but it was clear that the Bill was going back on the Table. I extended that courtesy to him with a clear understanding that's where the Bill was going, that there are some legal concerns about the Bill being in a proper form to do what everybody is concerned that it does do. For that reason, until we have the opinion of either the Attorney General, or other legal staff expertise, that Bill will stay there until we're sure it's in the proper form. Thank you, Mr. President.

On motion by Senator Carpenter of Aroostook, Retabled for 2 Legislative Days.

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

SENATE REPORTS—from the Committee on Election Laws on BILL, "An Act to Change the Date of the Primary Election to the First Tuesday in September" (S. P. 103) (L. D. 235)

Majority Report Ought to Pass as Amended by Committee Amendment "A" (S-103)

Minority Report Ought Not to Pass.

Tabled—May 9, 1983 by Senator PRAY of Penobscot

Pending—Acceptance of Either Report.

On motion by Senator Pearson of Penobscot, the Majority Ought to Pass, as amended, Report of the Committee was Accepted.

The Bill Read Once.

Committee Amendment "A" (S-103) was Read and Adopted.

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

The President laid before the Senate the fifth and specially assigned matter.

SENATE REPORTS—from the Committee on Transportation on BILL, "An Act to Require the Use of Seat Belts in all Motor Vehicles" (S. P. 263) (L. D. 808)

Majority Report Ought Not to Pass.

Minority Report Ought to Pass.

Tabled — May 9, 1983 by Senator DANTON of York

Pending — Motion of Senator DANTON to Reconsider Acceptance of Majority Report (Roll Call Ordered)

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

Senator BROWN: Thank you, Mr. President and Ladies and Gentlemen, I'm not sure at all that this Body is receptive to lengthy debate this afternoon on this particular issue, but I would like to bring up a few items concerning it.

What we're talking about Ladies and Gentlemen is a major public health issue, major public health issue, and it will absolutely cost nothing. We're talking about saving lives. In this Country we've eradicated such diseases as polio, diphtheria, yellow fever, measles; we did that by taking action, by passing laws that regulated people, required people to be inoculated. This is no less of a health issue.

When this Bill was heard before a Committee, there were experts there from the field of emergency medicine, from several National Safety Commissions, from ambulance people, from the State Police, from the National Highway Safety Administration, from several manufacturers of automobiles. There was literally no one there that opposed this particular issue except on the grounds that it infringed upon the rights of our citizens. That was the major objection it infringed upon the rights of our citizens. I'll talk about that in just a few moments a brief bit.

But first off the effectiveness of belts has been documented over and over again. According to the National Highway Traffic Safety Administration studies, safety belts are 50% to 65% effective in preventing fatalities and injuries. In other words, more than half of those killed in automobiles would be saved. The National Highway Safety Council reported that there were four hundred and eighty-two people that were killed on the Nation's highways last Labor Day. That particular weekend. Not a single one of those people had a seat belt on, not one. All of our cars are equipped with seat belts, but only one motorist in ten uses the seat belt. Belt use laws have been enacted in some thirty-four countries and jurisdictions throughout the world, including all of the states of Australia and most of the Canadian Provinces, except New Brunswick and Nova Scotia.

Nationally, the economic losses from traffic accidents and deaths and injuries attributed to belt non-use has been estimated at fifteen billion dollars, including the medicine, hospital expenses, funeral costs, welfare payments, legal expenses, and millions of lost days at work. The savings on reduced medical and societal costs have been debated rather thoroughly when we talked about the mandatory helmet bill earlier this same day.

In Sweden where there is a safety-belt law in existence it's estimated that between twenty-two and forty-five million dollars a year is saved as a result of that law. France and Ire-

land reports similar proportion savings. Ontario, Canada discovered the average costs of medical treatment between belted and non-belted accident victims was two hundred and twenty-eight dollars for users; four hundred and nineteen dollars for non-users.

The employers of International Paper Company, as well as a number of other major companies require their people to use seat belts. A friend of mine over at the Jay Plant, Ed Champagn, who is manager of Public Relations wrote me a letter, and I quote, "I've heard every imaginable arguments, as you have, about not wearing seat belts. The plain fact is seat belts do save lives." I. P. requires the use of seat belts in company vehicles, on or off premises when on company business."

Let's examine just for a couple of moments for review purposes, the reasons why we do not wear seat belts. First off we hear that the law would be difficult to enforce. Ladies and Gentlemen, there are a lot of laws difficult to enforce, but we don't remove them from the books. Our record of enforcement of speed laws, on legislation governing narcotic traffic, on bootlegging, the list is endless, our enforcement record is not all that great, but the law still stands and the people do the best they can at enforcements. Those who break laws are lawbreakers, and that fact alone, is a deterrent for many. Just the fact it's on the books as a law. As long as the seat belt law is not proclaimed, there's no appeal to conscience when people neglect the seat belt. To make non-use illegal will emphasize the seriousness of the matter and encourage people to use their belt.

Let's look at another excuse for a moment. The law would be an infringement on the rights of the individuals, and we've heard this. What rights are we talking about Ladies and Gentlemen? We're talking about at the expense of greater highway safety, we're going to opt for the right of people to die in a traffic tragedy. Why do we deny drivers the right to drive on the left side, to run a red light, to do whatever, drive at whatever speed they choose? Because we very carefully designed a set of laws that we live by.

One lady I remember said at the hearing down there that day, who happened to be an ex-legislator from Auburn, that she would rather be thrown from a car than to burn up in it. This was her reason for not wanting to be belted in. Fires occur in less than 1/10th of 1% of automobile accidents, while the leading cause of deaths is being thrown from an automobile.

