

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

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APPENDIX

SENATE

January 17, 1978

Senate called to Order by the President.
Prayer by Reverend Bruce W. Meyer, Prince of Peace Lutheran Church in Augusta.

Mr. MEYER: Great God and Gracious Father who has given us our lives and the time of our lives we thank you for the gift of another day. In this day O Lord, whatever we do, wherever we go, however we speak and act, let the presence of your spirits in us be evident as we love what you love, and seek what you seek, and desire what you desire. We give thanks Lord for the Members and Leaders of this Senate for their truly serving nature of their jobs as they deal with the life sustaining needs and concerns of our people. Bless them with physical and mental and spiritual strength, and with joy and enthusiasm for their work, and for all of us Lord make us mindful that the determination of the success of each day is how and how much our day has been a blessing to others. In your name we pray. Amen.

Reading of the Journal of yesterday.

Papers from the House
Joint Orders

Expressions of Legislative Sentiment recognizing that:

James V. Gibbons, of South Portland, is retiring after 36 years of outstanding service in the Federal Bureau of Investigation, 23 years of which were spent as a special agent in the Portland FBI office, (H. P. 1987)

Gayle Reynolds of Fort Kent Community High School has won the Maine State Basketball Foul Shooting Contest for girls, (H. P. 1988)

Corporal John Arnold, of the Sanford Police Department, performed an act of great bravery on December 28, 1977, (H. P. 1993)

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

Joint Order

Whereas, Representative Gordon Cunningham was seated for 46 weeks during 1977 and received a salary of \$3,240; and

Whereas, on a pro rata basis, based on a full salary of \$4,500, Representative Cunningham is due an additional payment of \$900; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Finance Officer be authorized and directed to pay Representative Gordon Cunningham an additional \$900 salary for services during the First Regular Session of the 108th Legislature.

(H. P. 1989)

Comes from the House, Read and Passed.

Which was Read.

On Motion of Mr. Conley of Cumberland, Tabled until later in Today's Session pending passage.

Joint Order

Ordered, the Senate concurring, that the Joint Standing Committee on Fisheries and Wildlife shall report out a bill revising the statutes relating to Inland Fisheries and Wildlife.

(H. P. 1994)

Comes from the House, Read and Passed.

On Motion of Mr. Speers of Kennebec, Tabled pending passage

House Papers

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

On motion by Mr. Conley of Cumberland, the Senate voted to take from the Table Joint Order relative to Representative Gordon Cunningham (H. P. 1989)
Tabled—earlier in the day by Senator Conley of Cumberland

Pending—Passage

Which was Passed, in concurrence.

Communications

Secretary of the Senate

State of Maine

Augusta, Maine 04333

Dear Madam:

Please accept the 1977 Report of the Correctional Advisory Commission for general distribution to the membership and for introduction into the record.

Yours very truly,

PAULA H. ELKINS, Chairman
Correctional Advisory Commission

Which was Read and with accompanying papers, Ordered Placed on File.

Senate Chamber
President's Office

The Honorable May M. Ross

Secretary of the Senate

State House

Augusta, Maine 04333

Dear Madam Secretary:

In accordance with 1 MRSA Sec. 1002-1-A, it is my pleasure to hereby recommend to the Maine Senate for confirmation the nomination of Joseph B. Campbell as my appointee to the Commission on Governmental Ethics and Election Practice.

Sincerely,
JOSEPH SEWALL

Which was Read and Ordered Placed on File.

The PRESIDENT: Pursuant to Title 1, Section 1002 of the Maine Revised Statutes, this nomination must be confirmed by two-thirds of the Senators present.

Will all those Senators in favor of this nomination, please rise and remain standing until counted.

Those opposed please rise and remain standing until counted.

27 Senators having voted in the affirmative and no Senators in the negative, and 27 being more than two-thirds of those Senators present, the nomination of Joseph B. Campbell is confirmed.

The Senate of Maine
Jerrold B. Speers
Senate Majority Leader

Secretary of the Senate

State House

Augusta, Maine 04333

Dear Madame Secretary:

It is with a great deal of pride that I submit to the Senate for consideration for re-appointment to the Commission on Governmental Ethics and Election Practices, the name of Professor Douglas Hodgkins. Professor Hodgkins has served with great distinction on the Commission during the past two years, and his "judgment, probity and objectivity"—in the words of the statute—are unquestioned.

