

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume I

January 5, 1977 to May 25, 1977

KJ PRINTING
AUGUSTA, MAINE

SENATE

Tuesday, May 3, 1977

Senate called to order by the President.

Prayer by Reverend Jacky R. Whilhoite of the United Pentecostal Church in Augusta.

Rev. WILHOITE: Lord Jesus, it seems that we are forever asking You for different things in this life. We want to take just a moment and thank You for somethings. We thank You for this country, the flag. We thank You for liberty. We thank You, God, for those men who came and sacrificed their lives that we might have this liberty.

We know, Jesus, that this country was discovered approximately the same time that South America was. Men who came here, came to this country for liberty, freedom. The men who went there, went for riches, resulting, Oh God, in a poverty-stricken nation. Lord, You have blessed this country because of the desire to have liberty, to be near You.

Jesus, we want to thank You for men of this calibre, this nature, that wanted to be near You, wanted this freedom. God, they have done much for us and we thank You, Jesus, for these men that are here today and women to decide different matters of business. You are so very good to us, Jesus, we owe You so much.

We want to thank You that You came all the way to this earth to give us an inner liberty, freedom from bitter attitudes, freedom from envying, being motivated by jealousies, that we could be free internally to where that we might know You and have a peace within our heart.

Now, Jesus, You know the hearts and the lives of every man that is here today, and I ask You, Lord, that You would touch them internally, mentally, that You would show them those things that You would have them to decide upon in the way that You would want them to decide upon, that You would show them truth and then give them the strength to stand for that truth; that anything that they decide upon today or any decisions that they make, they would make because of those things that are right, not being deviated to the right hand nor to the left, but standing for those things that you would have them to stand for.

Lord Jesus, You are so very kind to us. We thank You again for these men. We ask You to touch them, strengthen them, guide them, and more than anything else, make them aware of Your presence, for we live in a world and in a society that men need to be God-fearing and aware of Your love and of Your hand that is reaching out to guide, strengthen and direct.

We ask You for these things in Your lovely name. Amen.

Reading of the Journal of yesterday.

(Off record remarks)

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

Bill, "An Act Relating to the Salaries of Certain Officers in the Executive Department." (Emergency) (S. P. 476) (L. D. 1725)

The Committee on Appropriations and Financial Affairs suggested.

In the Senate referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Comes from the House, referred to the Committee on State Government and Ordered Printed, in non-concurrence.

On Motion of Mr. Collins of Aroostook, the Senate voted to recede and concur with the House.

Non-concurrent Matter

Bill, "An Act Establishing an Experimental Open Season on Moose." (H. P. 1298) (L. D. 1495)

In the House April 21, 1977, Passed to be Engrossed.

In the Senate April 22, 1977, Bill and Papers, Indefinitely Postponed.

Comes from the House, that Body having Insisted.

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

Mr. REDMOND: Mr. President, I move we recede and concur with the House.

The PRESIDENT: The Senator from Somerset, Senator Redmond, now moves the Senate recede and concur with the House.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I move the Senate adhere.

The PRESIDENT: The Chair would advise the Senator that the first Motion has precedence.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: I ask for a Division on that Motion.

The PRESIDENT: A Division has been requested.

The Pending question before the Senate is the Motion by the Senator from Somerset, Senator Redmond, that the Senate recede and concur with the House. A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

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

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

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

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I will not take a great deal of time this morning, but I would like to bring out a few facts, something that I think may have been lacking by some of the opponents of this Bill the last time around.

I had distributed, and it is on your desk this morning, two pieces of literature, one is a column by the distinguished sports' writer of the Bangor Daily News, Bud Leavitt, and the other one is an equally, or more important piece of literature by Mr. Brian Carter, who is the New Brunswick equivalent of the Commissioner of Department of Inland Fisheries and Game. We have heard many arguments against this Bill when it was first debated here the other day and if you attended the debate in the other Body, you heard many arguments there as well.

I think, if you honestly and objectively look at the facts, that every argument that has been put forth against this Bill can and will be refuted, from the desecration of the State Seal to the idea that the moose is as tame as your average cow. I think if we are going to go on this latter argument, I think we have some pretty serious thoughts about our deer herd as well.

I will relate to you an experience that happened to me Saturday on my way to a constituents' meeting in Ashland on Route 11. I had to stop my car and let the tamest little deer you ever saw in your life stop and watch me, and then slowly walk off into the woods. Now I do not hear the great hue and cry to change the hunting season for deer. And I would submit to you that they are the tamest animals in the woods until about a week before hunting season, and then you cannot find them. Now do not ask me to explain how that happens, but it is a fact of life. It has been a fact of life in Aroostook County for as long as I can remember. Deer are very tame until just before hunting season. So I do not think this is a good argument to put forth

against the moose, against the moose season.

I would ask you to specially pay attention to what Mr. Carter from the Province of New Brunswick says in his letter: "In 1960 when the moose season was first introduced, we had serious starvation die-offs of moose and 7 percent of the population were diseased." This is before the season was first instituted. Now they have a healthy herd, they have a larger herd.

I have a moose statistic sheet that was distributed by my good friend, the Senator from Penobscot, Senator Trotsky, on moose mortalities. I would ask you to take a look at that. In 1974 a total of 271 moose were taken, were harvested in this state, either by automobile, by poaching, or by other means. 271 out of a population that is estimated at 18,000 moose. You know, the figures just do not jell and the argument just does not jell when you talk about decimating a herd of 18,000 when you are proposing to up the harvest rate to approximately 700. And I think that is a high figure.

I think the other argument that I would like to put forth this morning is, and it is an argument that I feel is very serious. Something that is pointed out in Mr. Leavitt's column in the Bangor Daily News that is on your desk this morning. We pay a great deal of money to a great many State Agencies and State officials to do their job, to tell us what is going on in their various departments. We spend a great deal of money hiring game wardens, hiring game biologists to tell us what the situation is in the moose herd, in the deer herd, what the hunting situation is, etc., etc., and, believe me, if you have ever attended a fish and wildlife committee hearing, there is nothing more protected than the sport herds of the State.

The Fish and Wildlife Department is very protective of the deer, of the moose, and coyotes, of all the wild game out there in the woods, and when they come before the Committee and say that we should have a season, we need a season, a short, experimental, closely controlled open season on moose, I think it about time we listened to them. We listen to all our experts, and we pay our experts a great deal of money, and I think it is ludicrous to stand here in this Body and purport to be experts on the moose. I have lived among the moose all my life, and I am not an expert by any means.

I will take the word of the game biologists to tell me, and I will go to Ashland to talk to the Game Wardens and up into Aroostook County in the other zones and talk to the Game Wardens. They have got nothing to gain from this Bill. Go talk to them, ask them what they think.

These are facts, and I hope when the vote comes this morning, that we will vote on the facts, not on rhetoric, not on arguments that are put forth using the State Seal as an example, not on arguments that are put forth in a frivolous manner. In my estimation, this is a very serious Bill, and there are people in this Chamber who have made it less than serious. Now I do not think that is correct: I do not think that is right. I think we should deal with this in a very serious manner, and I hope that when you do vote this morning you will vote to support the Senator from Somerset, Senator Redmond.

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

Mr. TROTZKY: Mr. President and Members of the Senate, I do not believe this is a frivolous Bill either, and consequently I spent approximately half an hour this morning in the Fish and Game Department trying to get some facts. Basically because the letter was handed out yesterday, distributed by the Chairman of the Fish and Game Committee which states, as Senator Carpenter stated, that the herd had a serious starvation die-off in 1960. And my first question to the Assistant Game Biologist was, is there

any indication that there is any starvation of moose in Maine? The answer was, no. Secondly, I asked for a sheet of the illegal moose kill in the State, and I passed this out to all of you and in 1974, that comes directly out of a moose census done, 271 moose were killed either illegally or by truck, train or unknown causes. However, that 271 is a low figure. I think everybody ought to realize. That is the figure where they discovered the remains of the moose in the woods. I do not know what the real figure is and I do not think anyone here knows what the real figure is. It could be double what you see here.

Now the first question that comes to mind, if you have a legal season, are you going to stop the illegal kill? I do not believe you are going to. Secondly, the mangeal disease that is made reference to in this letter. The mangeal disease is carried by the deer and the others. So by killing off the moose, you are not going to eliminate the mangeal disease. It is still going to be carried by the deer and by the snail.

As far as the census is concerned, I tried to get some idea of the figure, actually 19,000 was given to me and it is 19,000 plus or minus. They cannot say it is 19,000 moose. It is 19,000 plus or minus. Somewhere approximately 20 percent. Now 20 percent of 20,000 is 4,000. So consequently, the moose population can be 15,000, it can be 23,000.

There was no demonstrated need biologically for a moose season in the State of Maine that I could see in talking with the Game Biologist. One day there will be an need and one day the Senate is going to have to vote for a moose season, but they cannot show that today, in 1977, there is a biological need to crop the herd for its own health. And again, I believe at this time the moose is of more benefit to all the people of the State of Maine and all the people who come to the State of Maine to visit the State of Maine as tourists, to be able to see a live moose wandering through the woods.

I hope the Senate will go along, will vote against the motion to recede and concur.

(Off record remarks)

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

Mr. HICHENS: Mr. President, I have read with great interest this article in the paper, I do not know which paper it comes from, by Mr. Leavitt, and all I can think is that if he does not know any more about what he has written here on the moose than he does about what goes on in the State Senate, that we should take what he has written with a grain of salt, because he gives the Roll Call and he says abstaining from voting and he listed some of the Senators. Well, I do not know of any of the Senators who were here that abstained from voting. There were two or three that were absent.

Then he goes on to say that you no doubt read Minority Leader Gerard Conley's statement to colleagues, "killing moose provides as much sportsmanship as a firing squad." Conley's lack of style and churlishness should make my father, a lifelong Democrat, wish he had never belonged to the party."