I realize that we should not allow personal experiences to dictate the way we often vote on this, but I must share a situation with you. At thirty-three years ago, my mother was thrown from a ton and a half truck, that's an old farm truck, a flat bed, and as a result being thrown from that truck, she was cut in half. That was long before seat belts, we didn't have them anyway. But there has been a number of lobbyists, and other Legislators that have told me similar stories that the fact if they hadn't had a seat belt on, they wouldn't be here today. So, what rights are we violating?

Another concern we hear expressed is I don't believe that we should give police more reasons to stop people. No one would question the law that we have which requires drivers to carry a driver's license. Police Officers seldom stop people just to check on the driver's license. There are usually other reasons that they're stopped. You know, we all carry a driver's license because the law requires it. Everyone probably in this Chamber today has a driver's license with them. The idea of giving police reasons to stop us to check our license is irrational we do because it's habit, and the wearing of seat belts will become habit. Just for that reason.

Another thing that's expressed and we won't spend any time on this, but I harm only myself. We've talked about the expense that occurs to

other people as a result of those that are going to harm only themselves, and then the cost of it is to society afterwards. It seems incompatible that one of the big issues we face this year is containing health care costs. That's one of the big issues that we're all fighting real hard to get some legislation passed, and we're talking about a health issue here that costs absolutely nothing. It costs absolutely nothing all the cars already have the seat belts in them. Seat belts work and they're already paid for.

Mr. President, in Ontario where the law was enacted, the usage rate increased from 10% to 50% just for the fact the law was on the books, from 10% to 50%. In Maine, we're looking at 1.2 billion dollar annual health care cost. There are a number of states that's working presently on mandatory seat belts. In Rhode Island the House of Representatives passed a measure like this, and is before the Senate; and in seventeen other states, being considered this particular session; Minnesota has a bill that has passed the Senate. There are fifty plus coalitions that exists in this Country to try and get a seat belt, a National Seat Belt law in existence. Some of those, and I have a draft here of a bill that's before another state where we have from the Executive Office of Government to Highway Safety Planning Commission, Departments of Transportation, State Police, nineteen different medical and health groups that exists from, you name it, and that group is there trying to lobby in behalf to get people to wear seat belts; every insurance company in existence, traffic safety, everyone you can name; sixteen different organizations would be trying to get such a law on the books. You know we're elected officials and all of us desire to pass laws that's going to improve the life of ourselves and the people of the State of Maine. We pass an OUI law not because we thought it was going to be easy to enforce, and not because they worried about infringing on right but because we thought it was the right and decent thing to do.

In 1966, the Congress required that seat belts be placed in automobiles, and here we are seventeen years later with 10% usage. Air bags will probably come about, but it will take fifteen years for air bags to replace the present fleet that exists on the highways.

Mr. President, I'm not naive enough today to believe that we have any opportunity to pass this particular issue, and I thank the Body for being courteous enough to allow me to say the remarks that I've made. I would urge that you reconsider this measure and consider opting for the Minority Report. Thank you, Ladies and Gentlemen.

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

Senator BUSTIN: Mr. President, I'm in-between the devil and the deep blue sea on this Bill. Senator Brown asked me to co-sponsor it with him and I declined on the basis that perhaps we weren't ready for that.

I've rethought my actions since then, and I do not see how I can sit here and vote for Child Restraint Seats, vote for Helmet Law and not vote with Senator Brown on this Bill.

I think that it is a health measure, we are dealing with Hospital Cost Containment and it is a big health issue. It costs a lot to take care of the damages that is done to the human body if you do not wear those seat belts.

Since I have looked at the statistics, and since I've been talking to Senator Brown, I never use to wear a seat belt, I always wear one now. Even coming two minutes from my house, or two miles from my house over here, I still put that seat belt on. Now, if Senator Brown's Bill has done nothing more than that it has convinced me to put my seat belt on.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, it was interesting to

listen to Senator Brown's opening remarks, a major health issue that costs nothing.

Yet, if you look at the Bill under penalties, the citizens of the State of Maine will be subjected to a fifty dollar fine, not more than fifty dollars. With the economic conditions as they are, that is a substantial penalty for a citizen of the State of Maine for not abiding by, again an intrusion on individual rights.

I believe as long as there are seat belts in a car and people understand the safety that they can obtain from them, they'll do it automatically, they do not have to be mandated by law in which to accomplish this particular objective.

People in the State of Maine I find are law abiding citizens. The people are doing the best that they can to abide by the law, and that is a far cry from the evaluation that Senator Brown just gave us.

An interesting part of the Bill deals with a physician's statement, possess written confirmation that he is unable for medical or physical reasons to wear a seat belt. Right here we are punching holes into the Bill. A person with a heart condition, maybe he is over-weight, maybe subject to a heart attack, a person possibly due for a stroke in a car he gets a physician's statement that for medical reasons he does not have to wear a seat belt. This is more of a liability on our roads, compared to those of us who regularly wear seat belts.

There are just too many areas of inconsistency in this particular Bill that I do not really believe that it is in the best interests of the people.

Senator Bustin, I think, is correct that maybe from her indoctrination from Senator Brown that she is now wearing seat belts and I think that most of us are very cognizant of how beneficial seat belts are.

Again, I do object to mandating each and every thing that the citizens in this State do. I sincerely hope that the Senate on this Roll Call vote would vote against Reconsideration of this particular measure.

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, I have been listening very carefully to the very eloquent speech of Senator Brown and frankly, I couldn't help but crave to pass on to you an experience that I have experienced. That's all. I do not have access to those records, except that I do know that North of the Border I use to spend a lot of time in the border town of Jackman and did a lot of business transactions with people coming from North of the Border and I had the occasion to drive up there quite often where they have that law.

