

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One-Hundredth Legislature

OF THE

STATE OF MAINE

1961

**DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE**

SENATE

Tuesday, April 25, 1961

Senate called to order by the President.

Prayer by Rev. Paul Willard of Hanover.

On motion by Mr. Wyman of Washington,

Journal of Friday was read and approved.

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

Resolve, Regulating Ice Fishing on Umsaskis Lake and Long Lake, Aroostook County. (H. P. 488) (L. D. 688)

In House, March 29, indefinitely postponed.

In Senate, April 12, passed to be engrossed, as amended by Committee Amend. "A" (Filing H-52) in non-concurrence.

Comes from the House, indefinitely postponed in non-concurrence.

In the Senate, on motion by Mr. Cyr of Aroostook, the Senate voted to recede and concur.

Bill, "An Act Relating to Salary of Commissioner of Education." (H. P. 776) (L. D. 1058)

In House, April 5, Majority Ought not to pass Report accepted.

In Senate, April 19, Minority Ought to pass Report accepted in non-concurrence.

Comes from the House, that body having adhered to acceptance of Ought not to pass Report.

In the Senate, on motion by Mr. Noyes of Franklin, the Senate voted to insist and ask for a Committee of Conference, and the President appointed as Senate members of such Committee, Senators: Noyes of Franklin, Brooks of Cumberland and Christie of Aroostook.

Communication

STATE OF MAINE
House of Representatives
Office of the Clerk
Augusta

April 21, 1961

Honorable Chester T. Winslow
Secretary of the Senate
100th Legislature

Sir:

The Speaker of the House today appointed the following Conferees

on the part of the House on the disagreeing actions of the two branches of the Legislature on:

An Act Increasing Tax on Milk Producers for Promotional Purposes. H. P. 866, L. D. 1201.

Messrs. CURTIS of Bowdoinham
BRAGDON of Perham
DODGE of Guilford

Resolve, in Favor of John W. McGuire of Houlton. H. P. 951, L. D. 1254.

Messrs. BERMAN of Houlton
HUGHES of St. Albans
BREWER of Bath

Respectfully,

HARVEY R. PEASE

Clerk of the House

HRP-elf

Read and placed on file.

Communication

STATE OF MAINE
SUPREME JUDICIAL COURT
Augusta

April 21, 1961

Hon. Chester T. Winslow
Secretary of the Senate
State House
Augusta, Maine

Dear Mr. Winslow:

There are enclosed the Answers of the Justices to the Questions of April 4, 1961, relative to "An Act Governing Hospitalization of the Mentally Ill" (L. D. 1496).

Respectfully yours,

ROBERT B. WILLIAMSON

Enclosure

Communication

Communication from the Supreme Judicial Court transmitting Opinion of the Justices of said Court Relating to Questions Propounded by the Senate, Concerning the Constitutionality of (S. P. 497) (L. D. 1496), Bill, "An Act Governing Hospitalization of the Mentally Ill."

ANSWERS OF THE JUSTICES
To the Honorable Senate
of the State of Maine:

In compliance with the provisions of Section 3 of Article VI of the Constitution of Maine, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following answers to the questions propounded on April 4, 1961.

L. D. 1496, entitled "An Act Governing Hospitalization of the Mentally Ill", is designed as the Senate order states, to "facilitate the orderly hospitalization of the mentally ill within the protections afforded to all citizens" by the State and Federal Constitutions. The bill provides a new and comprehensive law in substitution for statutes relating to commitment of the insane. It is plainly based upon a "Draft Act Governing Hospitalization of the Mentally Ill" prepared in 1951 in the Federal Security Agency by the National Institute of Mental Health, Public Health Service and the Office of the General Counsel. Sections 168 through 194 of L. D. 1496 follow closely the Draft Act without changes of constitutional significance.

In the foreword of the Draft Act we read, in words equally applicable to L. D. 1496:

"The general objectives of the Draft Act were stated in 1869 by Isaac Ray:

"In the first place, the law should put no hindrance in the way to the prompt use of those instrumentalities which are regarded as most effectual in promoting the comfort and restoration of the patient. Secondly, it should spare all unnecessary exposure of private troubles, and all unnecessary conflict with popular prejudices. Thirdly, it should protect individuals from wrongful imprisonment. It would be objection enough to any legal provision, that it failed to secure these objects, in the completest possible manner."

With these general considerations in mind we turn to the questions.

QUESTION (1): Do the provisions of Section 171 of Legislative Document 1496 adequately protect the constitutional rights of any person hospitalized as a voluntary patient under Section 169 of said Legislative Document?

ANSWER: We answer in the affirmative.

The restrictions on release in our opinion are reasonable. The commentary on Section 4 of the Draft Act (Sec. 171 of L. D. 1496) is apt.

"This limitation on release may appear inconsistent with the objective of encouraging voluntary

hospitalization by assuring prospective patients and their families that admission to the hospital is subject to revocation. However, if the condition of the person is such that it is unsafe for him to go unrestrained, the necessity of steps to secure his detention and treatment is the same whether he is outside or inside the hospital at the time the condition develops."

QUESTION (2) (a), (b): Do the provisions of Section 185 of Legislative Document 1496 adequately protect the constitutional rights of any person hospitalized as a patient:

(a) Under Section 173 of said Legislative Document,

(b) Under Section 174 of said Legislative Document?

ANSWER: We answer in the affirmative.