As Professor of Government at Bates College, Professor Hodgkins is well aware of the political and election processes within the State of Maine and is one in whom the people of this state can place the utmost of trust and confidence.

It is with a great deal of pleasure that I urge the Senate to confirm the re-appointment of Professor Douglas Hodgkins to the Commission.

Sincerely,

JERROLD B. SPEERS

Which was Read and Ordered Placed on File.

The PRESIDENT: Pursuant to Title 1, Section 1002 of the Maine Revised Statutes, this nomination must be confirmed by two-thirds of the Senators present

Will all those Senators in favor of this nomination, please rise and remain standing until counted.

Those opposed please rise and remain standing until counted.

28 Senators having voted in the affirmative

and No Senators in the negative and 28 being more than two-thirds of those Senators present, the nomination of Douglas Hodgkins is confirmed.

The Senate of Maine
Gerard P. Conley
Senate Minority Leader
January 16, 1978

May M. Ross
Secretary of the Senate
State House

Augusta, Maine 04333

Dear Mrs. Ross,

It is my pleasure to reappoint Mr. Barnett I. Shur to the Commission on Governmental Ethics and Election Practices, pending approval of two-thirds vote of the Maine Senate.

I believe that Mr. Shur has proven himself to be an honest and trustworthy member of the present Commission.

Sincerely,
GERARD P. CONLEY
Senate Minority Leader

Which was Read.

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

Mr. CONLEY: Mr. President and Members of the Senate, the Senate has taken action on two of the appointees or the nominees this morning, and I wish to point out again, that we are nominating and electing three Republicans to fill what I consider to be very important offices.

It is tough to be a member of the minority as you can see, but I would like to point out to the vast majority membership of this Senate, that once again, we have three Republicans that have been under consideration this morning. I just hope that Mr. Shur does not interpret the fact that he is listed as the last nominee to be confirmed, that he necessarily will go down as a loser with a Democrat appointing him.

Which was Ordered Placed on File.

The PRESIDENT: Pursuant to Title 1, Section 1002 of the Maine Revised Statutes, this nomination must be confirmed by two-thirds of the Senators present.

Will all those Senators in favor of this nomination, please rise and remain standing until counted.

Those opposed please rise and remain standing until counted.

28 Senators having voted in the affirmative and No Senators in the negative and 28 being more than two-thirds of those Senators present, the nomination of Barnett I. Shur is confirmed.

State of Maine
DEPARTMENT OF
EDUCATIONAL AND CULTURAL
SERVICES

TO: Members of the 108th Legislature

Bureau of the Budget

FROM: H. Sawin Millett, Jr., Commissioner

SUBJECT: Actual Education Costs for Base Year 1976-77

Pursuant to the provisions of 20 M.R.S.A. 3744, I forward herewith notification of the "actual education costs" as defined in subsection 13 of 20 M.R.S.A 3743 for the base year 1976-77

A. Elementary operating costs	\$141,072,840
B. Secondary operating costs	87,288,743
C. Costs of special education programs operated by administrative units	9,088,611
D. Costs of special education tuition and board, excluding medical costs	2,965,996
(1) Tuition and board for pupils placed by administrative units	2,919,379
(2) Tuition and board for State wards and direct State placements	46,617
(3) Adjustments under section 3748, subsection 3, paragraph H	N/A
E. Costs of vocational education programs	6,574,306
F. Transportation costs	