Well, I certainly respect Senator Conley's statements that he has made. Sometimes I disagree with him on some of the statements he makes, on other Bills and so forth, but I think he is a credit to the party to which he belongs, and I do not think any father would ever turn over in his grave or wish he had never belonged to the Democratic party because of our Minority Leader's statements and his actions here in the State Senate.

But in contrast to Mr. Leavitt's statements, I have an article which is written for the Portsmouth Herald. A couple weeks ago I distributed an article by this same sports writer telling about the need for the moose in the State of Maine, and why we did not need this Bill and

Mr. Atlee writes this time that he congratulates the Maine Senate on their stand, for their superior knowledge on the issues and the fact that if they do not want the moose in Maine, they would be glad to have some of them over in New Hampshire to be a tourist attraction.

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

Mrs. CUMMINGS: Mr. President, I would like to make a few quotations for the record from the Smithsonian Magazine, which I think you all know is held in high regard. It does not print articles that have not been researched.

This is titled: "Wildlife quotas sometimes ignore the real world. Biologists long ago adopted the concept of maximum sustainable yield to set harvests, but it is at best only a rule of thumb."

For years a widely accepted "law of nature" has maintained that a certain number of given animal population can be killed for sport or profit each year without affecting its stability. This percentage of wildlife and fish allotted to the harvester is called the maximum sustainable yield — which I would like to refer to as MSY from here on out.

This MSY concept is exquisite in its simplicity and, in one form or another, it has been basic to management — where management has occurred — of sport and commercial harvesting of fish and wildlife in much of the world. To many, the idea of maximum sustainable yield is virtually sacred.

However, it does not work because it does not begin to take into consideration the total laws of the system. To begin with, MSY assumes a stable population and the number of animals a habitat can support is fixed. But the fact is that such stability is rare. Apart from the problem of population fluctuation, MSY totally ignores the impact of hunting on the social and behavioral patterns of the animals, with potential changes in habits, and especially in breeding habits.

Perhaps the most important weaknesses of the MSY concept, however, are those involving the relationships between wildlife and its environment. One fallacy of the MSY approach is that it assumes that the density of a group of animals is the only factor determining how many of them a given habitat can support. In reality, the carrying capacity is affected by many factors, including food, water, space, competition and predators. These are affected by climate, pollution, land use and other human activities.

Another serious flaw in the MSY concept is that it assumes that if a group of animals is reduced by man, the group will automatically come back. That is not necessarily true. Although management still focuses on values relating to fishing and hunting, there is an increasing recognition of the importance of other considerations when dealing with wildlife. One is the role of the species in maintaining the health and stability of the ecosystems of which it is a part. Another is the role of wildlife in giving enjoyment to those who admire, study or photograph the animal in question.

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

Mr. MARTIN: Mr. President and Ladies and Gentlemen of the Senate, I would just like to commend my good friend and colleague the Senator from Aroostook, Senator Carpenter who did an excellent job explaining to you, or rather giving you the facts, not rhetoric.

At this time I would just like to briefly read you the Statement of Fact on LD 1495. "This Bill will establish a one-year, restricted, experimental, open hunting season on moose for residents of Maine — for residents of Maine. The passage of this Bill would bring revenues to the Department of Inland Fisheries and Wildlife of approximately \$150,000.00 for this fiscal year 1977-78. It is the intent of the Com-

mittee on Inland Fisheries and Wildlife that at least 50 percent of this revenue, not to exceed \$80,000.00, be spent by the Department to study and management of the Maine moose herd.

It is very simple, Ladies and Gentlemen of the Senate, if you want the \$150,000.00, vote for this Bill; if you do not, vote against it.

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

Mr. REDMOND: Mr. President and Ladies and Gentlemen of the Senate, I will not repeat the comments you have already heard about the extensive study and expert opinion which all support and urge the passage of this very important measure. We have already waited too long in taking responsible and reasonable steps to deter illegal poaching and to properly manage our moose herd from the dangers of ignorance.

The very least we can do is to undertake this experimental program. It is understandable that the urban members of this Body do not appreciate the need for this legislation. It is not understandable and it is regrettable that they would close their ears and minds to the points made by those members who have first-hand knowledge of the situation, just as I would respect the opinions of our so-called urban members with regard to the urban problems. I urge you to respect the opinions of those who understand the problems in our woodlands. At the hearing and also the people from my district strongly support this Bill and I ask this Body to honor the reasonable and limited request.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion of the Senator from Somerset, Senator Redmond, that the Senate recede and concur with the House.

A Roll Call has been requested.

A Yes vote will be in favor of the motion to recede and concur, a Nay vote will be opposed. The Secretary will call the roll.

ROLL CALL

YEA — Carpenter, Collins, D.; Collins, S.; Curtis, Farley, Jackson, Levine, Lovell, Martin, Morrell, O'Leary, Pray, Redmond, Snowe, Speers, Usher, Sewall.

NAY — Chapman, Conley, Cummings, Danton, Greeley, Hewes, Hichens, Huber, Katz, Mangan, McNally, Merrill, Minkowsky, Pierce, Trotzky, Wyman.

17 Senators having voted in the affirmative and 16 in the negative, the Motion to recede and concur does prevail.

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

Mr. PRAY: Mr. President, having voted on the prevailing side, I move for reconsideration and urge the Senate to vote against me.

The PRESIDENT: The Senator from Penobscot, Senator Pray now moves the Senate reconsider its action whereby it voted to recede and concur with the House.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

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

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

15 Senators having voted in the affirmative and 17 in the negative, the Motion to reconsider does not prevail.

Joint Orders

Expressions of Legislative Sentiment recognizing that:

Mrs. Hope A. Espling of Caribou has served with great dedication as organist in the Gustaf

Adolph Lutheran Church for the past 50 years. (H. P. 1510)

Lynn M. Sawlvich of Sidney, who is the state president of the Junior Classical League and who holds the highest rank in his class at Mesalonskee High School, is the winner of a \$1,000 National Merit Scholarship. (H. P. 1512)

Sarah Ring Pritham of Greenville, the still active and much loved widow of Dr. Fred J. Pritham who became widely known as the subject of the book "The Big Little World of Doc Pritham," will celebrate her 94th birthday on May 2, 1977. (H. P. 1513)

Came from the House, Read and Passed. Which were Read and Passed in concurrence.

House Papers

Bills received from the House requiring reference to Committee were acted upon in concurrence.

**Communications
Office of the Governor**

May 2, 1977

Honorable Joseph Sewall
President of the Senate
and

Honorable John Martin
Speaker of the House
Dear Joe and John:

This is to formally notify you that David A. Nichols of Lincolnville was nominated to fill the pending vacancy on the Maine Supreme Judicial Court.

On accordance with M.R.S.A. T. 4, Section 1, as amended, this nomination is subject to review by the Joint Standing Committee on the Judiciary and to confirmation by the Legislature.

Thanking you in advance for your assistance.

Very truly yours,
(Signed) JAMES B. LONGLEY
Governor
(S. P. 482)

Which was read and referred to the Committee on Judiciary.
Sent down for concurrence.

House of Representatives

May 2, 1977

To: All Members of the 108th Maine Legislature Pursuant to Joint Rule 23, the Legislative Council has voted to extend the deadline for reporting out bills from Friday April 29th to Friday June 3, 1977.

(Signed) JOSEPH SEWALL
President of the Senate
(Signed) JOHN L. MARTIN
Speaker of the House
(S. P. 483)

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

**Committee Reports
House**

The following Ought Not to Pass reports shall be placed in the Legislative files without further action pursuant to Rule 20 of the Joint Rules:

Bill, "An Act to Authorize a District Attorney and Assistant District Attorneys for Washington County." (H. P. 458) (L. D. 563)

Bill, "An Act to Require all Commercial Banks in the State to be Members of the Federal Reserve System." (H. P. 859) (L. D. 1048)

Bill, "An Act Concerning the Organization of the Maine Real Estate Commission." (H. P. 601) (L. D. 980)

Leave to Withdraw

The Committee on Business Legislation on, Bill, "An Act to Amend the Accountancy Statutes." (H. P. 1067) (L. D. 1290)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Education on, Bill, "An Act Relating to Teacher Standards and Certification." (H. P. 813) (L. D. 1020)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act Relating to the Licensing of Air Ambulances." (H. P. 941) (L. D. 1137)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act to Amend the Ambulance Services Act." (H. P. 172) (L. D. 210)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act Relating to Health Care Facilities." (H. P. 270) (L. D. 338)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act Concerning Substitution of Generic Drugs by Pharmacists." (H. P. 414) (L. D. 517)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Judiciary on, Bill, "An Act Providing for Guardianship for Incapacitated Adults." (H. P. 940) (L. D. 1155)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Transportation on, Bill, "An Act Relating to Nonresident Truck Registration." (H. P. 248) (L. D. 320)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

Which Reports were Read and Accepted in concurrence.

Ought to Pass

The Committee on Business Legislation on, Bill, "An Act Concerning Ski Lift Services." (H. P. 958) (L. D. 1150)

Reported that the same Ought to Pass.

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

The Committee on Judiciary on, Bill, "An Act Authorizing Intermittent Service of Sentences of Confinement." (H. P. 1080) (L. D. 1304)

Reported that the same Ought to Pass.

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

The Committee on Judiciary on, Bill, "An Act to Authorize the District Court to Order Psychiatric Evaluation in Criminal Cases." (H. P. 1143) (L. D. 1367)

Reported that the same Ought to Pass.

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

The Committee on Judiciary on, Bill, "An Act to Authorize Sentencing Courts to Specify Places of Confinement of Persons Convicted of Crimes and to Remove Age Restrictions on Sentencing to the Maine Correctional Center." (H. P. 1082) (L. D. 1306)

Reported that the same Ought to Pass.