Section 185 provides, in our opinion, a prompt and effective method for institution of proceedings for release by the person or persons acting in his behalf. The limitations on release are substantially like those established in Section 171 for the discharge of the voluntary patient.

In 1955, in an advisory opinion in 151 Me. 24, at 34, to the Senate, the Justices were unanimously of the view that a provision substantially like Section 185 would be constitutional. We reach a like conclusion.

QUESTION (3): Do the provisions of Section 186 of Legislative Document 1496 adequately protect the constitutional rights of any person hospitalized under Section 175 of said Legislative Document?

ANSWER: We answer in the affirmative.

Section 186 is applicable only to the patient who is hospitalized by order of the Probate Court under Section 175. The limitations upon the right to a re-examination of the Court order are not unconstitutional.

The Court may entertain a petition for re-examination at any time. Section 186 does no more than protect the Court against the required re-examination of its order until after a time for a change in the patient's condition. There are many provisions in L. D. 1496 for the protection of the patient. For

example: Examination of the patient "as frequently as practicable, but not less often than every 12 months, . . ." and discharge by the head of the hospital (Sec. 183); "Right to communication and visitation" (Sec. 189); "Unwarranted hospitalization or denial of rights; penalties" (Sec. 194).

Further, as we shall later discuss in more detail, the writ of habeas corpus is at all times available to the patient.

QUESTION (4): If the other provisions of Legislative Document 1496 are adequate to protect the constitutional rights of any person hospitalized under the provisions of said Legislative Document, may the Legislature provide that the Writ of Habeas Corpus shall not be available to any such person, notwithstanding the provisions of Article I, Section 10, of the Constitution of Maine?

ANSWER: We answer in the negative.

Our Constitution reads: "And the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." Art. I, Sec. 10.

The "great writ of liberty" must not be destroyed or weakened. *Stuart v. Smith*, 101 Me. 397. The writ of habeas corpus must remain available at all times to any person hospitalized under an Act such as L. D. 1496.

In consideration of Question (4), our attention has been directed specifically to Section 190 relating to habeas corpus, and Section 192 providing for detention pending judicial determination. On its face as now worded, Section 192, in operating **notwithstanding** Section 190, unconstitutionally limits and abridges the right to habeas corpus.

There is nothing objectionable, in our view, with Section 192, except in connection with Section 190. Indeed, in the 1955 advisory opinion a provision substantially like Section 192 was considered constitutional. There was, however, no provision such as the present Section 190 relating to habeas corpus under review.

The difficulty may be corrected readily by adding at the end of Section 192, the words "or upon

writ of habeas corpus under Section 190." Section 192 would then no longer limit the availability of the "great writ".

Comparison with other provisions of L. D. 1496 also suggests the possibility of inadvertent reference in Section 192 to "superior Court," when the court proceedings are in the Probate Court.

QUESTION (5) (a), (b): If it is necessary that the Writ of Habeas Corpus be at all times available to a person hospitalized, as mentally ill, along with the other statutory provisions for release, or review provided in Legislative Document 1496, would a patient hospitalized pursuant to Section 175 of said document have a right to apply for a Writ of Habeas Corpus under Section 190 of said Legislative Document, or pursuant to chapter 126 of the Revised Statutes of 1954, even though,

(a) Said patient sought a Writ of Habeas Corpus within three days of his hospitalization under an order issued pursuant to Section 175—solely on the grounds he was not mentally ill at the time of his application for the Writ?

(b) Said patient sought a Writ of Habeas Corpus within three months of having been denied a re-examination of his order of hospitalization under Section 186, solely on the grounds that he had fully and completely recovered from his mental illness at the time of his application for the Writ?

ANSWER: We answer in the affirmative.

As we have said, the writ of habeas corpus must always be available.

Dated at Augusta, Maine, this 21st day of April, 1961.

Respectfully submitted:

ROBERT B. WILLIAMSON
DONALD W. WEBBER
WALTER M. TAPLEY, JR.
FRANCIS W. SULLIVAN
F. HAROLD DUBORD
CECIL J. SIDDALL

Read and placed on file.

**House Committee Reports
Leave to Withdraw**

The Committee on Judiciary on Bill, "An Act Defining Residence of Military Personnel for Mortgage

Purposes." (H. P. 252) (L. D. 366) reported that the same should be granted Leave to Withdraw.

Ought Not to Pass

The same Committee on Bill, "An Act Relating to the Distribution of Certain Proceeds to Persons Outside the United States." (H. P. 754) (L. D. 1040) reported that the same Ought not to pass.

The same Committee on Bill, "An Act Relating to Disposition of Municipal Records of Security Titles for Personal Property." (H. P. 936) (L. D. 1284) reported that the same Ought not to pass.

The Committee on Taxation on Bill, "An Act Relating to Tax Exemptions of Property of Churches, Religious Societies or Parishes." (H. P. 847) (L. D. 1161) reported that the same Ought not to pass.

The same Committee on Bill, "An Act Repealing Property Tax Exemptions for Churches, Literary and Scientific Institutions." (H. P. 908) (L. D. 1242) reported that the same Ought not to pass.

(Comes from the House indefinitely postponed.)

Indefinitely postponed in concurrence.

The same Committee on Bill, "An Act Applying Sales Tax to Admissions." (H. P. 1032) (L. D. 1433) reported that the same Ought not to pass.

The same Committee on Bill, "An Act Exempting Estate of Blind Persons from Taxation." (H. P. 782) (L. D. 1064) reported that the same Ought not to pass.