(1) Operating costs	16,390,728
(2) Purchase of buses	2,713,391
G. Debt service costs	24,889,193
H. Major capital costs	3,593,825
I. Costs of unusual enrollment adjustments	600,000
J. Cost of geographic isolation adjustments	285,639
J-1. Cost of small unit adjustment (No statutory provision for 1976-77)	N/A
K. Costs of reimbursement for private school transportation	165,386
L. State expenditures for paragraphs C—K for 1976-77 (includes portion from Uniform Property Tax)	
(1) Special education costs for programs operated by the administrative units	7,070,102
(2) Special education tuition and board, excluding medical costs	2,650,654
(3) Vocational education costs	5,176,891
(4) Transportation costs	
a. Operating costs (prorated at 90%)	13,303,495
b. Purchase of buses	1,828,782
(5) Debt service costs	
a. Principal & interest	24,889,194
b. Insured value factor	283,324
c. Leases	384,242
(6) Major capital costs	433,589
(7) Costs to unusual enrollment adjustments (prorated @ 99.5241%)	600,000
(8) Costs of geographic isolation adjustments	285,639
(9) Costs of reimbursement for private school transportation	165,386
M. Audit adjustments	
(No statutory provision for 1976-77)	N/A
N. Optional local appropriations with state participation	
(1) Local share	13,577,030
(2) State share	5,223,239
O. Optional local funds without state participation	14,220,102

The above figures include all adjustments in expenditure reports through December 12, 1977 and include state and local monies only except that P. L. 874 funds are included.

NOTE: The sum of items A to H represent the total expenditures for the base year while items I to O are duplicative.

Which was Read and Ordered Placed on File.

Senate Papers

Mr. LOVELL of York presented Bill, "An Act to Revise the Sanford Sewerage District Charter" (S. P. 673) (L. D. 2081)

Which was referred to the Committee on Public Utilities and Ordered Printed.
Sent down forth with concurrence.

Mr. COLLINS of Aroostook, was granted unanimous consent to address the Senate.

Mr. COLLINS: Mr. President and Members of the Senate: About a year ago I introduced a bill in the legislature which provided for an appropriation of \$50,000 for the "Save Loring Committee". You may recall that the Air Force proposed a reduction of force of 83% in March of 1976 and the "Save Loring Committee" has been the voice of northern Maine, and in fact, of the State of Maine in opposing the Air Force proposal. Since I last talked to you about this matter, the Air force has produced a second draft Environmental Impact Statement and a Final Impact Statement.

These statements were an improvement over the initial draft and while there are remaining areas of disagreement, the Air Force assessment does in fact, point out the disastrous economic impact upon central Aroostook County and the State of Maine. The data prepared by the "Save Loring Committee" indicates that the cost to taxpayers, if the reduction goes forward, will be \$133 million over a five year period of unfortunately, time. The Air Force position is hard and fast and in the areas of disagreement there is no compromise.

The "Save Loring Committee" has gained time and the final decision has been delayed

time and again with the most recent announcement indicating that a decision would be made in February.

It is my personal opinion that the Air Force has made a firm commitment to go forward with the reduction at Loring. In my view, the only action that will prevent that from happening is a political decision at the highest level of government.

Because this legislature has appropriated State funds for the Save Loring Committee, I felt you should be kept posted on our activity and I have also had distributed today, an accounting of our expenditures through December 31, 1977.

Committee Reports

House

Ought to Pass

The Committee on Legal Affairs on, RESOLVE, to Appeal the Decision of the State Claims Board Regarding Property Damage Suffered by Phillip G. Rotolo of Portland Because of a Resident of the Maine Youth Center. (Emergency) (H. P. 1892) (L. D. 1949)
Reported that the same Ought to Pass.

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

The Committee on State Government on, RESOLVE, to Amend the Apportionment of Multi-member Districts of the House of Representatives into Single Member Districts. (Emergency) (H. P. 1906) (L. D. 1967)

Reported that the same Ought to Pass.
Comes from the House, the Resolve Passed to be Engrossed.

The Committee on Taxation on, Bill, "An Act Concerning the Discount Factor and Capitalization Rate in the Tree Growth Tax Statutes. (Emergency) (H. P. 1882) (L. D. 1936)

Reported that the same Ought to Pass.
Comes from the House, the Bill Passed to be Engrossed.

Which Reports were Read and Accepted and the Bill and Resolves, Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass—As Amended

The Committee on Taxation on, Bill "An Act Relating to the Taxation of Certain Property Owned and Operated by Telephone or Telegraph Companies. (Emergency) (H. P. 1878) (L. D. 1932)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-955)

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

The Committee on Education on, Bill, "An Act Relating to Joint Committee Between George Stevens Academy and Nearby Towns. (H. P. 1890) (L. D. 1947)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-953).