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

The Committee on Local and County Govern-

ment on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1977. (Emergency) (H. P. 1504) (L. D. 1722)

Reported (pursuant to Joint Order, H. P. 138) that the same Ought to Pass.

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

Which Reports were Read and Accepted in concurrence, and the Bills and Resolve Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass - As Amended

The Committee on Legal Affairs on, Bill, "An Act to Repeal Certain Laws Relating to Public Safety." (H. P. 1121) (L. D. 1339)

Reported that the same Ought to Pass As Amended by Committee Amendment "A" (H-218).

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

The Committee on Veterans and Retirement on, Bill, "An Act to Permit the Inhabitants of Cranberry Isles to Withdraw from the Maine State Retirement System." (H. P. 62) (L. D. 83)

Reported that the same Ought to Pass As Amended by Committee Amendment "A" (H-222).

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

The Committee on Veterans and Retirement on, Bill, "An Act to Provide an Increase in Retiree and Survivor Benefits." (Emergency) (H. P. 667) (L. D. 808)

Reported that the same Ought to Pass As Amended by Committee Amendment "A" (H-220).

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

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

The Committee on Natural Resources on, Bill, "An Act Prohibiting the Sale of Certain Aerosol Sprays after January 1, 1979." (H. P. 290) (L. D. 371)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-211).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto (H-226).

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

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Provide a Civil Penalty for the Willful Violation of the Unfair Trade Practices Act." (H. P. 275) (L. D. 364)

Reported that the same Ought Not to Pass.

Signed:

Senators:
PIERCE of Kennebec
CHAPMAN of Sagadahoc
FARLEY of York

Representatives:
PEAKES of Dexter
ALOUPIIS of Bangor
KILCOYNE of Gardiner
BLONDREAU of Portland
CLARK of Freeport

SPROWL of Hope
RIDEOUT of Mapleton
JACKSON of Yarmouth
HOWE of So. Portland

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

Signed:

Representative:

WHITTEMORE of Skowhegan

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

Which reports were read.

On Motion of Mr. Pierce of Kennebec, the Majority Ought Not to Pass Report accepted in concurrence.

Divided Report

The Majority of the Committee on Education on, Bill, "An Act Relating to the Payment of Fees for Certification of Education Personnel." (Emergency) (H. P. 110) (L. D. 141)

Reported that the same Ought Not to Pass.

Signed:

Senator:

USHER of Cumberland

Representatives:

WYMAN of Pittsfield
BAGLEY of Winthrop
BEAULIEU of Portland
FENLASON of Danforth
FLOURDE of Fort Kent
CONNOLLY of Portland

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

Signed:

Sensors:

KATZ of Kennebec
PIERCE of Kennebec

Representatives:

BIRT of East Millinocket
LEWIS of Auburn
MITCHELL of Vassalboro
LYNCH of Livermore Falls

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

Which reports were read.

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

Mr. KATZ: Mr. President, I would like to move acceptance of the Minority Report of the Committee, the Ought to Pass Report, and speak to my motion.

The PRESIDENT: The Senator has the floor.

Mr. KATZ: Mr. President, this is rather a simple Bill that goes back to the last Session, when we were casting around for what we identified as low priority programs, programs which could generate, in justice, some State dollars.

We discovered that within the Department of Education in 1976 it cost \$78,000.00 to just mechanically run the department which had to do with the issuance of teachers' certificates. We found that there was no recovery of fees from teachers, which made it rather unique, because when it comes to such things as barbers' licenses, auctioneers' licenses, registration of snowmobiles, there is a recovery by the State of the cost of issuing the license or giving the service.

In this particular case there was no recovery. This Bill seeks to make a recovery from the teachers of the cost of certification, which did amount to \$78,000.00. It is uncertain how much this will recover, but it will make a start. I point this to your attention because of the fact that there is presently no recovery, no fee at all, and that I have known of superintendents and teachers who have carried five, six or seven different certificates issued by the Department at expense to the department, but at no expense to the person who requested them.

There is an enormous amount of waste and

duplicate licenses, and this will cure the problem, I am sure.

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

Mr. USHER: Mr. President, I ask for a Division and, Members of the Senate, the teachers do not object to paying the fee, if they had a voice on the Board, and this was the testimony that was given to the Committee, so that is why I ask for a Division.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the Motion by the Senator from Kennebec, Senator Katz, that the Senate accept the Minority Ought to Pass Report of the Committee.

A Division has been requested.

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

Will all those Senators opposed to accepting the Minority Ought to Pass Report, please rise in their places to be counted.

13 Senators having voted in the affirmative and 11 Senators in the negative, the Motion to accept the Minority Ought to Pass Report does prevail.

The Bill Read Once.

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

Mr. CONLEY: Mr. President, I now move that this Bill and all its accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Conley now moves that L. D. 141 and all its accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, as we wrestle with the need to identify State funds for unmet human needs, and we identify situations where there is a service being performed by the State at no cost to the recipients, which makes it a unique program, might I request through the Chair of the Senator from Cumberland his rationale for refusing to go after a reimbursement to the State to release some dollars for services that he, among others, are clamoring for.

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

Mr. CONLEY: Mr. President and Members of the Senate: I am very happy to address the good Senator from Kennebec, Senator Katz. This is the second time this morning that we have heard of singling out individuals. The first example was we wanted another \$180,000.00 so we ought to allow moose to be shot. Now that is not rational to me.

Secondly, if we are trying to attack human service problems, I think we should look at the whole ball of wax and we should address ourselves to the whole ball of wax and not piecemeal as we are doing this morning.

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

Mr. KATZ: Mr. President, I want to thank the Senator for his impassioned, if not relevant, response, that the only Bill we have before us this Session to identify a low priority program where there are some funds being paid for by the taxpayers of the State of Maine, which should be properly paid for by those who are benefitting from the service, and I am confused as to the inconsistency of the voting here this morning.

Now the issue is not whether teachers should be able to control their own destiny. The issue is not whether, as was suggested, whether the teachers should have complete control of who teaches in the State, who does not teach in the State. The question is very simple: Teachers are issued certificates. Some of them get four, five, six and seven certificates from the State.

It is costing your constituents and my constituents money. This Bill attempts to recover part of that for the benefit of the taxpayer, and I simply do not understand the rational that says that this is an inappropriate piece of legislation.

I feel very, very badly about this Bill, and I request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President, just a few seconds of the Senate's time. As a whole there are two of those certificates. The expenditures that I have had to put out to the great State of Maine and to the Commonwealth of Massachusetts, including letters of recommendation and the time involved, including doctors' certificates, including transcripts of college grades, including the time and energy involved in all of this I believe that the teachers of the State of Maine have put out sufficient amounts of money for certification. Certification is a request and a demand by the State of Maine. If the State of Maine is going to mandate programs, they should be willing to pay for them.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call please rise in their places to be counted.

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

The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that this Bill, L. D. 141, and all its accompanying papers be indefinitely postponed.

A Yes vote will be in favor of indefinite postponement; a Nay vote will be opposed.

The Secretary will call the Roll.

YEA — Carpenter, Conley, Danton, Farley, Hewes, Hichens, Levine, Mangan, Martin, Merrill, Minkowsky, O'Leary, Pray, Speers, Usher.

NAY — Chapman, Collins, D.; Collins, S.; Cummings, Curtis, Greeley, Huber, Jackson, Katz, Lovell, McNally, Morrell, Pierce, Redmond, Snowe, Trotzky, Wyman.

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

Mr. HEWES: Mr. President, I wish to change my vote from Yea to Nay.

The PRESIDENT: The Senator from Cumberland, Senator Hewes, changes his vote from Yea to Nay.

14 Senators having voted in the affirmative and 18 in the negative, the Motion to indefinitely postpone does not prevail.

The Bill Tomorrow Assignend for Second Reading.

Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Clarify the Powers of the Department of Inland Fisheries and Wildlife." (H. P. 354) (L. D. 447)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-243).

Signed:

Senator:

REDMOND of Somerset

Representatives:

PETERSON of Caribou
MASTERMAN of Milo
GILLIS of Calais
DOW of West Gardiner
MacEACHERN of Lincoln
McKEAN of Limestone

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

Signed:

Senators:

PRAY of Penobscot
USHER of Cumberland

Representatives:

TOZIER of Unity
ROLLINS of Dixfield
PEARSON of Old Town
MILLS of Eastport

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

Which reports were read.

On motion by Mr. Pray of Penobscot, tabled until later in today's Session, pending acceptance of either Committee Report.

Senate

The following Ought Not to Pass reports shall be placed in the Legislative files without further action pursuant to Rule 20 of the Joint Rules:

Bill, "An Act to Prohibit Voter Registration after 12 Noon on Election Day." (S. P. 323) (L. D. 1080)

Bill, "An Act to Prohibit Voter Registration after 12 Noon on Election Day." (S. P. 219) (L. D. 683)

Ought to Pass

Mr. Pray for the Committee on Labor on, Bill, "An Act Appropriating Funds for Increased Staff and Changing Certain Provisions Relating to the Appointment of the Executive Director of the Maine Labor Relations Board." (S. P. 227) (L. D. 705)

Reported that the same Ought to Pass.

Which Report was Read and Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

Mr. Collins for the Committee on Judiciary on, Bill, "An Act Granting the Industrial Accident Commission the Power to Correct Clerical Errors in Certain of its Documents." (S. P. 347) (L. D. 1175)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-110)

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

Mr. Collins for the Committee on State Government on, Bill, "An Act Concerning the Definition of Full-time Local Law Enforcement Officer." (S. P. 103) (L. D. 232)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-111).

Which report was Read and Accepted and the Bill Read Once. Committee Amendment "A" read.

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

Mr. SPEERS: Mr. President, in reading Committee Amendment "A", I note that the Statement of Facts mentions that this would broaden the exclusion for corrections officers, and I wonder if the Chairman of the Committee might explain a little bit what that would do.