Which reports were read and accepted in concurrence.

Recommended

The Committee on Legal Affairs on Bill, "An Act Relating to Determination of Quorum at Special Town Meetings in Kittery." (H. P. 683) (L. D. 961) reported that the same Ought not to pass.

Comes from the House, recommitted to the Committee on Legal Affairs.

In the Senate, recommitted in concurrence.

Ought to Pass

The Committee on Inland Fisheries and Game on Recommended Resolve, Regulating Fishing in

Certain Waters of Aroostook County. (H. P. 487) (L. D. 687) reported that the same Ought to pass.

Which report was read and accepted in concurrence, and the Bill read once and tomorrow assigned for second reading.

The Committee on State Government on Bill, "An Act Prohibiting Public Employees to have Pecuniary Interests in Public Contracts." (H. P. 1025) (L. D. 1426) reported that the same Ought to pass.

(Comes from the House, Bill indefinitely postponed.)

In the Senate, indefinitely postponed in concurrence.

As Amended

The Committee on Legal Affairs on Bill, "An Act Creating the Town of Kittery Port Authority." (H. P. 682) (L. D. 960) reported that the same Ought to pass as amended by Committee Amendment "A" (Filing H-201)

Which report was read and accepted in concurrence and the Bill read once. Committee Amendment "A" was read and adopted, in concurrence, and the Bill, as amended, tomorrow assigned for second reading.

The PRESIDENT: The Chair is informed that in the gallery we have a group of 38 pupils from Mt. Merici Academy, the Junior High Division from Waterville, accompanied by Sister M. M. Paul and Sister M. M. Annunciata. It is certainly nice to have these young folks with us. I am sorry we did not have an opportunity to meet before the Senate convened. We hope that your stay here in the State House will be a pleasant one and educational. We hope that some day you will take your place in the Senate Chambers representing the County in which you live. At this time I would like to introduce the Senators from Kennebec County. Senators: Gilbert, Farris and Marden. I am sure that these gentlemen will be pleased to answer any questions you may have. (Applause)

New Draft — New Title

The Committee on Health and Institutional Services on Bill, "An Act Relating to Store or Depart-

ment Registration under Pharmacy Laws." (H. P. 974) (L. D. 1338) reported that the same Ought to pass in New Draft, under New Title of: An Act Relating to Store Registration under Pharmacy Laws. (H. P. 1100) (L. D. 1513)

Comes from the House, Report accepted, and subsequently the Bill was indefinitely postponed.

In the Senate, on motion by Mr. Sampson of Somerset, tabled pending acceptance of the report and especially assigned for Tuesday next.

Senate Committee Reports

Mr. Stanley from the Committee on Appropriations and Financial Affairs on Bill, "An Act Providing that the Legislative Research Committee Study a State Building Code and Anti-Shack Statute." (S. P. 135) (L. D. 318) reported that the same Ought not to pass.

On motion by Mr. Ferguson of Oxford, tabled pending acceptance of the report, and especially assigned for Tuesday next.

The same Senator from the same Committee on Resolve, Providing Funds for Thayer Hospital, Waterville, to Aid its Rehabilitation Program. (S. P. 223) (L. D. 628) reported that the same Ought not to pass.

On motion by Mr. Ferguson of Oxford, tabled pending acceptance of the report, and especially assigned for Thursday, May 5.

Mr. Marden from the Committee on Judiciary on Bill, "An Act Relating to Determination by Jury of Aggravated Assault." (S. P. 290) (L. D. 901) reported that the same Ought not to pass.

Which reports were read and accepted.

Sent down for concurrence.

Mrs. Noyes from the Committee on State Government on Senate Order Relating to New Senate Rule 22A and Revised Senate Rule 33, reported that the same Ought not to pass.

On motion by Mr. Edgar of Hancock, tabled pending acceptance of the report and especially assigned for tomorrow.

The same Senator from the same Committee on Senate Order Relat-

ing to Amending Senate Rule 11A and Addition of 19A, reported that the same Ought not to pass.

On motion by Mr. Edgar of Hancock, tabled pending acceptance of the report, and especially assigned for tomorrow.

Ought to Pass

Mr. Davis from the Committee on Appropriations and Financial Affairs on Resolve, Providing Funds for Urban Planning. (S. P. 101) (L. D. 246) reported that the same Ought to pass.

The same Senator from the same Committee on Resolve, Providing that the Legislative Research Committee Study the Clerical and Data Processing Activities of the State Government. (S. P. 222) (L. D. 627) pass.

Mr. Boardman from the Committee on Judiciary on Bill, "An Act Relating to Immunity from Prosecution for Giving Testimony." (S. P. 425) (L. D. 1389) reported that the same Ought to pass.

Which reports were read and accepted, the Bills read once and tomorrow assigned for second reading.

As Amended

Mr. Stanley from the Committee on Appropriations and Financial Affairs on Bill, "An Act Providing for a Review of Laws of Department of Mental Health and Corrections." (S. P. 220) (L. D. 625) reported that the same Ought to pass as amended by Committee Amendment "A" (Filing S-126)

Mr. Erwin from the Committee on Judiciary on Recommended Bill, "An Act Relating to Use of Motor Vehicles Without Authority in any Place." (S. P. 465) (L. D. 1464) reported that the same Ought to pass, as amended by Committee Amendment "A" (Filing S-131)

Mrs. Lord from the Committee on Legal Affairs on Bill, "An Act Relating to the Regulation of the Practice of Professional Engineering." (S. P. 293) (L. D. 904) reported that the same Ought to pass, as amended by Committee Amendment "A" (Filing S-130)

Mr. Wyman from the Committee on Towns and Counties on Bill, "An Act Authorizing Washington County to Construct an Addition to County Court House." (S. P. 209)

(L. D. 542) reported that the same ought to pass, as amended by Committee Amendment "A" (Filing S-129)

Which reports were read and accepted, and the Bills read once. Senate Amendments "A" were read and adopted, and the Bills, as amended, tomorrow assigned for second reading.