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.

Divided Report

Five members of the Committee on Liquor Control on, Bill, "An Act to Permit Sale of Alcoholic Beverages for On-premise Consumption at 18 Years of Age" (H. P. 1887) (L. D. 1944)

Reported in Report A that the same Ought to Pass as amended by Committee Amendment "A" (H-951)

Signed:
Senator:

LEVINE of Kennebec

Representatives:

MAXWELL of Jay
NADEAU of Sanford
CONNERS of Franklin
RAYMOND of Lewiston

Senator Danton of York Abstains from voting.

Four members of the same Committee on the same subject matter Reported in Report B that the same Ought Not to Pass.

Signed:

Representatives:

LIZOTTE of Biddeford
IMMONEN of West Paris
TWITCHELL of Norway
GRAY of Rockland

Three members of the same Committee on the same subject matter Reported in Report C that the same Ought to Pass as amended by Committee Amendment "B" (H-952).

Signed:

Senator:

LOVELL of York

Representatives:

MARSHALL of Millinocket
JACQUES of Lewiston

Comes from the House, Bill and Papers Indefinitely Postponed.

Which report was Read.

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

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

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that this Bill and its accompanying papers be indefinitely postponed in concurrence.

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Members of the Senate, I feel that I would like to explain my position on this Bill.

We heard this Bill last year for six hours at the Civic Center. This year the hearing only lasted five hours and a quarter, from 1:00 to 6:15. And we heard 77 witnesses from all over the State of Maine. And in my opinion, this Bill probably should never have been let in, because I could not see that it was an emergency Bill. I could not see where the drinking of 18 and 19 year olds, which we had just voted on a year ago, why it should come back to us so soon. So in listening to the many witnesses and the Head of the State Police, who wrote and is against this Bill, Captain Martin, is against allowing 18 and 19 year olds to drink. I am against allowing 18 and 19 year olds to drink and I have led the debate last year to get the 20 year olds, to pass it at the age of 20. Which we did. Now I felt, they have 25,000 signatures and they have a month or two months, a month and a half to get 10,000 more. So I said, "Why not let the people decide. When things come up like this. If it is going to come up again next year, so lets let the people decide whether or not they want the 18 and 19 year olds to drink in bars and taverns."

So that is why I voted for this Bill to go out to referendum. Because I figured if they voted November 8 or whenever election day is, then they would not bring it back in the next Session, I do not know if I will be here next Session or not, but they would not bring it in next Session. If I am here, I am sure that the Bill will be back in, and I hate to sit another five hours in that Civic Center, listening to the same arguments over and over again. However, the good Senator from Cumberland, Senator Conley, has moved indefinite postponement, and that is the way I will also vote too.

The PRESIDENT: Is it the pleasure of the Senate that this Bill and all its accompanying papers be indefinitely postponed?

The Chair recognizes the Senator from Penobscot, Senator Pray.

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

The PRESIDENT: A Division has been re-

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

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President, I would like to be excused from voting for the appearance of conflict of interest.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now requests leave of the Senate to refrain from voting in this issue because of the possibility of a conflict of interest. Is it the pleasure of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: 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 on this matter 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 Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President and Members of the Senate, for the purpose of the record, I would want to speak on this issue a little bit this morning.

When we were faced with the original legislation that granted all adult rights to 18 year olds, I was in full concurrence with it at the time. As proceeded last year on the last first regular Session, I also staged in line insofar as agreeing that if you have the right to sign contracts, and get married, ad purchase homes, and stuff of this nature, that at least that particular element should have the right to drink and purchase alcoholic beverages.

During the interim period of time, I have made quite a few inquiries in my own Senatorial District amongst educators, private citizens, the restaurant owners, and I am starting to get a different perspective all together as to what these teenagers are doing.

You may recall on January 5, the State of Maine Bureau of Rehabilitation sent a bulletin out to each one of the Legislators which referred to a gallop poll that was taken in August 1977. In correlating this gallop poll with the information that I listed from the various people in my district, I have gained a different perspective altogether compared to my original viewpoint that these teenagers could handle alcoholic beverages. It appeared from the viewpoint of many schools, especially grade schools, that these children were growing up in an environment that was not conducive to a proper upbringing and a proper way of life. And as I further investigated this with the gallop poll, I was really astonished to see what is happening to our American society, and granted as it has been referred to as a few of the youngsters fouling it up for the many, there is still no clear indication that alcohol will solve their daily problems in school or make them popular as I have heard in testimony at that public hearing.