Frankly, it has been my experience that that law is practically unenforceable. One more law that contributes to make people un-real, because any one who has the desire not to pay the fifty dollar fine can prove that he was wearing his seat belt, it all depends how fast he is, who's judgment is it for the trooper to decide that he was not wearing his seat belt, because the driver can say that he was wearing it until that last moment when he appeared before the trooper. It is very very difficult to enforce.

There is one other experience that I would like to relate to you and that is a personal experience back in 1970, I was riding as a passenger in the rear seat of my 1970 automobile very comfortably and we got hit from behind. I got involved in a terrible accident that we tipped over some gasoline pumps and the whole thing caught fire. If it had not been for the truck driver who was very alert and he came and he got me out of there. I don't know what the difference would have been of a few split seconds had I been wearing seat belts, I do not know the answer. I was even unconscious

and was for two or three hours and I still feel it changed my whole life. I don't believe if I was wearing a seat belt that that truck driver would have got me out of there faster.

Another experience, a son of mine was a teenager, he was driving one of those big rigs, trucking logs on the Hainesville Road up in eastern Maine. He had a huge load of logs and he rolled his rig over coming down a hill, on a curve. He ran into a tree totalled the truck, the truck when it came to a stop the wheels were up in the air and my son could barely escape from there through a very narrow space that was left through a window. Now, as I understand it, as he realized that he was rolling over, he ducked, he felt very conscious of that big high load behind him, and he ducked and throw himself in the bottom of the truck. Well, it so happened that he head board behind the cab was at the height that upon the impact the whole load of logs came right over where the driver would have been and would have crushed him to a certain death had he not had the opportunity of ducking like that. There is another case. I see in the law were truck drivers would be compelled to wear their seat belt, also.

These are some experiences that I have been close to and I don't know why we should enact a law like that in the State of Maine. I do not think that we need this.

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

A Yes vote will be in favor of Reconsideration.

A No vote will be opposed.

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

ROLL CALL

YEA—Brown, Bustin, Collins, Danton, Gill, Hayes, Kany, Najarian, Trafton, Violette, Wood, The President Gerard P. Conley.

NAY—Baldacci, Carpenter, Charette, Clark, Diamond, Dutremble, Emerson, Hichens, McBrearty, Minkowsky, Pearson, Pray, Redmond, Sewall, Shute, Teague, Twitchell, Usher.

ABSENT—Dow, Erwin, Perkins.

A Roll Call was had.

12 Senators having voted in the affirmative and 18 Senators in the negative, with 3 Senators being absent, the motion to Reconsider Failed.

Sent down for concurrence.

Senator Charette of Androscoggin was granted unanimous consent to address the Senate, On the Record.

Senator CHARETTE: Thank you, Mr. President. We've had a lot of debate this afternoon and perhaps we want to change the tempo.

We may have an Irish-American as Governor.

We may have an Irish-American as President of The Senate.

And, though the Irish-Americans here in the State of Maine can be proud of their heritage and leadership, I, too, have an ethnic background as an American of Canadian ancestry, as do a few others in this August Senate Body, and are also proud of their Canadian ancestry and heritage.

A few months ago this Senator and others had the pleasure to witness an initiation ceremony at the Quebec Winter Carnival.

Gerard P. Conley, President of the Senate, accompanied by the Governor of our state, and Roland Landry, the Canadian coordinator, was initiated into the society of Ti-Pere, one of the founders of the Quebec Winter Carnival and the Carnival's famous refreshment drink - the "Caribou."

There at Ti-Pere's home was witnessed the official initiation, a Canadian getting an

American-Irishman to kneel down and be slapped in the face.

Today, so all can see, I would like to present to the President of the Senate, Gerard P. Conley, proof of this initiation.

I would hope that he will hang this proudly in his office.

Could I approach the rostrum?

The President requested the Sergeant-at-Arms to escort the Senator from Androscoggin, Senator Charette to the rostrum.

(Off Record Remarks)

The Sergeant-at-Arms escorted the Senator from Androscoggin, Senator Charette to the Rostrum. (Applause the members rising)

(Off Record Remarks)

The Sergeant-at-Arms escorted the Senator from Androscoggin, Senator Charette to his seat on the Senate floor.

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

SENATE REPORTS—from the Committee on Energy and Natural Resources on BILL, "An Act Relating to Authority of the Land Use Regulation Commission Over Organized Municipalities" (S. P. 302) (L. D. 916)

Majority Report Ought Not to Pass.

Minority Report Ought to Pass.

Tabled—May 9, 1983 by Senator PRAY of Penobscot

Pending—Acceptance of Minority Report (In Senate May 9, 1983 Motion to Accept Majority Report Failed)

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

Senator PEARSON: Mr. President and Men and Women of the Senate, this is a Bill that we had before us yesterday which the Majority Report Failed on a tie vote.

I would ask that you reject the Minority Report so that we could return to the Majority Report.

This is "An Act Relating to Authority of the Land Use Regulation Commission Over Organized Municipalities" under the current law if a municipality becomes organized and was formerly under the Land Use Regulation Commission that municipality must have its zoning controlled by the Land Use Regulation Commission for a period of four years.

Now one must remember, I think, why the Land Use Regulation Commission was formed in the first place. It was to provide a better standard for that area then had existed before, it was to provide a better future for that area then existed before, and it was in total to provide for a better Maine then we had before. It was primarily, I think, created for some order in the unorganized territory.

From time to time you will find municipalities that will want to get out of the Land Use Regulation Commission by organizing themselves, and in so doing ducking out of, if this Bill is past, controls of any meaningful manner and sane planning and to enact their own ordinances which will not be conducive to, at least, in some places, good order and good sane planning.