The PRESIDENT: The Chair notes in the Senate Gallery, 34 pupils from East Auburn Elementary School, accompanied by Mrs. Kent, Mrs. Wellman and Mrs. Bennett, their teachers. It is pleasant to have you visit with us. We hope that your stay is enjoyable and that you visit the museum and see all the other sights at the State House. I would like to introduce your Senators from Androscoggin County, Senators: Boisvert, Couture and Jacques. I am sure they will be glad to help you in any way possible. (Applause.)

Second Readers

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

House

Bill, "An Act Permitting Governor of Penobscot Tribe of Indians to Bring Action for Money Due." (H. P. 1123) (L. D. 1547)

Which Bill was read a second time and passed to be engrossed, in concurrence.

As Amended

Bill, "An Act Increasing Fee of Physicians in Commitment Proceedings of Insane Criminals." (H. P. 495) (L. D. 695) amended by Committee Amend. "A" (Filing H-196)

Bill, "An Act Relating to Larceny by Trustee in Trust Receipt Transactions." (H. P. 599) (L. D. 866) amended by Committee Amend. "A" (Filing H-197)

Bill, "An Act Relating to the West Paris Village Corporation." (H. P. 692) (L. D. 970) amended by House Amend. "A" (Filing H-200)

Bill, "An Act Relating to Allegation of Prior Conviction in Criminal Cases." (H. P. 751) (L. D.

1037) Amended by Committee Amend. "A" (Filing H-195)

Bill, "An Act Relating to Appointment of Director of Indian Affairs and Planning Board for the Penobscot Tribe." (H. P. 1020) (L. D. 1421) amended by Committee Amend. "A" (Filing H-194)

Which Bills were read a second time and passed to be engrossed, as amended, in concurrence.

Senate

Bill, "An Act Relating to Unauthorized Charging of Long-Distance Telephone Toll Service." (S. P. 524) (L. D. 1548)

Bill, "An Act Repealing Provision of Financial Responsibility Law Concerning Accident by Non-licensed Driver." (S. P. 525) (L. D. 1551)

Which Bills were read a second time and passed to be engrossed. Sent down for concurrence.

Enactors

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

Bill, "An Act Revising the Laws Relating to Veterinarians." (H. P. 865) (L. D. 1290)

Bill, "An Act to Incorporate the Town of Hamlin, Aroostook County." (H. P. 685) (L. D. 963)

Bill, "An Act Relating to Control of Missiles and Rockets." (S. P. 430) (L. D. 1390)

Which Bills were passed to be enacted.

Resolve, Relating to Opening Date for Open Water Fishing on Certain Waters. (S. P. 34) (L. D. 59)

Which Resolve was finally passed.

Bill "An Act Eliminating Smokeless Powder from Explosive Regulations", L. D. 827, having been held for reconsideration was presented to the Governor today.

Orders of the Day

The President laid before the Senate the 1st tabled and today assigned item (S. P. 418) (L. D. 1357) Senate Reports from the Committee on Industrial and Recreational Development on Bill, "An

Act Including Piers and Terminals in Maine Industrial Building Authority Act"; Report A, Ought to Pass; Report B, Ought Not to Pass; tabled on April 18 by Senator Farris of Kennebec pending motion by Senator Lovell of York to accept Report A.

Mr. FARRIS of Kennebec: Mr. President, this item was tabled for the purpose of introducing an amendment to clarify the definition of "piers and terminals". The amendment is prepared but has not been reproduced. At this time I would move the pending question and tomorrow an amendment will be presented.

The motion prevailed and the Report A was accepted, the bill read once and tomorrow assigned for second reading.

The President laid before the Senate, the 2nd tabled and today assigned item (S. P. 346) (L. D. 1079) Senate Report, Ought not to pass, from the Committee on Judiciary on Bill, "An Act Relating to Statements of Ministers, Priests and Rabbis as Privileged Communication", tabled on April 18 by Senator Mayo of Sagadahoc pending acceptance of the report.

Mr. MAYO of Sagadahoc: Mr. President and members of the Senate: Before I make my motion regarding this bill I would like to speak very briefly in regard to the bill.

I am very much interested in the passage of this bill for many reasons. No. 1: To disclose information given in confidence is against the conscience and ordination vows of the ministry. When a pastor receives information he feels he is conscience-bound before God not to reveal what he has heard, but Maine law gives no protection in such cases and there is nothing to prevent a pastor from being called to court to testify on matters given him in private. One large area of worry in such matters is in the field of family relations problems.

Now at the present time there are many states that grant this privilege to their clergymen; also many of these states grant the same privilege to the medical profession. I see no reason why Maine

should not join these other states in granting this privilege.

It was my understanding at the hearing before the committee and in the executive session of the committee that they wrestled with this problem for quite some time and were unable to completely agree so they put out a unanimous "Ought not to pass" report. I have talked with the members of the committee, they have no objection to me making the motion which I am going to make, to give this bill a chance to be passed, to have it debated here possibly on the floor of the Senate and then debated on the floor of the House. I therefore, Mr. President, move that the bill be substituted for the report of the committee.