The analogy that came up in this gallop poll, referred to the year 1939, were the 18 year olds, 58 percent of them were classified as drinkers, and 42 percent were abstainers. And it went on to say further, 'Although 71 percent of adult Americans do on occasions use beer, wine, liquor, the percentage of drinkers and abstainers vary widely according to age, education, and sex.' The three classifications bring it out this way very clearly. The 18 to 29, 78 percent were drinkers, 22 percent were abstainers. At the education level. At the high school level, 71 percent indulged in alcoholic beverages, 29 percent were referred to as abstainers. At the grade school level, 46 percent indulged in alcoholic beverages, 54 percent claim they ab-

stained. Now according to their sex, meaning preferably male or female, 77 percent of the men drank, 23 percent abstained. Amongst the ladies, 66 percent were drinkers, and 34 percent abstained. One of the amazing national statistics that came out was 70 percent or roughly 17 million of all teenagers in the United States have consumed alcohol. Regionally, only 59 percent in the South have experimented with alcohol, while the figures for the Northeast, which includes the great State of Maine peaks out at 74 percent. I sincerely believe that to give the 18 year olds the right to go into bars or taverns is not going to solve the problem at all. But I further believe by holding line as this recommendation at the present time, will be in the interest of all youngsters and all the teenagers in the State of Maine.

So for that reason Mr. President, I just want to have the record clear that over the years, I have gone along with the adult rights for the young Americans and youngsters of the State of Maine, but after making a more serious appraisal, as to what a few of their peers or the dilemma they have created, I at the present time have changed my position.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, very briefly, three and a half years that I have been in this Legislature, this for me has been one of my most difficult dilemmas on this drinking age question. First term in the House, I voted to keep it at 18. Last year I wanted it to go up, but I did not know where.

I find a horrible inconsistency among many of the groups leading the fight this year and last year to raise the drinking age, in that I also find these same people were involved heavily in another issue a few years ago that is very near and dear to my heart, and I just want to pass on to you, even though I will vote this morning with what I think will be the majority to kill this Bill. One reason why it is very difficult, I want everybody here to remember this. I think we do need to do something to take care to help the statistics the Senator from Androscoggin, Senator Minkowsky, mentions, I know there are other Senators here voting for various reason, this morning I will vote to kill the Bill. I just want to leave you with one thing, and that is how soon we forget and it is very near and dear to my heart for one very, very good reason, and maybe the two do not have any connection, but I sort of think that they do, and I hope that no American is ever put in the position again, I certainly hope that I am never put in that position again. Just remember one thing. That in 1970, when I was in the Republic of Viet Nam, many of the same people who are supporting 20, 21, 25, 45, or whatever for a legal drinking age were supporting what is now generally regarded as one of the biggest fiasco the United States Government ever got involved in and the reason that this is so very difficult for me is that I sent 18 year olds home from Viet Nam in body bags, and I hope that no American is ever put in that position again. Where they have to go and fight for something that they believed in, but somehow back home are regarded as less then whole or less then adults.

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

Mr. MARTIN: Mr. President and Members of the Senate, unlike my colleague this morning, my colleague from Aroostook, Senator Carpenter, I will vote at this time, to keep this Bill alive, we cannot let this slide without some debate.

I will stand here for a short time debating the pros and cons of the Bill, because I think most of us have heard all we are going to hear, and all we want to hear. And I think there is little doubt this morning as to exactly where this Bill is going to end up. I think most of us have decided how we are going to go and I do not think anyone here can stand up and change anybodies

vote. I would urge you, however, to vote against the indefinite postponement at this time, and let the people of Maine, let the citizens of Maine decide. Thank you.

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

Mr. HUBER: Mr. President, I request permission to abstain from voting on this matter because of the conceivable appearance of a conflict of interest.