It is our hope that if you keep the law as it is currently on the books that a period of four years will demonstrate, they will be able to demonstrate and be able to accept the responsibilities of an organized town. Four years in the span of a life time of a town isn't all that long. After four years, after they have seen and worked with their own town in many different capacities, it is hoped that they will be able to understand since they will be involved in running their towns the good use that you can put planning and zoning to use for.

The Senator from Aroostook, Senator McBreairey has suggested that these towns

can handle their own problems just like any other town. I am suggesting to you that in many situations just coming out and just organizing they probably are not equipped to do that immediately. A transition period of four years is not an unreasonable amount of time. Thank you.

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

Senator McBREAIREY: Mr. President and Honorable Members of the Senate, I think that before we vote on this Bill you should know exactly what it does and why it is here.

This Bill states that any portion of a Land Use District which subsequently becomes an organized municipality or part of an organized municipality or any plantation which adopts planning, zoning and subdivision controls as provided in Title 30 section 5621 shall no longer be regulated by the Land Use Regulation Commission pursuant to this chapter.

Now some people seem to think that these people, these towns have just all to once come under, or are organized. These plantations have been capable of running their own business for one hundred and fifty years, they have the same number of officials as a town does, as an organized town and many of them, believe me if you what to check it out, are just as capable of protecting their town, or handling their business as anybody.

Now if this Bill passed all the towns involved will still have to comply with the subdivision law, shore lands zoning, minimum lot size, plumbing code, stream alteration and many other laws. The plantations that come under this Bill would have to have planning and zoning, would have to have adopted a land use plan as protective as the present LURC plan.

Now if you will accept the Minority Ought to Pass Report I will offer an amendment tomorrow that will require towns to have a land use plan as protective as the present LURC plan. Now we have hundreds of towns in the State of Maine that have not adopted land use plans. Now I am willing to require with this Bill that any plantation that gets out from under LURC or any town that gets out from under LURC adopt a plan. Now some say well, they will adopt the plan just to get out from under LURC. It costs money to adopt these plans and these people who live there are not out to destroy their environment any more then the towns that I live in or you live in.

There is a section in the Constitution, Section 6-A that says, "no person shall be deprived of life, liberty, or property without due process of law, nor be denied equal protection of the laws, nor be denied enjoyment of his civil rights, or be discriminated against in the exercise thereof."

Now I maintain that a town that is forced to stay under LURC an organized town or a plantation that has adopted a plan of their own is being discriminated against, their rights are being taken away to regulate and maintain their own destiny.

So this is what this Bill will do and believe me they will have to have much more stringent regulations even with this Bill then hundreds of towns have today in this State. Thank you.

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

Senator VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, I do not sit on the Committee on Energy and Natural Resources, but nonetheless I happen to come from a section of this State, an area that has many unorganized districts, which from time to time have organized, and I, also, have organized communities that have become unorganized.

I have, quite frankly, I don't know perhaps the good Senator from Penobscot could present to me evidence to the fact that there has been a wholesale change of disorganized communities becoming organized for the sole purpose of flagrantly abusing or circumvent-

ing the Land Use Regulation Statutes. As a matter of fact in the last few years there have been more organized communities that have disorganized then there are disorganized communities which have organized. I think that this flies in the face of the argument that the Senator is proposing.

In addition to this I have disorganized communities with as many as six hundred people in them. To suggest that those people are incapable of dealing with their own affairs if they should happen to decide to organize I think is baseless, or to suggest that they are not less sane then people who live in organized communities is baseless. These people are just as sane as somebody who lives in an organized community. They are no less going to take advantage of the law then any other person.

I think that Senator McBreairey's report is the proper report. I see that there are plenty of safeguards in the law presently there to protect those, the State's interests in those communities and so I would hope today that you would go along with the good Senator from Aroostook, Senator McBreairey.

There are many of you who do not come from areas, there are many of you who come from areas where you have no unorganized townships and so in a sense you can't understand the feelings of these people. I certainly feel that I can. I have represented unorganized communities every since I have been in this Legislature and I have represented unorganized communities with substantial numbers of people in them. I have, also, represented communities that have dis-unorganized and so I think that I can speak from a position of some experience in this area, in saying that I have never seen a community organize for the sole purpose of circumventing Land Use Regulation Statutes when they organized they still have to comply with them. Thank you.

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

Senator PEARSON: Mr. President, I would like to address both of the preceding speakers. First, I would the one that is freshest in my mind the Senator from Aroostook, Senator Violette. He makes the point that he doesn't know of any communities that was, he used the word "dis-unorganized," who had organized to circumvent the Land Use Regulation Commission in its zoning. Well, of course, that is true, I think that what he says is absolutely true and the reason it is true is because right now they have to keep the zoning that they had when they were under LURC for a period of four years.

The point that I am trying to make is and apparently he missed is that there is if you passed this piece of legislation there is an incentive for those few towns who might want to duck out from underneath sane organized zoning by organizing and they do it solely for that purpose. Well you say, maybe they — I can't imagine anybody doing that but we have had a whole history for the last several years of organized and unorganized towns wanting to get in or out of the Forestry District just for that simple purpose alone. So I think that it indicates to us that there are people in different unorganized towns that will do those things for that purpose.

Now as far as not understanding what it is like to represent an unorganized town, I represent unorganized towns. I have one plantation, as a matter of fact, it has six people in it no electricity and - five people in it - and no electricity and they are a plantation. Everybody has got about two different offices, two or three different offices. Then I have got some that are larger then that, I think that the gentlemen is probably suggesting when he talks about six hundred people of Sinclair or some place like that. I understand that there are many of those towns that have very intelligent, very smart, very capable people we are only concerned with, as we are in most of the pieces

of legislation that we pass here, with those people who will abuse it.