The PRESIDENT: Is it the pleasure of the Senate that this bill be substituted for the "Ought not to pass" report of the committee?

The motion prevailed and the bill was given its first reading and tomorrow assigned for second reading.

The President laid before the Senate the 3rd tabled and today assigned item (S. P. 424) (L. D. 1303) Senate Report, Ought not to pass, from the Committee on Judiciary on Bill, "An Act Relating to Investigation of Divorce Actions Involving Custody of Children" tabled on April 18 by Senator Farris of Kennebec pending acceptance of the report; and on further motion by the same Senator, the Ought Not to Pass Report was accepted.

Sent down for concurrence.

The President laid before the Senate the 4th tabled and today assigned item (H. P. 1018) (L. D. 1419) House Report, Ought to pass in new draft and under new title (H. P. 117) (L. D. 1539) from the Committee on Retirements and Pensions on bill, "An Act Relating to Definition of Public School under Maine State Retirement System", tabled on April 17 by Senator Marden of Kennebec pending acceptance of the report; and the same Senator moved the pending question.

Thereupon, the ought to pass report was accepted in concurrence,

the bill read once, House Amendment A read and adopted in concurrence, and the bill tomorrow assigned for second reading.

The President laid before the Senate the 5th tabled and today assigned item (H. P. 804) (L. D. 1118) House Report Ought to Pass in new draft, same title (H. P. 1099) (L. D. 1512) from the Committee on Health and Institutional Services on Bill, "An Act Relating to Sale of Drugs and Medicines", tabled on April 19 by Senator Lovell of York pending acceptance of the report.

Mr. LOVELL of York: Mr. President and my sincere associates in the Senate: I have great confidence in the Committee on Health and Institutional Services and this bill came from their committee as "Ought to pass."

Now certainly I think that everybody will understand and realize that drugs should be sold in drug stores under the supervision of a pharmacist who has trained employees. We are now in a modern era of medication, and the life span has been increased some twenty years through the specialized work of the doctor and modern medicine.

The undertaker takes care of the persons who have died and the doctor takes care of the sick and the lawyer practices law. The pharmacist now has to go five years to college plus practical experience and then take a state examination before he can be a pharmacist in Maine. He is trained to handle medicine. It is a profession of long standing.

I admit that some drug stores must stop selling groceries. Drugs must be sold in drug stores only. The drugs on this bill may be habit-forming and dangerous, and they have caused deaths. The Maine Pharmaceutical Association will stop drug stores from selling groceries by a directive if this bill is passed.

If we continue the practice a patient can well soon get all the major drugs in grocery stores, and the clerks there have no training in drugs.

An example came to my attention recently where a patient went

into a grocery store and said to the clerk, "I have a fever. Shall I get Dristan tablets or continue with four anacin tablets every hour?" The clerk said, "No, get two packages of Somnex sleeping tablets, double the dose and go to sleep."

Now is that what we want to condone? Is that what we want in grocery stores?

I have another example. A child had an allergy to a cough syrup containing a drug called dextromethorphan. The mother went to the grocery store where she purchased this cough syrup, and said, "My baby took one bottle of this syrup and is all broken out in a rash that itches and also has a fever. What will I do?" The grocer says, "Get two bottles and double the dose."

Now the Medical Association approves this bill that is here today before you, and may I say, "Follow your doctor's advice as you have in the past."

I have no doubt that the grocery store men will be against this bill. It will cut down their profit. They do not stop to think of the danger in selling these drugs which can and have killed. In these modern times of advanced science, with many new and dangerous drugs, we must be more careful. These drugs in this bill should be sold under pharmacy supervision. We must think of our families and our children and protect them. These drugs need to be sold by a trained personnel under pharmacy supervision. For your own good and for the good of your friends and neighbors and the citizens of Maine, vote for this bill. Do not listen to persons who are thinking of the jingle of the cash register and the profits at the end of the day; think and vote for the health of the people.

A doctor's duty is to his patient; his mind is not on the profit. He is working for the welfare of his patient, as is the dentist and the lawyer, and his profession comes first. So, too, is it with the pharmacist.

Now I have no complaints on the grocers; they are for the most part very nice people, but they just do not realize the power of

drugs. They are not trained for this. They are searching for more profit, possibly to pay for the giving of trading stamps. They have great competition, as anyone with a few dollars can start in the grocery business. There are many grocery stores. It is not a profession. They do not need to be college graduates; they do not have to take a state examination to operate their stores. The doctor, the pharmacist, the dentist and the lawyer have to take an examination by law. The grocery stores far outnumber the drug stores, and I have no doubt they have a strong lobby. Hence, I would expect there might be a few persons in this Senate against this bill, but I doubt it. I think you have so much common sense that you would not gamble with medicine and health.

I move that the "Ought to pass" report of this committee be accepted.

Mrs. CHRISTIE of Aroostook: Mr. President and members of the Senate: I think we should be very careful how we handle dangerous drugs. I am of the opinion, however, that some of these drugs are passed out over the counters of the drug stores as well as the grocery stores, and I believe that there should be an amendment prepared—I have not prepared it—which would cover this situation as well as that in grocery stores.