The PRESIDENT: The Senator from Cumberland, Senator Huber, now request leave of the Senate to refrain from voting on this issue because of the possibility of an appearance of a conflict of interest. Is it the pleasure of the Senate to grant this leave? It is a vote.

The Chair would also request leave of the Senate to refrain from voting on this issue because of the possibility of an appearance of a conflict of interest. Is it the pleasure of the Senate to grant this leave? It is a vote.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate, since we had some statistics pointed out this morning from this gallop poll and those of you that still do not have this sheet of paper of the bulletin dealing with the Maine Council on Alcoholic and Drug Abuse Prevention and Treatment. I would just point out in fact that in the 18 to 19 year old group, as the Senator from Androscoggin, Senator Minkowsky pointed out, that 78 percent of those people were drinkers. Also another point that he drew attention to was the fact that dealing with teenagers in the Northeast, where it reached its peak, was 74 percent. That is 4 percent less then the 18 to 29 year old group. So the problem in alcoholism is not the teenagers, but those after they leave their teens and hit the age group of 20 to 29. So maybe we should give some consideration to including those individuals who must come off at a higher percentage then 74 percent as our teenagers. If we are going to address the problem of the ill use of alcohol by individuals due to their maturity or due to their age, then we should face the entire problem. I would also point out that even though from 1939 to 1979 the percentage of individuals who consumed alcohol increased, I would also leave you with the thought that the methods of gathering public opinion has improved.

(Off Record Remarks)

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

Mr. PIERCE: Mr. President and Members of the Senate, I am going to ask for the Senates leave to abstain on this question. For the possibility of appearance of conflict of interest. I also want to state for the record that I do so with much misgiving. I do it for the reason that I am a stockholder in a corporation which holds a liquor license.

Were I voting on this question, I would vote today for the indefinite postponement and I am sure no one would have any problem with that. But I wonder what would happen if I really felt that I do not have a conflict and I wanted to vote for the continuation of the Bill. And I guess that probably integrity to me is, I place a very high value on it and it does mean a great deal to me, so that even with the remote possibility I am going to ask to abstain, but I do share the misgivings, I think with some other people that perhaps we are going a little to far in this instance and since others have already asked for abstention on this issue I would ask the same under the circumstances, but I do want to point out that I really have misgivings about doing it, under these circumstances.

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

Mr. KATZ: Mr. President, it should come as no great surprise to the Senate that I am in complete disagreement with the procedures

followed here this morning. This will be the fifth member of the Senate to be excused from voting because of the possibility of an appearance of conflict. According to my arithmetic, a 150,000 Maine people are going to be without representation on this vote, if we all represent 30,000 people. Now the question of conflict is important to all of us, but this morning you can see the extent to which the whole democratic system is subverted from the question of conflict is interpreted as broadly as this Senate is supporting. Obviously I am not going to vote against my seatmate before previous Senators having been approved, but I want to express a deep sense of conscience that the Senate is not acting in a wise manner in this instance.

The PRESIDENT: Is it the pleasure of the Senate to grant this leave? It is a vote.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that L. D. 1944 and its accompanying papers be indefinitely postponed.

A yes vote will be in favor of indefinite postponement.

A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS — Carpenter, Chapman, Collins, D., Collins, S., Conley, Cummings, Curtis, Farley, Greeley, Hichens, Katz, Lovell, Mangan, McNally, Minkowsky, Morrell, O'Leary, Redmond, Snowe, Speers, Trotzky, Usher, Wyman
 NAYS — Levine, Martin, Pray
 ABSENT — Danton, Hewes, Merrill

The PRESIDENT: 23 Senators having voted in the affirmative, and 3 Senators in the negative, with 4 Senators being excused, and 3 being absent, the Motion to indefinitely postpone does prevail.

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

Mr. HICHENS: Having voted on the prevailing side, I now for reconsideration and hope that you vote against my Motion.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that the Senate reconsider its actions whereby it indefinitely postponed L. D. 1994.

A viva voce vote being had, the Motion to reconsider does not prevail.

Second Readers

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

Senate

Bill, "An Act Relating to Certificate of Need." (S. P. 652) (L. D. 2013)

Which was Read a Second Time

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

Mrs. SNOWE: Mr. President I now offer Senate Amendment B to L. D. 2013 (S-433) and move its adoption, and will speak to my Motion.