Four years is not a very long time. As far as Senator McBreairty is concerned in his remarks that he made about discrimination before the law, I would like to read to you a court opinion, an opinion of the justices of the Supreme Judicial Court of Maine made March 10, 1908, and they say, and it is almost lyrical in the way that they put it. "We think it a seated principal growing out of the nature of a well ordered society that every holder of property however absolute and unqualified may be his title, holds it under the implied liability that his use of it may be so regulated that it shall not be injurious to the equal enjoyment of their property, nor injurious to the rights of the community. All property is derived directly or indirectly from the government and held subject to those general regulations which are necessary for the common good and general welfare, police regulations may forbid such a use and such modifications of private property as would prove injurious to the citizens generally. This is one of the benefits which men derive from associating in communities."

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreairty. Senator McBREAIRTY: Mr. President, Honorable Members of the Senate, I want to make one correction on Senator Pearson towns can not get in or out of the Maine Forest District by organizing or deorganizing. The only way that they can get out of the Maine Forestry District is through an act of the Legislature, and we have let quite a few out.

Senator Pearson said that he had a plantation that had five people in it and every one held two or three offices, now I am sure that that plantation really needs the State regulating them because there is tremendous danger that they are going to over develop there and destroy their environment I am sure. There are five people there. Now this law says that if that five people were determine to adopt a land use plan of their own that they could get out, but it would have to be just as stringent as LURC has now. Now perhaps that five people would go right along as they are because they are having their zoning and things done for free now, not for free to some people because the property taxpayer in the unorganized territory is paying for it.

I would hope that we could give these people a chance to get out from under LURC and they were doing all this for free for everybody we could accept it, but I think that it is discrimination when the State just picks certain towns and does this for them, and holds public hearings outside of their towns maybe two hundred miles away and determines what the zoning is going to be. As far as I know there has never been a public hearing in the unorganized territory or a plantation on this zoning. Every meeting and every public hearing has been held outside of the district they're zoning, in Bangor, Portland, Augusta or somewhere like that. If somebody can tell me and show me where there ever has been a public hearing in one of the towns that we have zoned, I'll apologize for my statement. Thank you.

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

Senator KANY: Mr. President, Senator McBreairty's Bill does not touched upon where the public hearings will be held. His Bill will not change that? It will not change the original adoption by LURC of any land use plan. His Bill seeks to change the statutes, and remove the LURC jurisdiction from only one portion of the lives of that newly organized municipality, and that is over any suggested changes in the land use plan, just that little bit.

I urge you to vote against the Minority Report before you and to keep the law intact as it is now.

The PRESIDENT: Is the Senate ready for the question?

The Chair Will Order a Division.

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

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

16 Senators having voted in the affirmative, and 11 Senators having voted in the negative, the motion to Accept the Minority Ought to Pass Report, Prevailed.

The Bill Read Once and Tomorrow Assigned for Second Reading.

(Senate at Ease)

The Senate called to Order by the President.

The President laid before the Senate:

BILL, "An Act to Establish the Third-party Prescription Program Act" (S. P. 518) (L. D. 1539)

Tabled—May 10, 1983 by Senator PRAY of Penobscot

Pending—Further Consideration
(In Senate May 3, 1983 Passed to be Engrossed)

(In House May 9, 1983 Passed to be Engrossed as Amended by House Amendment "A" (H-209) in non-concurrence.)

On motion by Senator Pray of Penobscot, Re-tabled for 1 Legislative Day.

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

Committee Reports House

Ought Not to Pass

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Prohibit 3rd Parties from Distributing Political Material on Behalf of a Candidate unless Authorized to do so by that Candidate" (H. P. 920) (L. D. 1199)

Leave to Withdraw

The following Leave to Withdraw reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Repeal the Personal Property Tax on Boats with a Value under \$1,000" (H. P. 47) (L. D. 52)

BILL, "An Act to Expand the Definition of Teacher for Purposes of the Maine State Retirement System" (H. P. 288) (L. D. 347)

BILL, "An Act to Provide Early Access to Absentee Ballots by the Armed Forces" (H. P. 490) (L. D. 587)

Ought to Pass as Amended

The Committee on Transportation on BILL, "An Act Relating to Enforcement of Handicapped Parking Zones on Turnpikes and the Interstate System by State Police" (H. P. 931) (L. D. 1210) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-210)

Comes from the House, the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-210)

Which Report was Read and Accepted in concurrence.

The Bill Read Once.

Committee Amendment "A" (H-210) was Read and Adopted, in concurrence.

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

The Committee on Health and Institutional Services on BILL, "An Act to Amend the Statutes Governing the Licensing, Approval and Registration of Adult and Child Care Programs." (H. P. 791) (L. D. 1032) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-208)

Comes from the House, the report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A"

(H-208)

Which Report was Read and Accepted, in concurrence.

The Bill Read Once.

Committee Amendment "A" (H-208) was Read and Adopted, in concurrence.

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

The Committee on Labor on BILL, "An Act to Establish a State Standard for Funding Certain Workers under the Workers' Compensation Commission" (H. P. 1083) (L. D. 1429) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-205).

Comes from the House, the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-214).

Which Report was Read and Adopted, in concurrence.

The Bill Read Once.

Committee Amendment "A" was Read.

The PRESIDENT: Is it the pleasure of the Senate that Committee Amendment "A" be Indefinitely Postponed in concurrence?

It is a vote.

House Amendment "A" (H-214) was Read and Adopted in concurrence.