Mr. SAMPSON of Somerset: Mr. President and members of the Senate: There seems to be a question in my mind whether the joint rules of the House and the Senate have been violated because, under Joint Rule No. 17, which has been brought to my attention, it says: "No member shall be permitted to vote on any question in either branch of the legislature or in committee whose private right distinct from public interest is immediately involved."

It is to be understood that at least four members of the Committee on Health and Institutional Services are registered pharmacists. The restrictions provided in the proposed bill would benefit these people directly since the bill proposes to give drug stores the exclusive privilege of the sale of the items.

Now I do not have any objection and I do not think any other grocer would if drug stores sold meat seasoning. I therefore move that this bill with all its papers be indefinitely postponed.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Somerset, Senator Sampson, that this bill and all accompanying papers be indefinitely postponed.

Mr. LOVELL of York: Mr. President, in regard to the statement of the good Senator from Aroostook, Senator Christie, I might say that in most drug stores—for instance, in my own particular case I have one clerk who is sixty-six years old who has worked in a drug store for some twenty years, I have another clerk who has worked in a drug store since 1928. Most clerks in drug stores are experienced and know the contents and how to handle these serious drugs.

Now in regard to my being disqualified as a pharmacist, I certainly feel I am talking for the good of the medical profession of the State of Maine, and I regret that my colleague takes this position.

In another great body in this building, a lady said on a bill which the grocers, or at least many of them, were against: "If you stop these stamps when you go back home look out for the wives with their rolling pins." Now I might say, "When you go back look out for the pharmacist with his mortar and pestle if you vote against this bill." You had better take your next prescription to the grocery store.

The grocery store man will soon be prescribing for the sick if we do not pass this law. After that maybe he will perform minor operations or even practice law. Is this what this august body wants for Maine? Must the drug stores go into the grocery business? Shall we combine and have drug-grocery stores and grocery-drug stores that sell meat and so forth? Have I and my associates gone four years to college to be pharmacists to no avail? Soon the grocery stores will carry all types of drugs. I shall fight for my profession. I plead

with you here today to support the pharmacist and your doctor. Pharmacy is an old and esteemed profession. We are out to save human lives. Would you want to let the undertaker operate, let the doctor bury the dead, let the lawyer treat the sick, give him drugs? No, of course not. We must keep our professions separate; we must protect them by law. You in the Senate certainly have too much common sense not to realize this. I urge you to vote your conscience on this bill because it could well affect your own family. It is a safety measure for your family and you. It is good for the people. Do not tamper with your health. I pray that you will vote today for your pharmacist and doctor.

When the vote is taken I ask for a division, and I hope that you will go along with the pharmacists on this bill.

Mr. COLE of Waldo: Mr. President and members of the Senate: I too respect the druggists of this State and I think every member of the Senate does. However, I believe in competition and free enterprise, and I am wondering if we want to prohibit the drug stores from selling fishing tackle, toys and other non-essential things such as they already are selling.

The federal government has very adequate laws regarding the sale of drugs, and if each state passes an additional law it is going to make for a most confusing situation as far as manufacturers with national distribution are concerned.

The Food and Drug Administration in Washington at the present time passes on whether a new drug is safe to be sold even on prescription. After sufficient evidence has been presented they approve it for sale on prescription by doctors. Only after it has proved itself completely safe is it approved for over-the-counter sale without prescription. To my way of thinking, listing a bunch of drugs and saying they can be sold by registered pharmacists only is ridiculous.

The first drugs in the list we have in the bill, it says you cannot buy them without prescription anyway. You might as well have

listed Salk vaccine. The next drugs are antibiotics. Antibiotics by listing is ridiculous. Antibiotics in certain quantities are perfectly safe for over-the-counter sale in products for a sore throat or in cream for facial application.

Now I have here a list of petitions signed by merchants, and they happen to be druggists as well as other merchants, from all over the State from Aroostook County all the way to Kittery. I would say there was over a thousand signatures here of different merchants, all opposing this bill.

I believe that this is a free country, thriving on competition, and in taking away competition you are exposing your public to increased living costs which could easily be imposed by a controlled segment of our economy. I certainly am going along with the motion of the Senator from Somerset Senator Sampson, for indefinite postponement.

Mr. MARDEN of Kennebec: Mr. President and members of the Senate: If I understand this bill correctly, it would prohibit the sale of such dangerous drugs as anacin, bufferin, aspirin, nasal sprays and inhalents in any stores other than drug stores.

If I may, I would like to ask a question of the Senator from York, Senator Lovell.

The PRESIDENT: The Senator may ask his question.

Mr. MARDEN: Am I correct, Senator Lovell, in understanding that no prescriptions are necessary for the purchase of the drugs mentioned in L. D. 1512 and, if I am correct, isn't it true that if this bill is passed a citizen could purchase any one of these things from the drug store whether they ever saw or spoke to a pharmacist, and, in the case of self-service counters, could merely pick it up, pay the cashier and walk out.

The PRESIDENT: The Senator from Kennebec, Senator Marden, poses a question through the Chair of the Senator from York, Senator Lovell, who may answer if he wishes.

Mr. LOVELL of York: That is true.

Mr. COUTURE of Androscoggin: Mr. President, I certainly rise in

support of the indefinite postponement of this bill. I have heard remarks made about grocery men selling drugs, but I certainly feel it does not take a druggist to be able to sell lipstick, powder, perfume, to sell pipes to pipe smokers, cigarettes, chocolates, stockings, toys for kids, rings, tie-pins, watches and so on. These are all sold in drug stores. Does the gentleman feel that drug stores should be limited to the sale of drugs alone? I think they are in competition with other businesses also in these drug stores. I could go on for hours in naming what they are selling in these drug stores, and they are in competition with other businesses. Furthermore, I do not believe that any person in the state should be obliged to go and wake up a druggist at night or on Sunday in order to get a box of aspirin in case of a headache. I do not think that a druggist is needed for the sale of a box of aspirin when our grocery stores and small stores in the area carry it and it is a great help to people.