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

Mr. COLLINS: Mr. President and Members of the Senate: The Bill attempts to exempt from the mandatory police training Statutes those officers of the County Sheriff's Department whose fulltime function is that of corrections officer. The Academy where the training takes place is overflowing and unable to take care of all the requirements to train police officers. These people are not engaged in police work, and the attempt is to not mandate that they have to go to the academy for training.

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

Mr. SPEERS: Mr. President, I have no quarrel or qualms about the purpose that the good Senator from Aroostook, Senator Collins mentioned; however, in reading the Amendment, my concern would be that if the definition of a corrections officer were broadened to the point where any deputy sheriff or any local elected sheriff might also be included in the exclusion, then we would indeed be attacking the very basis of the mandatory police training and the requirement that sheriffs and deputy sheriffs do undergo some of these trainings.

I would have no objection to excluding those individuals engaged exclusively in the corrections field, although I would hope that at some point we might be able to have those individuals trained as well.

I understand the problem with the Maine Criminal Justice Academy and the fact that they are unable to train everyone whom we would wish to have trained at the present time.

But I would object to dudding the law to the extent that law enforcement personnel, as such, would not have to undergo this training. I would seek some reassurance that this is not occurring.

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

Mr. COLLINS: Mr. President, the Amendment merely deletes the word 'exclusively', which was felt to be redundant. It now reads: "whose full-time duties are that of corrections officer." And the word in the Amendment 'exclusively' was removed as being redundant.

I can assure the good Senator that it is the intent of the legislation merely to talk in terms of full-time correctional officers that are not engaged in active police work.

Committee Amendment "A" adopted.

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

Ought to Pass in New Draft

Mr. Minkowsky for the Committee on Transportation on, Bill, "An Act to Establish 4-Year Motor Vehicle Licenses." (S. P. 145) (L. D. 386)

Reported that the same Ought to Pass in New Draft under same title. (S. P. 481) (L. D. 1743)

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

Second Readers

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

House

Bill, "An Act Relating to the Payment of Special Education Tuition and Board for the Fiscal Year 1977." (Emergency) (H. P. 220) (L. D. 284)

Bill, "An Act Relating to the Payment of the Cost of Constructing a Pumping Station, Fire Hydrant and a Water Main for the New Stockton Springs Elementary School." (Emergency) (H. P. 971) (L. D. 1168)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1977. (Emergency) (H. P. 1494) (L. D. 1713)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Waldo County for the Year 1977. (Emergency) (H. P. 1495) (L. D. 1714)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1977. (Emergency) (H. P. 1497) (L. D. 1715)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1977. (Emergency) (H. P. 1498) (L. D. 1716)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1977. (Emergency) (H. P. 1499) (L. D. 1717)

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

House — As Amended

Bill, "An Act Relating to the Real Estate Commission's Rule-making Authority." (H. P. 151) (L. D. 181)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1977. (Emergency) (H. P. 1490) (L. D. 1703)

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

Bill, "An Act to Repeal the Ban on Otter or Beam Trawls in Washington County Territorial Waters." (H. P. 626) (L. D. 767)

Which was Read a Second Time.

On Motion of Mr. Chapman of Sagadahoc, tabled for two legislative days.

Pending — Passage to be Engrossed.

Bill, "An Act to Provide for Consideration of the Economic Impact of Decisions made by the Board of Environmental Protection." (H. P. 879) (L. D. 1070)

Which was Read a Second Time.

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

Mr. O'LEARY: Mr. President, on L. D. 1070, Bill, "An Act to Provide for Consideration of the Economic Impact of Decisions made by the Board of Environmental Protection," I would like to say at the present time the Board of Environmental Protection is taking testimony and considering the economic impact of their decisions. I am sure they know the feelings of this Legislature. I also feel sure that the Board of Environmental Protection will continue to do so, and with that in mind, and so that we will not pass unnecessary legislation, I move the indefinite postponement of this Bill and its accompanying papers.

The PRESIDENT: The Senator from Oxford, Senator O'Leary now moves that L. D. 1070 be indefinitely postponed.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President, I move we table this item for two legislative days.

The PRESIDENT: The Senator from Somerset, Senator Redmond, now moves that L. D. 1070 be tabled for two legislative days, pending the Motion to indefinitely postpone.

On Motion of Mr. Speers of Kennebec, tabled until later in today's Session.

Senate

Bill, "An Act Relating to Solid Waste Disposal." (Emergency) (S. P. 248) (L. D. 756)

Which was Read a Second Time.

On Motion of Mr. Speers of Kennebec, tabled for two legislative days.

Pending — Passage to be Engrossed.

Senate — As Amended

Bill, "An Act Relating to Appointment, Duties, Salary and Expenses of Court Reporters." (S. P. 25) (L. D. 38)

Bill, "An Act Relating to Employee Workmen's Compensation Law." (S. P. 94) (L. D. 218)

Bill, "An Act to Permit 17 Year Olds to Donate Blood Without Parental Consent." (S. P. 289) (L. D. 915)

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

Sent down for concurrence.

Bill, "An Act to Reorganize the System of Public Post-secondary Education in Maine." (S. P. 95) (L. D. 219)

Which was read a Second Time.

On Motion of Mr. Katz of Kennebec, tabled for one legislative day

Pending — Passage to be Engrossed.

Enactors

The Committee on Engrossed Bills reports as

truly and strictly engrossed the following:

"An Act to Prohibit the State Lottery Commission from Controlling the Game of Beano." (H. P. 437) (L. D. 544)

"An Act to Require County Commissioners to Notify Municipal Legislative Bodies of County Budget Hearings." (H. P. 646) (L. D. 790)

"An Act to Provide Interest on Judgments in Civil Action." (H. P. 575) (L. D. 699)

"An Act to Transfer Regulations Regarding the Security of Certain Parks, Grounds, Buildings and Appurtenances, Maintained by the State from the Department of Finance and Administration to the Department of Public Safety." (H. P. 204) (L. D. 264)

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 Concerning the Crime of Prostitution." (H. P. 629) (L. D. 770)

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell, in reference to L. D. 770.

Mr. LOVELL: Mr. President and Members of the Senate: I would like to move indefinite postponement of this Bill and all accompanying papers.

In fact, when I first came into the Senate in 1962, I think I was probably like most of the Members of the other Body, the newer Members, in trying to get in just about as many Bills as I could possibly get in. In fact, in the 100th Session, Robert Marden and myself about tied with 50 Bills each.

It seems as though the newer Members of both Bodies try to get in just as many Bills as they can for publicity whether it is for the good of the State or for the bad of the State. They seem to think that here in Augusta we can cure just about all the ills of the State by passing some kind of a law.

Now this law, in my opinion, is not necessary in the State of Maine. Now I come from Sanford and represent 13 towns, and, to my knowledge, we have no prostitution in our area. And I think there is very little prostitution in the State of Maine.

However, I have three children in Portland and I have been around Portland for a good many years and I think a lot of Portland. And Portland has built a new Civic Center. And if this Bill should pass, the Convention business in Portland will be just about nil, except for the old aged people, because the ordinary Conventions will just not go to Portland, because it has been proven at Conventions for many, many years that the man is the aggressor, and it has been proven hundreds of years in these cases.

So, consequently, I definitely feel that at this time this Bill should not pass, and it is not needed in Maine.

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

Mr. KATZ: Mr. President, anybody who tries to top the Senator from York, Senator Lovell, after that debate is extremely brave and ill-advised.

I just want to share with you what happened to me on the very first day of my very first Term in the House of Representatives. I stopped by St. Augustine Parish, and I had some business with the good old Pastor up there, Father Curran, and after we finished our business, I said, Father, I am about to leave for my very first day at the Legislature. Do you have any words of wisdom for me. And the old man did not blink an eye. He said, "I will tell it to you just like I tell my Bishop, we have got too many laws already."

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

Mr. MERRILL: Mr. President, in spite of the economic development aspects of this Bill, and my deep concern for the continued economic

growth of my city, I would urge the Senate to be consistent in its position, and to defeat the Motion to indefinitely postpone this measure.

I think maybe the time has come in Maine for us to change the laws, the criminal laws, in regard to prostitution. I would not speak against that if that were the Bill before us. However, as long as we are going to make it criminal, I think it is important that we deal with all equal handedly, and that is the purpose of the Bill.

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

Mr. LOVELL: Mr. President, we did pass this Bill the last time under the debate of the good Senator from Knox, Senator Collins, and it was not asked for reconsideration. The Bill was held and the next day asked for reconsideration and passed, but actually it was defeated.

Now I fear for the City of Portland. That seems to be the only bad place in the State, and they are just going to lose all of their Convention business, and it is going to hurt the economy of Portland, because nobody is going to go to a Convention if they are going to get their name in the paper, and it goes back to their home state and so forth, and according to the other Body, the gentleman in there stated that they were going to have all kinds of policewomen around the streets.

Now I have been in Portland for years and I have never been approached. Now I do not know about Senator Merrill, the good Senator from Cumberland, but I have never been approached, and I feel that we should kill this Bill, and kill it now.

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

Mr. CONLEY: Mr. President and Members of the Senate: I hope that both my colleague, Senator Merrill, and I can return safely to the streets of Portland on our departure from the State House.

The City is not currently over-run with the ladies of the evening, but we do have a problem, and I can assure the good Senator from York, Senator Lovell, that I have not seen them wandering the streets of Portland in the evening, so I can only verify the fact that apparently he has not been approached. We keep a pretty good listing of those who are sort of on the loose around the City.

What we are trying to do is sort of restore it so that it can be a nice Convention City for everyone who would like to visit and enjoy the hospitality of the City of Portland.

I think that this Bill has probably been debated to death since it has been in these Chambers, and I notice that my good friend, the Senator from Knox, Senator Collins, is sort of sitting back there just enjoying and relishing the time of day and hoping that this thing will come to its demise.