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

Ought to Pass in New Draft Under New Title

The Committee on Labor on BILL, "An Act to Protect the Integrity of the Unemployment Insurance Trust Fund" (H. P. 407) (L. D. 490) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act to Protect the Integrity of the Unemployment Compensation Fund" (Emergency) (H. P. 1174) (L. D. 1561)

Comes from the House with the Report Read and Accepted and the New Draft under New Title Passed to be Engrossed as Amended by House Amendment "A" (H-218).

Which Report was Read and Accepted in concurrence.

The Bill, in New Draft under New Title, Read Once.

House Amendment "A" (H-218) was Read and Adopted, in concurrence.

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

Divided Report

The Majority of the Committee on Legal Affairs on BILL, "An Act to Revise the Markup Percentage for Maine Produced Products Under the Liquor Law" (H. P. 1084) (L. D. 1432) Reported that the same Ought to Pass.

Signed:

Senators:

CHARETTE of Androscoggin
DANTON of York
SHUTE of Waldo

Representatives:

HANDY of Lewiston
COTE of Auburn
DUDLEY of Enfield
DILLENBACK of Cumberland
McSWEENEY of Old Orchard Beach

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

Signed:

Representatives:

PERRY of Mexico
STOVER of West Bath
SWAZEY of Bucksport
COX of Brewer

Comes from the House with the Majority Report Read and Accepted and the Bill Passed to be Engrossed.

Which Reports were Read, and the Majority Ought to Pass Report of the Committee was Accepted, in concurrence.

The Bill Read Once and Tomorrow Assigned

for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on BILL, "An Act to Create a Statutory Will" (H. P. 321) (L. D. 380)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TRAFTON of Androscoggin
VIOLETTE of Aroostook
COLLINS of Knox

Representatives:

REEVES of Newport
DRINKWATER of Belfast
LIVESAY of Brunswick
SOULE of Westport

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under same title (H. P. 1182) (L. D. 1575)

Signed:

Representatives:

JOYCE of Portland
FOSTER of Ellsworth
CARRIER of Westbrook
BENOIT of South Portland
HAYDEN of Durham
HOBBS of Saco

Comes from the House with the Minority Report Read and Accepted and the New Draft Passed to be Engrossed.

Which Reports were Read.

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

Senator TRAFTON: Mr. President, I move the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton moves that the Senate Accept the Majority Ought Not to Pass Report.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, although, I normally support my leadership, or my committee chairs when I'm sponsor of a Bill I feel an obligation to defend that Bill, especially when the Bill in minority fashion comes out of a committee, in my opinion, in better form than that in which it went in.

This Bill, which I am a cosponsor is an attempt by a couple of people and by a minority of the Members of the Committee on Judiciary to alleviate a situation that we believe presently exists, and that situation is that a large percentage of people pass away without having disposed of their property. This Bill is not designed to take money away from lawyers, it is not designed to foul up the system, and drive people away from taking care of their affairs in an orderly manner. It is patterned after a California statute which was based on a study which found in some 60% of the people dying, died without having disposed of their property.

This Bill, if you'll look at L. D. 1575, it lays out in a very orderly and succinct manner exactly how this process is to be undertaken. This statutory will, generic will, if you will, is designed to take care of those very simple estates. I don't think that anyone who feels they need an attorney to dispose of their estate or to any other person to plan their estate I don't think this Bill is going to be a panacea, it's going to allow them to take care of their estate thusly.

What I think this Bill does, it offers to people with simple estates, simple wishes to take care of those wishes in a fairly straightforward and simple manner. When I took a course in law school on wills and trusts and estates that overriding concern of the courts of our land and those of England in earlier days in determining what was the persons intent under a will, was just that. What is the testator's intent? The court will always try to go to that intent where it can be easily divined or where it can be readily seen.

This Bill, if you look at L. D. 1575, very clearly

lays out a few cautionary phrases at the beginning that this will is not to be used if the issue is complex, if the estate is complicated, but then tells basically the testator how to express his/her intent. I think it is a good Bill. I think that this is a peoples' bill. I think that this will allow people to pass on to their relatives, their friends, their descendants those items which they wish without getting involved in any kind of complicated, convoluted practice. I guess the question that I would like to have the opponents of this Bill answer. It seems to me that the real crux of this matter is if you assume that a large number of people die without any provision for passing on their belongings, their estate, and if you assume that this statutory will is going to be now used by some of these people, why is this worse than having nothing at all? I guess that's the question I'd like to have somebody on the other side answer. Why is this Bill worse than having no will at all? Thank you, Mr. President.

Mr. President, I would ask for a Division.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter has posed a question through the Chair to any Member of the Judiciary Committee who may respond if they so desire.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate, first, I'll address my comments to the question raised by Senator Carpenter.

I think, what problem this Bill creates is worse than having no statutory will at all. The problem is that it will create litigation. To give you some background. The Judiciary Committee was told when the Bill was first heard and studied in its first work session, there was unanimous support within the Joint Standing Committee on Judiciary for the concept of a statutory will. After that poll, we started our deliberations, in fact, we came up with the draft that is now before you in the Minority Report. That draft was circulated throughout the State among others, to the various probate judges in Maine's sixteen counties for their comments. The comments that we received back were disheartening to say the least. All but two judges reported that this statutory will, as drafted with the changes that were suggested at the hearing and in the first work session, would encourage, in the view point of the probate judges, it encouraged litigation. That it would be harder to determine what was the testator's intent, the person who signs the will. This Bill would create confusion, in other words.

On hearing back from the probate judges and other sources, the Committee decided to not report out favorably this Bill, but in fact, study the Bill, study the issue of the statutory will over the summer and submit to the Legislature in the next regular session, in January, a redrafted statutory will.