The PRESIDENT: The Senator from Androscoggin, Senator Snowe, now offers Senate Amendment B to L. D. 2013 and moves its adoption, the Secretary will read Senate Amendment B.

Senate Amendment B (S-433) Read.

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

Mrs. SNOWE: Mr. President and Members of the Senate; simply this amendment includes clarification of the language as contained in the Certificate of Need Legislation. It also provides for emergency preamble since the Certificate of Need Legislation. It also provides for emergency preamble since the Certificate of Need should be in place by the 1st of July, 1978. It includes an appropriation of \$60,000 to implement the Certificate of Need Legislation which inadvertently omitted when the bill was

printed.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment B to L. D. 2013?

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

Mr. CURTIS: Mr. President, I would like to pose a question to the sponsor of this amendment. My question comes from a discussion recently with a planning board for a hospital, St. Joseph Hospital in Bangor, which is hoping to develop a facility to serve the Corinth area of Penobscot County. And they are anticipating some delay involved if it is necessary to obtain a Certificate of Need prior to getting involved in this venture. And my question is this, could you give me some good idea as to what kind of a time table will be involved with the Certificate of Need for a hospital with a proposal that is already in its planning stages and probably would not be implemented until the first of September, unless there is some terrific delay for the requirement to obtain a Certificate.

The PRESIDENT: The Senator from Penobscot, Senator Curtis, has posed a question through the Chair to the Senator from Androscoggin who may answer if she so desires.

The PRESIDENT: The Chair recognizes that Senator.

Mrs. SNOWE: Mr. President and members of the Senate, in order to respond to Senator Curtis from Penobscot. It would be my feeling that they would be able to pursue their development and construction and probably would not go through the Certificate of Need process, but the regular planning process that they now undergo.

The PRESIDENT: It is now the pleasure of the Senate to adopt Senate Amendment B? It is a vote.

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

Mr. TROTZKY: Mr. President, I present Senate Amendment "C" to L. D. 2013 and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now offers Senate Amendment "C" to L. D. 2013 and moves its adoption. The Secretary will read, Senate Amendment "C".

Senate Amendment "C" (S - 434) Read.

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

Mr. TROTZKY: Mr. President and members of the Senate, in the United States, we are blessed with the finest medical care system probably in the world. I think that the citizens have a great deal of respect for the quality of physician services being offered to the public. However, there is also a great deal of concern for the high costs of medical care. What Senate Amendment "C" does, is it includes doctors offices and group practices under Certificate of Need Legislation. Number two, it raises the financial threshold from the minority report from \$75,000 to \$150,000, the same level as that for hospitals. In other words, under the Certificate of Need Legislation it would treat private doctors, clinics, or group practice the same way it does a public community hospital. The community Hospital is accessible to all the people in that community. Public funds which may be prohibited from flowing to that hospital if the Certificate of Need is denied should not be allowed to flow into the hands of private physician offices and group practices, which may not be accessible to the entire public.

If we are to pass the Certificate of Need Bill, it is only fair in my opinion and in the public interest that physicians alone or in group practice and hospitals play by the same rules. The hospital is denied a piece of expensive equipment. Is it right that a private group practice can buy that same piece of equipment and be financed by public funds? It is a very sensitive issue, especially with the medical community physicians. But I must again reemphasize that we are talking about the flow of public taxpay-

er funds. This Amendment in no way prohibits a private physician from buying any piece of equipment he desires no matter how expensive, highly technological, or recovering or receiving funds which are private funds. The physicians are concerned as I understood from many conversations last evening, that this Amendment is a governmental invasion of their private practices, but I did not hear them complain about the millions and millions of dollars of Medicare and Medicaid Funds, public taxpayers dollars, which in the State of Maine, which is relatively poor State, helped finance many of their practices.