I just think again, and just to bring this thing to a halt as quickly as possible, I think we should have equality under the law, or we should have no law at all. It is as simple as that.

I wonder how many individuals in this Chamber today would be up here supporting, making prostitution legal. I doubt very much if many of you would be up here blowing your horn on that one.

I suggest on the other hand, if you want equality and if you want to prosecute the male participants of this profession, then let us pass this law and have equality under the law.

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

Mr. FARLEY: Mr. President and Members of the Senate: The good Senator from York, Senator Lovell, has brought out the economic problems of this piece of legislation.

I would only say if we really want to do something about prostitution in the State of Maine, let us implement the free enterprise system here which is built on the law of supply

and demand. You take away the demand, and you will take away the supply.

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

Mr. MERRILL: Mr. President, I am forced to admit in answer to the question from the Senator from York, Senator Lovell, that I share the dubious distinction with him of never having been approached. I do not know whether it is anything to brag about or not.

But I can say that I do not think this is really a Portland issue, with all due respect to the other cities of the State, other great Convention cities like Bangor. I think it is probably safe to say the same services are offered there.

Let me say, I do not know how all of these issues get turned into Portland versus the rest of the State issues, but in hearing the history of this Bill described by the Senator from York, how it died and then was brought back to life again, I am reminded of the symbol of the City of Portland, which is the Phoenix, which has died and been brought back to life many times. If this Bill is killed today, I advise you all not to rest easy.

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

Mr. LOVELL: Mr. President, from the debate that I have heard, there seems to be very little prostitution in Portland, and certainly if there is very little prostitution, the Senators here do not know anything about any.

Certainly then this Bill should not definitely be passed, because you are going to hurt — the male is the aggressor and has been for many centuries, and you should not fine the aggressor, — the procurer, the one who offers her services, fine, because the male is not going out and grab somebody on the street. He has got to be stepped up to and asked what he wants. So, consequently, I think we should indefinitely postpone this Bill. I think the Cumberland Senators are very wrong on this.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from York, Senator Lovell, that L. D. 770 and all its accompanying papers be indefinitely postponed.

The Chair will order a Division.

Will all those Senators in favor of indefinite postponement, please rise in their places to be counted.

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

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

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

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

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

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate, it seems to me that this Bill has long been over-due. I do not know why it had not been the law of the land decades ago, or when the State first became a State, and it seems to me we would be very short-sighted on the moral aspect here if we vote against the Bill, and I would hope you would vote to let the Bill become law today.

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

Mr. LOVELL: Mr. President, it was the law of the land ever since Christ was born. It is one of the Ten Commandments.

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

Mr. McNALLY: Mr. President, I would like to ask the question through the Chair of anybody, is this law just for Portland, or does it affect a Town like Ellsworth, or the schools, and the high schools and colleges and so forth?

The PRESIDENT: The Senator from Hancock, Senator McNally has posed a question through the Chair.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate, if we can assume for a moment that sin is not located singularly in the City of Portland, then I think we can assume that this Bill would have a State-wide impact.

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

Mr. CONLEY: Mr. President, Portland is located south of Brunswick, 26 miles down I-95, and we wish you all a happy trip when you come down.

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

Mr. MORRELL: Mr. President, I wish the other Senator from Cumberland would leave Brunswick out of this discussion.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from York, Senator Lovell, that this Bill and all its accompanying papers be indefinitely postponed.

A yes vote will be in favor of indefinite postponement; A nay vote will be opposed.

The Secretary will call the Roll.

YEA — Chapman, Collins, D.; Collins, S.; Curtis, Jackson, Katz, Lovell, Mangan, Morrell, O'Leary, Pierce, Pray, Redmond, Trozky, Usher, Wyman.

NAY — Conley, Cummings, Danton, Farley, Greeley, Hewes, Hichens, Huber, Levine, McNally, Merrill, Minkowsky, Snowe, Speers.

ABSENT — Carpenter, Martin.

16 Senators having voted in the affirmative, and 14 Senators in the negative, with two Senators being absent, the Motion to indefinitely postpone does prevail.

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

Mr. LOVELL: Mr. President, having voted on the prevailing side, I would ask for reconsideration.

The PRESIDENT: The Senator from York, Senator Lovell, now moves the Senate reconsider its action whereby it indefinitely postponed L. D. 770.

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President, I may be missing the boat. I may be missing something here, but I do not see where the economic factor comes into play here, or Convention Center or what not.

Although you cannot legislate morality, I just do not understand how this Senate could vote against a Bill that would, as I understand it, impose a penalty on the men for participating in the crime of prostitution. I think somehow things have gotten fuzzy here today, and I would hope that you would certainly reconsider and vote the other way.

I respectfully ask for a Division.

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

Mr. LOVELL: Mr. President, evidently the good Senator from Cumberland, Senator Hewes, was not here when we mentioned the fact that with the new Civic Center in Portland, and with Conventions going to Portland, that if these people that go to Conventions, they are only human, and if they are approached on the street — they are apt to get approached by a policelady or something, and get into a room, and they are going to be arrested. So, consequently, these people coming to a Convention are just not going to come to Portland any more, except the old age Convention.

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

Mr. HEWES: Mr. President and Members of the Senate: I do not think that the law enforcement people are out to trap people, trap citizens at conventions or in average life. I think the law enforcement officers are by and large decent, fair people, and I do not think that this entrapping that you are speaking of is going to take place.

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

Mr. LOVELL: Mr. President, to answer Senator Hewes, a former assistant police chief, who sponsored this Bill in the other Body, said that they would have lady officers on the streets at all times and making many, many arrests.

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

Mrs. CUMMINGS: Mr. President, it grieves me to see so many men that I respect vote for a double standard. I think if there is equal participation in a crime, that both participants should be treated equally.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would point out to the Senate that if you read the title on today's calendar, it would seem to me that it would be an appropriate Bill, if that was the wish of the Senators, to reconsider this Bill, then suspend the rules so that the Bill could be amended, and use this as a vehicle to repeal prostitution, the criminal laws against prostitution, if that is the wish of the Senators who are voting for indefinite postponement. If that is not the wish of the Senators, then I share the sentiments of the Senator from Penobscot, Senator Cummings, that at least equals ought to be treated equally before the criminal law.

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

Mr. FARLEY: Mr. President, I request that we have a Roll Call on reconsideration.

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

Mr. LOVELL: Mr. President, I cannot agree with the good Senator from Cumberland, Senator Merrill. The voters that voted against this Bill are against the Bill, and I hope they stay the way they voted the first time.

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

Mr. HICHENS: Mr. President, back a couple of months ago when we had a Bill to raise the drinking age, there was a letter from the President of one of the Colleges in Maine saying that if we raised the age that several out of state students would not come to that College any more, because one reason they came was to participate in the extra-curricular activities, the dances, the drinking and so forth. Now we are told this morning that a great many of people come to the Conventions so they can share a bed with somebody.

I would say, the same as I said to the President of that College, to the people who are coming to Portland or any other place in the State of Maine to a Convention just to share a bed with somebody else, they might as well stay home.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

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

The pending Motion before the Senate is the Motion by the Senator from York, Senator Lovell, that the Senate reconsider its action whereby LD 770 was indefinitely postponed.

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

The Secretary will call the Roll.

YEA — Carpenter, Conley, Cummings, Danton, Farley, Greeley, Hewes, Hichens, Huber, Levine, McNally, Merrill, Minkowsky, Snowe, Speers, Wyman.

NAY — Chapman, Collins, D.; Collins, S.; Curtis, Jackson, Katz, Lovell, Mangan, Martin, Morrell, O'Leary, Pierce, Pray, Redmond, Trozky, Usher.

16 Senators having voted in the affirmative, and 16 Senators in the negative, the Motion to reconsider does not prevail.

An Act to Authorize the Transfer of All Assets and Liabilities, Except Bonds and Notes, of the Lincoln Sanitary District to the Town of Lincoln and the Dissolution of the Lincoln Sanitary District. (H. P. 1450) (L. D. 1679)

Comes from the House, Recommended to the Committee on Public Utilities.

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

Mrs. CUMMINGS: Mr. President, there was a mistake in the Amendment as it was printed, and we would like to have this Bill recommitted to the Committee on Public Utilities.

On Motion of Mrs. Cummings of Penobscot, Recommended to Committee on Public Utilities in concurrence.

Orders of The Day

The President laid before the Senate: House Reports — from the Committee on Taxation — Bill, "An Act to Change the Sales Tax Basis on Fuel Oil from Price to Volume." (H. P. 784) (L. D. 936) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass.

Tabled — April 29, 1977 by Senator Speers of Kennebec

Pending — Acceptance of Either Report.

On Motion of Mr. Wyman of Washington, Retabled for Two Legislative Days.

The President laid before the Senate: Bill, "An Act to Exempt Historical Societies and Museums from Sales Tax." (S. P. 211) (L. D. 660)

Tabled — April 29, 1977 by Senator Conley of Cumberland

Pending — Passage to be Engrossed.

On Motion of Mr. Martin of Aroostook, Indefinitely postponed.

(See Action later today)

The President laid before the Senate: House Reports — from the Committee on Local and County Government — Bill, "An Act to Revise Fees which may be Charged by Towns for Licensing Innkeepers, Victualers or Tavernkeepers." (Emergency) (H. P. 640) (L. D. 784); Majority Report — Ought Not to Pass; Minority Report — Ought to Pass with Committee Amendment "A" (H-176)

Tabled — May 2, 1977 by Senator Pray of Penobscot

Pending — Motion of Senator Jackson of Cumberland to accept Majority Report.

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

Mr. CONLEY: Mr. President and Members of the Senate, I would call the attention of the Senate to House Amendment "A" (H-208)

The House Amendment itself is what one would consider to be a re-draft of the L.D. as it was originally filed.