I'm sure of you have heard that line before and feel that this may be a well disguised attempt to kill the Bill. I can honestly say, it's not. I sincerely support the concept of the statutory will. I think the drafting can be appropriately done. I think the will can be simplified. Read the will that is shown in the Minority Report. It is confusing. There's, as you know, many people who can't follow even the simplest instructions. We're trying to encourage broader access to wills. This Bill will not do it. I think the problem can be solved.

Among other things to consider is that the Commissioners on Uniform State Laws are currently doing a study. There has been a drafting committee appointed. As you know, the Commissioners on Uniform State Law has presented this State and many other states with many good uniform pieces of legislation, including the Uniform Probate Code, which this State has adopted; the Uniform Commercial Code; the Uniform Determination of

Death Act, which was recently passed in the beginning of this session.

I think it would be a mistake to report out this Bill, in its present form, to pass this Bill, in a form that the probate judges and others who are authorities in drafting wills feel would simply encourage litigation and perhaps ultimately discourage people from using wills, rather than encourage them.

I further point out, that under the new Uniform Probate Code, Maine Probate Code that was effective January 1st, 1981. Any of us, in our own handwriting can write our own will. As long as it is totally in our own handwriting and signed by us. That will is called a holographic will. That's as simple as one can be, and the reason why the handwriting is required for the entire document is to clearly show that this is from that person who is writing that will, not with any inserts from some person, other the actual writer.

So, there is a provision now, to write you own will. I think we can hold off six to eight months longer, address the drafting problems in the existing draft that sits before the Judiciary Committee as I say, the Judiciary Committee does support the concept of a statutory will. Give us a chance to refine it, and we will be back in the next regular session. Thank you.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I don't want to belabor the issue but I'd just point out a couple of things.

One, the good Senator from Androscoggin, Senator Trafton says that this will cause litigation. While there is no doubt in my mind that some litigation will arise from statutory wills, generic wills; if in fact, this Legislature adopts it. It seems to me that just by the very nature of the beast, there has to be less litigation than when the person dies with no will; it's no will or a will situation.

He, also, said it was harder, would be harder to use this, harder to determine the testator's intent, if they used the statutory will than in fact they had no will at all, and I'm not sure how that cuts. I'm not sure why, if I stand here and say something, it is going to be more difficult to determine what I said than if in fact I sit here and say nothing.

Presently, under Section 503, of the Probate Code, there is provision for a holographic will, as the good Senator pointed out. How many of you knew that? How many knew that you could sit down and in your own handwriting write out how you want to dispose of your property? I suggest that most people don't know that. That there is no effort, there is no easy way for the average person to learn that fact, and in fact, to do a holographic will. I think there's a great misconception out there that the only way you can dispose of your property is the fact to go to an attorney and have a formal will drafted. I think that's not necessarily a bad misconception, but in the cases of the estate that we're dealing with, hoping to deal with in this Bill, I think it is an erroneous misconception.

This statutory will says very clearly, "if there is anything in this will you do not understand, you should consult an attorney." It talks about you cannot circumvent the spouses elective share and other things by using this will; that you cannot change, delete or add words to this will. You've got to use the form given. This will treats adopted children as if they were natural children. If you marry or divorce after you make out this will, you should make out a new will. It walks the person that can read the English language through and tells them what to be wary of and what not to be wary of.

I appreciate the concerns of the Senator from Androscoggin, Senator Trafton, and I don't think it's his intent to study this issue to death at all, but I do think there's a movement out there that this should not come about.

I would point out to you that the original version of this Bill was drafted by and this version is still supported by probably the most respected probate judge in this State, who knows probably more about the probate code than any other person in this State. That person supports this Bill, as it is reported in the Minority Report, and I do not think that we should be led astray, by some of the fears being raised here today. Thank you, Mr. President.

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

Senator COLLINS: Mr. President, the Senator from Aroostook, Senator Carpenter has posed a question as to why this wouldn't at least be better than having no will. I suggest another answer which is that if you die without a will, the Legislature has created one for you through the Probate Code in the form of the standard rules of devolution and property. Those rules, of course, give your property to your spouse and children if you don't have a spouse, it will go down in your line of descendants. Many years of experience have indicated that that is the way that the great body of people leave their property anyway.

My concern about this California will is that I find more and more people have a very difficult time filling in forms. The longer the form, the more difficult it is. The more caveats you put on it saying watch out for this and watch out for that, the more confused they are. It is the same way with the Federal Income Tax. I've been doing Federal Income Tax returns for people for a long time, and as we've gotten more and more provisions into the Tax Law, and more and more instructions, people have more and more difficulty, and they try it themselves, but they get confused, and they end up getting themselves into more trouble than if they got some help.

It's possible for people to get help, even if they don't have much money. I agree, out of my own experience, with the Senator from Androscoggin, Senator Trafton, that people will tend to get into more difficulty with this mechanism, than if they die with no will at all. Thank you.

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

Senator TRAFTON: Mr. President and Members of the Senate, I won't delay this any longer, but just to point out one very basic flaw in this draft that sits before you.

It's very common for a person to leave a particular piece of property, real estate, a home or another piece of real estate to a family member or to another person. That type of gift is called a specific devise, or specific gift of real estate. There is no provision in the Minority Report, the Bill before you for that specific devise. I would say that that is one of the most common provisions that a will in the State of Maine has. I suggest this is only one example where this will before you recommended by the Minority Ought to Pass Report falls into error. Thank you.

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

Senator CARPENTER: Mr. President, I call the attention of the Senate to Page 3 of the Bill, Article 2, "I leave the following specific real property to the persons named:" one line for name; a series of lines for name; a series of lines for description of item and signature.