I certainly hope that this Senate will go along with the indefinite postponement of this bill.

Mr. LOVELL of York: Mr. President, I speak for the last time on this bill.

First, I would like to ask through the Chair: If I disqualify myself under Rule 17 from voting on this will the Senator from Somerset, Senator Sampson, disqualify himself from voting on the trading stamp bill?

The PRESIDENT: The Senator from York, Senator Lovell, poses a question through the Chair to the Senator from Somerset, Senator Sampson, and he may answer if he wishes.

Mr. SAMPSON: Mr. President, I refuse to answer.

Mr. LOVELL of York: Mr. President, it has been brought up that drug stores are selling, in some instances, and only in the larger drug stores in the larger cities, a great variety of items. Naturally, the way the drug business has gone to the grocery stores and other stores, the druggists, in order to make a living, must do this.

Now the good Senator from Waldo, Senator Cole, has presented petitions with a thousand signatures. I expected this, as I said in the first part of my talk; I expected this opposition from the grocery stores because certainly they need this extra profit. I might say that possibly the grocer is giving out so many stamps as a bonus that the grocers, as the good Senator from Somerset, Senator Sampson, has said, must carry all kinds of drugs to pay for these stamps. Where will they stop? Maybe the drug stores should consolidate with these supermarkets.

Now a patient becomes callous of a medicine purchased in a grocery store. He thinks it is as harmless as a quart of milk. The grocery store does not have the air of a pharmacy. I say: sell groceries in the grocery store and drugs in the drug store.

A member of the Maine Pharmaceutical Association told me a true story recently. A six year old child came home after school and when arriving home found that her mother had gone out for a few minutes. Meanwhile the grocer brought in an order of groceries in which was a bottle of orange-flavored aspirin. When the mother came home the child was unconscious and the bottle of fifty orange-flavored aspirin was empty. The child was rushed to the hospital and her stomach pumped. Thank God she lived. When she was asked why she took the tablets she said, "They came with the rest of the food and I thought they were good to eat."

God forbid that should some child near and dear to you, maybe your own, — Senator Marden has some lovely children, and Senator Couture — should walk into a self-service grocery store looking for candy and pick up a bottle of sleeping tablets, eat them and die from it. It would be horrible.

Remember that, if you vote against this bill. Don't let this be on your conscience when you go to bed tonight. Vote for your doctor, your pharmacist and yourself. I beg you to support this worthy bill.

The PRESIDENT: The question before the Senate is on the motion of Senator Sampson of Somers-

set, that the bill and accompanying papers be indefinitely postponed.

A division of the Senate was had. Twenty-five having voted in the affirmative and five opposed, the motion prevailed and the bill was indefinitely postponed in concurrence.

The PRESIDENT: The Chair has been informed that visiting with us in the Senate this morning were 52 pupils from the 8th grade Warren School with Mrs. Bell Maxcy and Mr. Vernon Jordan. Apparently they left during our debate. It is nice to have these young groups visit with us and the Chair will request the Senator from Knox, Senator Stilphen to send a copy of this announcement to the group.

The President laid before the Senate the 6th tabled and today assigned item (H. P. 1009) (L. D. 1410) House Reports from the Committee on Liquor on Bill, "An Act Relating to Local Option on Questions Permitting Sale of Malt Liquor on the Premises"; Majority Report Ought to pass in New Draft Under New Title of "An Act Relating to Local Option Questions on Sale of Liquor (H. P. 1075) (L. D. 1483); Minority Report, Ought not to pass, tabled on April 20 by Senator Mayo of Sagadahoc pending acceptance of either report.

Mr. MAYO of Sagadahoc: Mr. President and members of the Senate, since I tabled this bill I have investigated it very thoroughly and just this morning talked it over again with the Secretary of State and I find that I have presented to this Senate misleading figures for which I do apologize at this time. The figures were given at the hearing before the Liquor Control Committee and I just repeated them, but in further checking this bill, I find that instead of saving the amount of money which I quoted last week, it is now estimated that the bill could cost the State anywhere from \$1,000 to \$5,000 more at election time. So instead of holding up the bill any longer I shall now move that the Senate indefinitely postpone the bill and all accompanying papers in non-concurrence.

The motion prevailed.
Sent down for concurrence.

The President laid before the Senate the 7th tabled and today assigned item (S. P. 405) (L. D. 1346) Bill, "An Act Relating to Form of Standard Fire Insurance Policy," tabled on April 20 by Senator Brown of Hancock pending enactment; and on further motion by the same Senator, the bill was passed to be enacted.

The President laid before the Senate the 8th tabled and today assigned item (S. P. 512) (L. D. 529) "Resolve Proposing an Amendment to the Constitution Exempting Certain Industrial Property from Taxation", tabled on April 21 by Senator Noyes of Franklin pending motion by Senator Porteous of Cumberland to indefinitely postpone; and on further motion by the same Senator, the resolve was retabled and especially assigned for next Thursday morning.