As I stated yesterday, it is my understanding anyway that the State receives a \$1.00 fee for the filing of a victualer's license, and that the State has established a Statute relative to what a local community can assess on a victualer's license, and that is, or the present law is up to \$10.00.

The Amendment that is before us today is enabling legislation that sets the fees, does not define them, but it does set a maximum, and allows a community to adopt the fee level that it feels necessary so that it may police a certain

activity in dealing with a victualer's license.

Now if we expect communities to maintain restaurants to be up to what we as a community would want to see them brought up to, then I think this Legislation at least allows the Community to set that fee at a particular rate, not to exceed the figures that are before you in the filing of House Amendment "A" (H-208).

It is my understanding that the original Bill as presented was not in the best possible form, and, therefore, the reason for the Amendment that I have discussed here this morning.

It would be my hope that the Senate would at least vote against the pending Motion to accept the Majority Ought to Pass Report to give me an opportunity to present an Amendment which takes off the emergency clause, but actually remains the same as the House Amendment. At least I think that would give us an opportunity to review the full Amendment.

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

Mr. JACKSON: Mr. President and Members of the Senate: L. D. 784, the original document that was heard before the Local and County Government Committee certainly was not a good piece of legislation.

First of all, I think we should define what a victualer is. According to Webster's dictionary he is a keeper of a restaurant or tavern.

Under the first proposal, the Bill that was heard by the Local and County Government Committee, it set the fee at \$250.00 for a victualer's license for any municipality with a population under 10,000 people. With a population over 10,000 people, it increased the fee to \$500.00.

When the good Senator from Cumberland, Senator Conley, mentions he believes the victualer's fee is \$10.00 throughout the State, it is not. It is \$10.00 for municipalities under 10,000 people, and \$20.00 for municipalities over 10,000.

I did some research on this Bill in the past few days. This Bill, I believe, was the result of a Court case that came out of the Town of Falmouth. The Town of Falmouth went ahead and assessed the restaurants, tavern keepers, whatever the case may be, a fee which exceeded what the law provided for. They were taken to Court, and the Judge found in favor of the person who owned the restaurant. The original ruling was that the Town of Falmouth had to make restitution to the owners of the establishment, and then later to reverse that action so that there was no restitution made.

You know, in going back through the Statutes and going back through the record, back to 1930, not once could I find where that a warehouse was included in a victualer's license, a store was included in a victualer's license, and we see under House Amendment "A" (H-208) that stores and warehouses are included in this.

Ladies and Gentlemen, you are all aware that I am a businessman in this State, and it costs money to do business in this State. It costs a lot of money for licenses, permits, whatever the case may be. And, of course, as the good Senator from Cumberland states, this is enabling Legislation. What they could do in amending the Bill, when they amended it, was to have struck out everything and inserted a new title. The new title should have read "An Act to Revise the Business Privilege Taxes of Restaurant Owners and Inn-keepers and Stores in the State of Maine", and that is exactly what this does. It is a business privilege tax.

I think that Maine business, the stores, the warehouses, the restaurants, the eating establishments on the road-side provide many, many services to the communities they are in, and many dollars to the communities they are in, and many dollars to the State of Maine, and to enact a piece of legislation like this, I believe personally, is wrong.

I notice that in Section 208 and going back

through the laws, that there was no talk of establishments operated by non-profit organizations. I would assume that they had to have a victualer's license. They are exempted from this piece of legislation, and they are in direct competition with the people who own restaurants or with the people who own businesses, if we accept this Amendment today.

Just let me enlighten you what a Class I restaurant, what it costs a Class I restaurant to go into business in the State, Ladies and Gentlemen. In licenses last year, the fee was a little over \$1,200.00. Through the wisdom of the Legislature in the last Session, they saw fit to lower the Class I liquor license from \$1,000.00 to \$750.00. Presently with all of the Federal licenses that you need, the local permits you need, the liquor license, your seafood license, your Department of Health and Welfare, the funds that you have to provide for them for the inspection, it costs about \$882.00.

That might not sound like very much money, but, Ladies and Gentlemen, we are known as a seasonal state. We are a recreational state. You go out there and you check on the highways in the winter, and see how many of these places you see open. Talk to the people that stay open and see how much business they do.

Ladies and Gentlemen, I think an additional \$200.00 on a Class I restaurant in this State is going to put some restaurants out of business, and to say that a municipality will not take advantage of that \$200.00, I think, is incorrect. We all know that the municipalities are having a hard time finding the funds, and here is an easy way to collect \$200.00 or \$25.00 or \$100.00, and wherever they can collect it, they are going to collect it, Ladies and Gentlemen.

I also find that it could be used to put another person out of business, if one person wanted to be that way. Even if the Town did not want to implement the \$100.00, some pressure could be brought on the Town fathers to implement that \$200.00 or \$25.00 or \$100.00.

I just feel that being a businessman in this State, I think I make my contribution to the State. I am an employer. I pay employment taxes in this State. I pay income taxes in the State. I pay property taxes in the Town of Harrison, and I think that is adequate for doing business in this State.

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

Mr. FARLEY: Mr. President and Members of the Senate, very, very briefly. Two months ago this Legislature enacted legislation raising the drinking age from 18 to 20. If that law is going to do what we intended it to do, then we have to assume that every business with a victualer's license in the State of Maine is going to lose money. Are we going to further impose another expense on these people?

I think you should keep that in mind when you vote on this issue.

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

Mr. HUBER: Mr. President and Members of the Senate, this is a local control matter. It is permissive legislation.

Since 1939 towns were permitted by Statute to charge not more than \$10.00 as a victualer's fee, if the town was under 10,000 population, or a \$20.00 fee if over 10,000.

Most towns in the State charge \$10.00 or less, and let the State inspect.

There is no change under this proposed Amendment. Some towns, primarily our larger cities, already charge more than the fees outlined as maximums in this Bill due to grandfathering. Again there is no change under this proposed Amendment.

The Town of Falmouth contracted with the Portland Health Department to inspect its 43 eating establishments, and it costs the Town each year about \$5,000.00. The fees paid under the \$10.00 statutory limit set in 1939 would be

\$430.00 and the local property taxpayer makes up the difference.

I think the question here is should a town by ordinance enacted at town meeting, or by its local elected officials, be able to inspect more often than required by the State, and charge more than was permitted in 1939 to insure clean and safe food service establishments.

I hope the Senate will reject the Majority Ought Not to Pass Report, and will accept the Minority Ought to Pass Report.

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

Mr. HICHENS: Mr. President and Members of the Senate, this Bill was heard by the Local and County Government Committee, and I feel that the Majority Report, 12 members out of the 13, were firmly convinced that this was just a local issue. There were no speakers from any other part of the State that were involved.

When I went back home I contacted the different towns which I represent, and they said that they had no feeling whatsoever. They were very content with the way the law read now.

I have had a lot of information given to me by a certain resident of the Town of Falmouth, who claims that it is a political thing, and I have been urged to make my stand or stay with the stand that I made in the Committee, and I hope that the Senate will go along with the Majority Report.

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

Mr. DANTON: Mr. President and Members of the Senate, I guess today is restaurant day in the Maine Senate. I am a holder of a victualer's license.

For years I have been going down to the City Hall, giving my check for \$20.00, getting a victualer's license, — never really knowing why I had to give them the \$20.00, but I always gave the \$20.00 and got my license.

Now the good Senator from Cumberland, Senator Conley, says that if we want restaurants to be the way they should be, then we should raise the fee. Actually, it is not a fee. It is really and truly a tax, an additional tax singled out just for one industry, the restaurant and the hotel and motel industry in the State of Maine.

Now what services do I get for that \$20.00 that I pay the City of Saco. You have to remember I also pay property taxes. I also pay personal property taxes on my equipment in my restaurant to the City of Saco. A few years ago they used to pick up my rubbish. Because of the cost to the City for picking up rubbish, the Town Council decided that they no longer wanted to pick up rubbish for commercial establishments. And I could very easily understand that. Now I have my rubbish picked up and it costs me \$20.00 a week just for my rubbish removal.

Now if they had a Health Officer that went around and inspected the restaurants in the City of Saco, I could say that maybe an increase in the fee could be justified to pay this man's salary. We do not. We wait for the State.

Now let us get to the State license. I remember when I first went into business, a health license from the State of Maine was somewhere in the vicinity of \$6-7.00. Now we are talking \$30.00. Shellfish license, used to be \$2-3.00. It is \$15.00. And this continues to go and go and go upwards.

Now communities always want money. We here in the Maine Senate know that. It was just a week or so ago we picked up most of their school funding tax. They get Federal Revenue sharing. They have CETA employees. Communities are not as bad off as some of them would like to have you believe.

I know in the City of Saco when I was part of government there 12 or 13 years ago, if we had \$40,000.00 in surplus money, we had a lot of money. Today they have a quarter of a million.

Sometimes I think the Chief Executive is right, that they have too much money, and now we are looking for one more way to give them additional money.

I would hope that we would all support the Senator from Cumberland, Senator Jackson, and accept the Majority Ought Not to Pass Report.

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

Mr. CONLEY: Mr. President and Members of the Senate: again I would ask and urge the Senate to vote against the pending Motion. The Amendment being considered that was adopted in the other Branch substitutes the report as appeared on the calendar.

I think if we expect local officials to maintain the type of standards that you would expect to receive, then it is obvious to me that you have got to give them the tools to work with. If you are not going to allow them to set the fees, then obviously no community is going to be financially able to afford to give the services that I think most taxpayers in a community want.

What we are talking about here is a very minimal fee, and when we talk about a business tax and so forth, I think we should all be well aware in our own mind as to who pays the tax. The person that goes to the various restaurants around the State are paying the taxes.

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

Mr. MERRILL: Mr. President, it seems that the issue before us is which Report to accept, and that the Report in the other Body is amended by House Amendment "A" to Committee Amendment "A" (H-208). Would it be appropriate at this time to ask whether or not this Amendment is germane to the Bill.