The PRESIDENT: Is the Senate ready for the question.

A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Androscoggin, Senator Trafton that the Senate Accept the Majority Ought Not to Pass 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.

6 Senators having voted in the affirmative, and 23 Senators having voted in the negative, the motion to Accept the Majority Ought Not

to Pass Report, Failed.

The Minority Ought to Pass, Report of the Committee was Accepted, in concurrence.

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

Out of Order and Under Suspension of the Rules, the Senate considered the following:

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

BILL, "An Act Relating to Agricultural Contracts." (S. P. 272) (L. D. 835)

(In Senate May 4, 1983 Passed to be Engrossed as Amended by Committee Amendment "A" (S-81).)

(Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" (S-81) as amended by House Amendment "A" (H-212) thereto in non-concurrence.)

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House?

It is a vote.

Order

The Following Joint Order: (H. P. 1190)
ORDERED, the Senate concurring, that the Joint Rules be amended by adding a new Joint Rule 36-A to read:

36-A. Amendments to "AN ACT to Implement the Maine Indian Claims Settlement." A bill amending "AN ACT to Implement the Maine Indian Claims Settlement," Revised Statutes, Title 30, Chapter 601, of which approval by an Indian tribe or Indian nation is required by the United States Code, Title 25, Section 1725 (e), shall contain a section stating that the Legislature has received and accepted a statement of that approval or a section containing a provision that the bill shall not take effect until that approval is received.

A bill amending the Revised Statutes, Title 30, section 6205, subsection 1, paragraph B or subsection 2, paragraph B, and adding lands to or including lands within Indian territory, shall contain a section stating the recommendation of the Maine Indian Tribal-State Commission.

Comes from the House Read and Passed.

Which was Read.

On motion by Senator Pray of Penobscot, Tabled for 2 Legislative Days, pending Passage.

The Following Joint Order: (H. P. 1194)

ORDERED, the Senate concurring, that "AN ACT to Amend the Habitual Offender Law," H. P. 956, L. D. 1237, be recalled from the Governor's desk to the House.

Comes from the House Read and Passed.

Which was Read.

The PRESIDENT: Is it now the pleasure of the Senate that this Joint Order receive Passage? In order for this Joint Order to receive Passage, it takes a two-thirds vote of those present and voting.

Will all those Senators in favor of the Passage of this Joint Order, please rise in their places to be counted.

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

26 Senators having voted in the affirmative, and No Senators having voted in the negative, the Joint Order was Passed in concurrence.

Communication

The Following Communication: (H. P. 1195)

State of Maine

House of Representatives

Speaker's Office

Augusta, Maine 04333

May 9, 1983

Hon. Edwin H. Pert

Clerk of the House

Maine House of Representatives

State House Station 2

Augusta, Maine 04333

Dear Clerk Pert:

This is to notify you that pursuant to Chap-

ter 94 of the Public Laws of 1983, I have today appointed Rep. Gregory Nadeau, of Lewiston, to serve on the Committee to study the issue of equity as it relates to the minimum reimbursement provisions of the Local Road Assistance Program as defined in Title 23, section 1803, subsection 2.

Sincerely,

S/JOHN L. MARTIN

Speaker of the House

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed On File, in concurrence.

Senate Papers

BILL, "An Act to Provide a Comprehensive Marketing Program for Maine Agricultural Products." (Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24) (S. P. 545) (Presented by Senator ERWIN of Oxford) (Cosponsors: Representative MICHAEL of Auburn, Senator EMERSON of Penobscot, Representative LISNIK of Presque Isle)

Which was referred to the Committee on Agriculture, and Ordered Printed.

Sent down forthwith for concurrence.

Enactor

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

An Act to Maximize the Availability of Certain Social Services by Providing for Income from Fees and Remove References to Federal Requirements which no Longer Exist. (H. P. 1161) (L. D. 1533)

Which was Passed to be Enacted, and having been signed by the President, was 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:

**Second Readers
House**

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

BILL, "An Act to Authorize the Maine Turnpike Authority to Receive Applications and Approve Descriptive and Directional Signs on the Maine Turnpike" (H. P. 750) (L. D. 962)

BILL, "An Act Repealing the Law on the Effect of Bail Following Conviction and Commitment" (H. P. 1115) (L. D. 1473)

BILL, "An Act Relating to Attendants for Power Boilers" (H. P. 1180) (L. D. 1572)

BILL, "An Act to Suspend Operation Authority on Motor Vehicles which Fail to Comply with the Gasoline Reporting Law" (Emergency) (H. P. 1183) (L. D. 1576)

BILL, "An Act Concerning Solids in Milk" (H. P. 1181) (L. D. 1573)

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

BILL, "An Act to Amend the Unfair Trade Practices Law" (H. P. 1178) (L. D. 1567)

Which was Read a Second Time.

On motion by Senator Pray of Penobscot, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

House — as Amended

BILL, "An Act Concerning Right-of-way for Emergency Vehicles" (H. P. 850) (L. D. 1100)

Which was Read a Second Time and Passed to be Engrossed as Amended in concurrence.

Senate

BILL, "An Act Relating to Forged or Illegal Prescriptions" (S. P. 492) (L. D. 1491)

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

Sent down for concurrence.

Senate — as Amended

BILL, "An Act to Restructure Maine's Insurance Management Program" (S. P. 482) (L. D. 1464)

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

Sent down for concurrence.

Senate At Ease

The Senate called to order by the President.

(Off Record Remarks)

On motion by Senator Carpenter of Aroostook, Adjourned until 9 o'clock tomorrow morning.