The President laid before the Senate the 9th tabled and today assigned item (H. P. 809) (L. D. 1123) Bill, "An Act to Field Trials for Beagle Hounds", tabled on April 21 by Senator Stilphen of Knox pending passage to be engrossed and that Senator moved the indefinite postponement of the bill.

Mr. CARPENTER of Somerset: Mr. President, I feel that there has been sufficient debate on this particular L. D. and I will ask for a division.

A division of the Senate was had. Twenty-three having voted in the affirmative and five opposed, the bill was indefinitely postponed.

On motion by Mr. Marden of Kennebec, the Senate voted to take from the table the 23rd tabled and unassigned item (S. P. 283) (L. D. 884) Senate Report, Ought to Pass in New Draft from the Committee on Health and Institutional Services on Bill, "An Act Governing Hospitalization of the Mentally III", tabled on March 24 by Senator Marden of Kennebec pending acceptance of the report; and on further motion by the same Senator, the Ought to pass in new draft report was accepted and the bill read once; on further motion by the same Senator, the bill was laid

upon the table pending assignment for second reading; and especially assigned for Friday next.

Mr. Jacques of Androscoggin was granted unanimous consent to address the Senate.

Mr. JACQUES of Androscoggin: Mr. President and members of the Senate, I would like to have consent to use the Senate Chambers as the Democrats wish to caucus after the session. We have not said anything in the past but this time we might be able to meet in the telephone booth but we would like to have the Press with us, since we invite the Press to our caucuses.

The PRESIDENT: Does the Chair hear objection?

Mr. NOYES of Franklin: Mr. President, I move that the request be granted.

The motion prevailed.

Mr. JACQUES: Mr. President, I wish to thank Senator Noyes. Now, as far as the doorkeeper is concerned, I would like to ask Senator Noyes to be our doorkeeper. (Laughter)

Mr. STILPHEN of Knox: Mr. President, may I direct a question to Senator Jacques?

The PRESIDENT: The Senator may ask his question and Senator Jacques may answer if he wishes.

Mr. STILPHEN: Mr. President, I am just wondering if the Senator would like to have either Senator Marden or Senator Boardman operate the amplifying system?

Mr. JACQUES: Mr. President, I think any of these good Senators would be satisfactory. (Laughter)

On motion by Mr. Cole of Waldo, the Senate voted to take from the table the 21st tabled and unassigned item (S. P. 357) (L. D. 1090) Senate Report, Ought not to pass, from the Committee on State Government on Bill, "An Act Increasing Salary of Forest Commissioner," tabled on March 24 by Senator Cole of Waldo pending acceptance of the report.

Mr. COLE of Waldo: Mr. President, now that the pattern has been set and accepted, I would like to say a few words in regard to this bill. It is one I endorsed very highly because of the fact that I was

implicated two years ago. You may remember that the Forest Commissioner was appointed only a few months before the last session of the 99th legislature and at that time the Department Heads were granted increases, and those increases where the Governor and Council have authority were also granted but because of advice of mine to the Commissioner, to the effect that he was untried and new and I recommended he not seek an increase, he accepted the suggestion and did not ask for an increase. As I have said, since then they all have received increases and I do think it very unfortunate that we have a career man who has been in the Department for thirty-one years not having his increase that he actually should have. However, as I said before, I am willing to accept the report of the committee, and Mr. President I move the pending question.

Thereupon, the Ought not to pass report of the committee was accepted.

The PRESIDENT: The Chair notices in the Senate Chambers a distinguished guest with one of his friends and the Chair would like to introduce Active Retired Justice of the Maine Supreme Judicial Court, Judge Murray, and with him is Attorney Frederick Dodd of Bangor. (Applause)

On motion by Mr. Carpenter of Somerset, the Senate voted to take from the table the 24th tabled and unassigned item (S. P. 383) (L. D. 1193) Senate Reports from the Committee on State Government on Bill, "An Act Increasing Salary of Director of Legislative Research;" Majority Report, Ought not to pass; Minority report, Ought to pass; tabled on March 24 by Senator Carpenter of Somerset pending acceptance of either report.

Mr. CARPENTER of Somerset: Mr. President and members of the Senate, this is one bill I think certainly has great merit. I have been acquainted with the Research Department for many years. A great deal of work is required there. This is one individual whom I think very seriously underpaid but in

view of the fact that this particular report follows the pattern of many other bills that have gone under the hammer, I move the acceptance of the Ought Not to Pass report.

The motion prevailed and the Ought not to pass report was accepted.

Sent down for concurrence.

On motion by Mr. Ferguson of Oxford, the Senate voted to take from the table the 8th tabled and unassigned item (H. P. 657) (L. D. 935) House Report, Ought to pass as amended by Committee Amendment A from the Committee on Claims on Resolve in Favor of Irving L. Leach of Bluehill; tabled on March 8 by Senator Ferguson of Oxford pending acceptance of the report; and on further motion by the same Senator, the

ought to pass report was accepted, the bill read once, Committee Amendment A read and adopted and the bill tomorrow assigned for second reading.

On motion by Mr. Carpenter of Somerset, the Senate voted to take from the table the 55th tabled and unassigned item (S. P. 358) (L. D. 1091) bill, "An Act Increasing Limits of Industrial Mortgage Insurance under Maine Industrial Building Act." tabled April 14 by Senator Carpenter of Somerset pending enactment; and on further motion by the same Senator, the bill was passed to be enacted.

On motion by Mr. Noyes of Franklin,

Adjourned until tomorrow morning at 9:30 o'clock.