The PRESIDENT: The Secretary will read the Committee Report.

Committee Report Read.

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

Mr. MERRILL: Mr. President, my question really is is this an appropriate time to inquire through the Chair whether House Amendment "A" (H-208) is germane to the Bill.

The PRESIDENT: I would suggest that the better time might be after the Senate has decided which Report it wishes to accept.

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate: The good Senator from Cumberland, Senator Conley, brought up the inspection of the establishments and the standards that evidently he is not satisfied with in his area.

I would like to enlighten you to the inspections by the State. It is not only the Department of Health and Welfare that inspect these places. The Department of Agriculture inspects them. The Maine State Liquor Commission inspects them. The State Fire Marshal's office inspects them. Your own insurance companies inspect these places for health, safety and welfare of the people using these establishments. It is not only once a year. You will see the State inspectors quite frequently, especially the ones with law enforcement of the Maine State Liquor Commission, especially if you have a Class I license or a malt license.

I am sure if they see something that is in error in that establishment, that they are going to report it to the appropriate department, and you are going to see somebody down there.

I think that if a community wants to undertake its own inspection program, then I think that the restaurants, the inn-keepers, the motels and hotels, stores or whatever the case may be, are providing for that community, and as the good Senator from York, Senator Danton, brought out, what do they receive? We pay property taxes. What do we receive for the victualer's license?

I think the fee that is charged now is an appropriate fee, and I think just to increase it to relieve the problems of one community or maybe two communities where that they have taken on a local enforcement program, inspection program, then I think that maybe they ought to look elsewhere for their money.

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

Mr. CONLEY: Mr. President, it is not my intent to prolong this debate, but it is my understanding that it is not what the licensee gets. It is what the general public gets as whether or not these restaurants or taverns or such are going to be kept up to standards that one should expect in the operation of one of these things.

As I say, if the pending Motion is rejected, if you accept the Minority Report, then we would have a viable document which is purely enabling legislation.

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

Mr. JACKSON: Mr. President, I request permission to speak to the Senate again.

The PRESIDENT: The Senator from Cumberland requests permission to address the Senate for the fourth time. The Chair has no objection. The Senator may proceed.

Mr. JACKSON: Mr. President, in reaction to what the good Senator from Cumberland, Senator Conley, just stated, I am sure that if an establishment was not keeping itself prim and proper, that the people who use that establishment would certainly see that it was taken care of.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Jackson, that the Senate accept the Majority Ought Not to Pass Report of the Committee.

The Chair will order a Division.

Will all those Senators in favor of accepting the Majority Ought Not to Pass Report, please rise in their places to be counted.

Will all those Senators opposed to accepting the Majority Ought Not to Pass Report, please rise in their places to be counted.

25 Senators having voted in the affirmative, and 6 Senators in the negative, the Motion to Accept the Majority Ought Not to Pass Report does prevail.

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

Mr. FARLEY: Mr. President, having voted on the prevailing side, I now move reconsideration, and hope you all vote against me.

The PRESIDENT: The Senator from York, Senator Farley, now moves the Senate reconsider its action whereby it accepted the Majority Ought Not to Pass Report.

A viva voce vote being had,

The Motion to reconsider does not prevail.

The President laid before the Senate:

Bill, "An Act to Redescribe the Boundary Line Between the City of Brewer and the Towns of Orrington and Holden." (H. P. 770) (L. D. 977)

Tabled — May 2, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed.

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

Mr. CURTIS: Mr. President, I offer Senate Amendment "A" (S-115) to L. D. 977, and move its adoption, and would speak to my Motion.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, now offers Senate Amendment "A" to LD 977, and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" (S-115) read.

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

Mr. CURTIS: Mr. President, this is indeed a housekeeping measure. It is to correct the error

that was made by a surveyor by changing the degree by one.

Senate Amendment "A" adopted.

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

Sent down for concurrence.

The President laid before the Senate: Bill, "An Act to Amend the Vocational Education Laws." (Emergency) (H. P. 1209) (L. D. 1329)

Tabled — May 2, 1977 by Senator Katz of Kennebec

Pending — Adoption of House Amendment "C" (H-190).

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

Mr. O'LEARY: Mr. President, I now present Senate Amendment "A" to House Amendment "C" (S-107) and move its adoption.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now presents Senate Amendment "A" to House Amendment "C" The Secretary will read Senate Amendment "A".

Senate Amendment "A" to House Amendment "C" (S-107) Read.

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

Mr. KATZ: Mr. President, I confess that I am at a loss to understand what this Amendment purports to do, and I would request the sponsor might respond.

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question to the Senator from Oxford, Senator O'Leary. The Chair recognizes that Senator.

Mr. O'LEARY: Mr. President, this is a simple little Amendment. All it does it take out that portion that says "no portion of this budget may be mended", and I believe that this is in keeping with the local control.

On Motion of Mr. Pierce of Kennebec, Tabled for One Legislative Day Pending adoption of Senate Amendment "A" to House Amendment "C".

The President laid before the Senate:

Bill, "An Act to Increase the Penalties for Violation of State Anti-trust Laws. (H. P. 273) (L. D. 347)

Tabled — May 2, 1977 by Senator Speers of Kennebec

Pending — Motion of Senator Collins of Knox to Indefinitely Postpone House Amendment "A" to Committee Amendment "A".

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

Mr. MERRILL: Mr. President, we have begun this debate twice, and it has been interrupted in both instances by tabling motions. I am in hopes that if we begin it today that we can finish it one way or the other.

Let me say that I am opposed to the Motion of the Senator from Knox, Senator Collins, and I would ask that when the vote is taken that it be taken by the yeas and nays. I believe that this is the crucial vote on this question, and I will explain why.

The Bill as it is now before the Senate from the other Body includes the provisions referred to by the Senator from Knox, Senator Collins, yesterday in the debate in regards to the Attorney General's powers to investigate these matters. There is no difference, as I read them, between the Amendment that would be offered by the Senator from Knox, Senator Collins, and the Bill in its form as it comes from the other Body. In fact, the Amendment which he would strike off for procedural purposes here is the Amendment which does exactly that.

In regard to the Attorney General's powers, the Bill as it is amended by the Amendment that we would not strike, does nothing but add a new privilege for the person who is being investigated, and that is the privilege, if he wishes it, that the hearing be held in private. Presently the law requires that it be public. This provides a matter of choice for the person

being investigated, similar to the Amendment that would be offered by the Senator from Knox, Senator Collins.

Therefore, the question that is posed to the Senate by the striking of this Amendment is the question of penalty. If we strike this Amendment, then we will be in a position where we will have to, if we want to accomplish the first purpose, accept the Amendment that is being offered by the Senator from Knox, Senator Collins, which returns us to the posture that this Amendment puts us in, vis-a-vis the Attorney General's powers and changes the penalty.

The question in this Roll Call is a simple one. The question is what penalty should be attached to the crime of price fixing by this Legislature and in the State of Maine. Now the Senator from Knox, Senator Collins, urges that the position we take would be that it be a Class D crime. A Class D crime for a business, for an organization in the State of Maine is exactly the same as the Class E crime. It is the lowest penalty that can be put on any act for an organization. A Class C crime for a business is \$10,000.00.

When we debated this issue last time in the Senate, I made a point on the record of asking my fellow Senators if any of them took exception to the penalty provisions here, or whether it was, as the debate indicated, only the expansion of the Attorney General's powers which was causing problems for my fellow Senators. Now one Senator rose and said \$10,000.00 is too great a penalty, maximum penalty for this crime. This is the question that is before us today. It is pure and simple.

It is confused somewhat by the procedural posture that we find ourselves in, but in essence it is very simple. If we defeat the Motion to delete this Amendment, the Bill will be exactly the same as the Senator from Knox, Senator Collins, would have it be at the end, except in regards to the civil and criminal penalties that go along with the act.

I do not think that a Class C Crime is too great a penalty to attach to an act that can result in literally thousands and thousands of dollars being taken from Maine consumers.

I would urge the Senate to defeat the indefinite postponement of this Amendment, and then pass this Bill in the same form as it comes to us from the other Body. The result of that will be to give businessmen a new avenue as far as the investigation is concerned. It takes away the power that the Attorney General now has to conduct a public witch-hunt, if he wants to, in these matters, and at the same time moves the penalty up to a C, which I do not think is too strict, and I certainly do not think it is disproportionate with the other penalties that you find throughout this Statute.

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

Mr. CURTIS: Mr. President, this Bill, as amended by the other Body, is in much different shape than when I signed the Ought Not to Pass Report in the Judiciary Committee.

I think it does correct some problems that we had, and I would like to add a little bit to my observation yesterday, in which I began to answer the question of the Senator from Cumberland, Senator Merrill.

The present provision penalty for this type of violation can be found in Title 10, not in the Criminal Code, Title 10 of the Maine Statutes. Section 1101, which is contracts and restraint of trade provides for the punishment that I mentioned yesterday: "whoever shall make any such contract or engage in any such combination or conspiracy shall be punished by a fine of not more than \$1,000.00, or by imprisonment of not more than six months, or by both". The next Section, Section 1102, is also unchanged by the Criminal Code, and it provides for conspiracies to monopolize trade, and the penalty is exactly the same as Section 1101.

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

Mr. COLLINS: Mr. President, I thank the Senator from Cumberland, Senator Merrill, for presenting a very clear exposition of what is before us. I do not agree with him that we need a penalty of \$10,000.00 to be the fair and effective measure of punishment for this particular crime.

This morning the Senate, under L. D. 364 had a \$10,000.00 penalty Bill before it concerning the willful violation of the Unfair Trade Practices Act, and the Senate accepted the Majority Ought Not to Pass Report of that Committee on that particular offense.

In my mind, the Senate acted correctly earlier this morning on that particular offense, and I would urge the Senate to be consistent in its view of this particular offense.

There is one more aspect of punishment that the good Senator from Cumberland, Senator Merrill, has not mentioned, and I think we ought not to ignore it as we consider this piece of criminal law. If we pass the Bill in the style that is advocated by the Senator from Cumberland, we will also add to the existing law a provision in Section 1104 of the Bill which would provide that the business in violation would also have to pay, in addition to the three-fold damages and costs of suit, the necessary and reasonable investigative costs. — I assume this means the salaries of the Attorney General's people, the detectives that they employ who go out in the field to collect the evidence — reasonable expert's fees and a reasonable attorney's fee.

I think when we compare crimes we ought to look at the whole area of punishment, not simply the criminal penalty that has been so carefully described by the Senator from Cumberland. There are civil penalties and there are strong civil penalties involved.

I think we are all entitled to differ in our evaluations of how bad is bad, how stringent should a penalty be. I submit to the Senate that the No. 1 consideration in sentencing, and this is part of our criminal code, is the deterrence, and I remind the Senate that if this particular Statute has application and usefulness in Maine, and I remind you that it has never been used at the State level, it has been a Federal ballgame. The feds have been down here several times and have regulated Maine business and have taken Maine business to Court.

I remind the Senate that this No. 1 purpose of sentencing is deterrence, and if any small Maine business is not very nearly ruined by a Class D penalty and a prosecution, then I just do not understand the State of Maine. I think we are being sufficiently harsh with the penalties that my Amendment would provide.

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

Mr. MERRILL: Mr. President and Members of the Senate, let me remind the Senate that the reason that we give Judges discretion is so that they can see it that in the case of a fine, for example, that the fine is appropriate to the position that the business or whatever it is finds themselves in. What we are talking about here is the maximum that may be charged.

Now really when we talk about sentencing, what we are talking about is an appropriate sentence, and we do not make those judgments in a vacuum. Let me just say if we accept the wishes of the Senator from Knox, Senator Collins, that we will be making price-fixing, we will be making anti-trust violations a crime similar in its magnitude, according to the punishment, of the use of slugs, which is a Class D crime, of signing a check when there is not any money in the Bank.

Now if you think that is what it is similar to in terms of its magnitude and in terms of its threat to the public, in terms of the amount of money that can be illegally taken from your constituents, then I suggest that you support the Senator from Knox, Senator Collins.

Let me suggest another crime that I think

might be considered to be comparable. If someone comes you as a political candidate or political office holder and makes a suggestion to you that he will give you some money or favor in return for you voting in a particular way, and you fail to report that to the police, you are guilty of a Class D crime. That is a serious crime, and I suggest to you that when businessmen conspire to set prices at an artificially high price and thus take money from the consumers of Maine, that too, is a serious crime and should be punished in a similar way.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Knox, Senator Collins, that the Senate indefinitely postpone House Amendment "A" to Committee Amendment "A".

A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

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

The pending question before the Senate is the Motion by the Senator from Knox, Senator Collins, that the Senate indefinitely postpone House Amendment "A" to Committee Amendment "A".

A Yes vote will be in favor of indefinite postponement. A nay vote will be opposed.

The Secretary will all the Roll.

YEAS — Collins, F.; Collins, S.; Cummings, Greeley, Hewes, Huber, Jackson, Lovell, Mangan, McNally, Redmond, Wyman.

NAYS — Carpenter, Chapman, Conley, Curtis, Farley, Hichens, Katz, Levine, Martin, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Snowe, Speers, Trotzky, Usher.

ABSENT — Danton.

12 Senators having voted in the affirmative and 19 in the negative, with 1 Senator being absent, the Motion to indefinitely postpone House Amendment "A" does not prevail.

House Amendment "A" to Committee Amendment "A" Adopted. Committee Amendment "A" as amended by House Amendment "A" thereto adopted. Under Suspension of the Rules, the Bill, as amended, Read a Second Time and Passed to be Engrossed, in concurrence.

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

Mr. MERRILL: Mr. President, having voted on the prevailing side for engrossment, I would ask for reconsideration and urge the Senate to vote against me.

A viva voce vote being had,

The Motion to Reconsider does not prevail.

The President laid before the Senate:

Resolve, to Apportion Multimember Districts of the House of Representatives into Single Member Districts. (H. P. 1486) (L. D. 1723)

Tabled — May 2, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed.

Passed to be Engrossed in concurrence.

Sent forthwith to Engrossing Department.

The President laid before the Senate:

Bill, "An Act to Clarify the Powers of the Department of Inland Fisheries and Wildlife." (H. P. 354) (L. D. 447) which was tabled earlier in today's Session by the Senator from Penobscot, Senator Pray, pending acceptance of either Committee Report.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I move the Senate accept the Minority Ought Not to Pass Report.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves the

Senate accept the Minority Ought Not to Pass Report.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: I oppose this Motion and request a Division.

the PRESIDENT: A Division has been requested.

On Motion of Mr. Pray of Penobscot, tabled for one legislative day Pending — the motion of the Senator from Cumberland, Senator Conley, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

The President laid before the Senate: Bill, "An Act to Provide for Consideration of the Economic Impact of Decisions made by the Board of Environmental Protection." (H. P. 879) (L. D. 1070)

Tabled earlier in today's Session by the Senator from Kennebec, Senator Speers, pending the Motion of the Senator from Oxford, Senator O'Leary that this Bill and all its accompanying papers should be indefinitely postponed.

On Motion of Mr. Speers of Kennebec, Retabled for one legislative day.

Reconsidered Matter

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President, I would like to move the Senate reconsider its action on L.D. 660 whereby it moved to indefinitely postpone "An Act to Exempt Historical Societies and Museums from Sales Tax."

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, now moves the Senate reconsider its action whereby it indefinitely postponed L.D. 660. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Aroostook, Senator Martin.

Mr. MARTIN: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President and Members of the Senate, certainly in the order of significance of Bills, this does not stand at the top. It is a small Bill, but it is very important to a number of small organizations. I would just like to have the Senate consider the Bill on its merits.

Activities by these organizations do bring a considerable amount of revenue and activity to the State. Activities of these organizations involve many volunteers in many of our communities.

I realize that funds are hard to come by and that it will have to stand its test among those demanding funding. I would like to see this Bill passed.

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

Mr. MARTIN: Mr. President, Ladies and Gentlemen of the Senate, Senator Chapman is correct. This is a very small Bill. However, it has a good sized fiscal note on it. I would remind you, \$13,000.00 the first year and \$18,000.00 the second year.

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

Mr. FARLEY: Mr. President and Members of the Senate, a little past history on this piece of legislation. As you all know correctly, about a week ago when it was very well done, tabled to get it out of this bad company, that two other Bills came out of Taxation that day, one for tax exemption for day care centers and one for boarding homes for the elderly. We killed those two Bills. Let us give this one its due treatment, too.

The PRESIDENT: Is the Senate ready for the

question? The Pending question is the Motion by the Senator from Sagadahoc, Senator Chapman, that the Senate reconsider its action whereby this Bill was indefinitely postponed.

A Division has been requested.

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

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

16 Senators having voted in the affirmative and 15 in the negative, the Motion to reconsider does prevail.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President, I now move the Senate pass this Bill to be engrossed.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, now moves that this Bill be passed to be engrossed.

The Chair recognizes the Senator from Aroostook, Senator Martin.

Mr. MARTIN: Mr. President, I reluctantly request the yeas and nays.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted?

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

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate, again it is another decision we have to make, relative to the expenditures of State monies.

I think the good Senator from York, Senator Farley, pointed out the other day in the Senate, on April 27, the 51st Legislative Day, Item 6-24, An Act to Extend the Sales Tax Exemption for Child Day Care Facilities," reported out Ought Not to Pass. At the same hearing was a Bill to exempt non-profit building care facilities for the aged.

Now certainly if priorities are to be listed, then we should pass everyone of these tax Bills coming out of the Committee, put them on the Appropriations Committee Table, and then have an evaluation at that time. But for us to just spasmodically attack one Bill here and one Bill there does not make good sense.

Obviously with the lack of funds, I think the best thing to do is to refer them all to the 109th.

The PRESIDENT: Is the Senate ready for the question? The pending question is the motion by the Senator from Sagadahoc, Senator Chapman, that this Bill, L.D. 660, be passed to be engrossed.

A Yes vote will be in favor of passage to be engrossed; a Nay vote will be opposed.

The Secretary will call the Roll.

YEAS — Chapman, Curtis, Greeley, Jackson, Mangan, Redmond, Snowe, Speers, Trotzky, Wyman.

NAYS — Carpenter, Collins, Conley, Cummings, Danton, Farley, Hewes, Hichens, Huber, Levine, Lovell, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Usher.

ABSENT — Collins, Katz.

10 Senators having voted in the affirmative, and 20 Senators in the negative, with 2 Senators being absent, the Motion that this Bill be passed to be engrossed does not prevail.

On Motion of Mr. Conley of Cumberland, the Senate voted to indefinitely postpone the Bill and accompanying papers.

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

Mr. CONLEY: Mr. President, having voted on the prevailing side, I now move the Senate reconsider its action whereby this Bill was in-

definitely postponed and urge the Senate to vote against me.

A viva voce vote being had, The Motion to Reconsider does not prevail. Sent down for concurrence.

The President laid before the Senate: The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President, I move that L.D. 102, "Resolve, Reimbursing Certain 1976 County Taxes on Account of Insufficient Appropriation," be taken from the Special Appropriations Table.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now moves that L.D. 102 be taken from the Special Appropriations Table. Is this the pleasure of the Senate? It is a vote.

This being an emergency measure and having received the affirmative vote of 31 members of the Senate, was finally Passed and having been signed by the President was by the Secretary Presented to the Governor for his approval.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Adjourned to 10:00 a.m. tomorrow morning.