I would also ask the Senate, I just received a letter here this morning from the Maine Health Systems Agency, which is involved the Certificate of Need Legislation and it specifically states in this letter, without this provision including the doctors the Bills prime purpose of reviewing major capitol expenditures in the medical care field such as Cat scanners would be circumvented. Also in the Amendment which on the second page looks a little bit confusing. What it does on the second page, section 320. It says, "Doctors are not subject to penalties if they buy any equipment they want with their own funds." And doctors are not subject to injunctions or to "in the second section 321." to civil penalties. The only thing that the Bill would do would allow the withholding of public funds for equipment that was denied the hospital but bought by the doctors in that same community.

I would therefore urge the Senate to adopt Senate Amendment "C".

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

Mrs. SNOWE: Mr. President and Members of the Senate, I rise to oppose the Senate Amendment "C" offered by the Senator from Penobscot, Senator Trotzky. I guess I can best describe this Amendment as being some sort of Class Legislation. It is allowing the Department of Human Services to determine whether or not people on Medicaid and Medicare can receive a certain kind of service as given by a piece of equipment purchased by a doctor. In other words, the Department is establishing one level of care for the poor and another level of care for those people who acquire insurance through a private insurance company.

I certainly do oppose this. It certainly reflects discrimination in my estimation and I also oppose it because I do not feel that we should include physician's offices in the Certificate of Need process. But it certainly is not any reason to exceed the mandate of Federal Regulation. I think I would call it over regulation. I think we should establish a state health plan before we decide where we should allocate our resources. The key stone to the Certificate of Need process is planning. Therefore, I think we should proceed very cautiously before we include too many health care facilities within the Certificate of Need review.

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

Mr. CONLEY: Mr. President and Members of the Senate, I believe that the issue before us is an issue that we could all get on the band wagon so to speak and ride hard on the medical profession, and I do not believe that that is what the intent of the legislation is before us or the intent of the Amendment that has been offered by the good Senator from Penobscot, Senator Trotzky. But I believe that he is right on point. Personally, and I believe that there is another Amendment that maybe offered that would put the financial figure at \$75,000 rather than the present figure that is incorporated within Senator Trotzky's Bill at \$150,00 treating doctors and the hospitals of treatment facilities in the same equal manner.

I think we are all concerned about the run away cost of medical care in this country. Time and time again, I think we read articles in the paper as to how certain doctors around

the country have taken tremendous advantage to costs of medicine by the over expenditure of unneeded and unnecessary equipment for their offices. I think that what we are primarily trying to establish here is to bring about no restrictions necessarily, but at least a board to oversee the high costs of care that is being given by physicians not only at the hospitals but at the offices. I think that the report that we have on our desks clearly demonstrates and explains what the Certificate of Need Legislation is all about. I think if we look at page five, with this statement that was just contributed to us. It says that in other words, certain types of equipment would require a Certificate of Need no matter who or what type of facility acquired it. A doctors office, a drug and rehabilitation center, mental health center, etc. however, the equipment would have to be one associated with a diagnosis for the treatment or rehabilitation of patients and (secondly) contributes sufficiently the the Health Care costs and thirdly, would have to sufficiently reduce the utilization of similar equipment if already available the need could not be yet demonstrated for it. I do not believe that this is going to hinder or hamper the physicians one bit. In fact, there are some states it is my understanding, that have a limitation of \$5,000 written into the law relative to the Certificate of Need. I think that at least the Amendment that is being offered here today is far from the minimal figure of \$75,000 which was in the minority report yesterday, and raising that figure to \$150,000 does not keep a check and balance on the expenditures for treatment and the purchasing of this very expensive and exclusive equipment. When the vote is taken Mr. President, I request that it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President and Members of the Senate, I have as far as the Certificate of Need Legislation, a primary philosophical hangup. That being that I disagree strongly with Uncle Sam or any Government because they do subsidize through Medicare and Medicaid, determining what a hospital or a doctor or any other group can use for equipment, utilize for equipment, purchase for equipment, or any other matter. It behooves me to think that over a space of time, because attorneys are funded through the State of Maine to defend indigence that the State of Maine will eventually say that the attorneys need a Certificate of Need to determine whether they can or can not buy a book. It is also been my impression that this legislature, especially the Senate, has always been for individual initiative. We look, for example, at past legislation where this Senate killed a Bill on prohibiting fuzz busters because the initial initiative of the individual purchasing that thing and its a elimination of government interference. I just have a difficulty in seeing where the State or the people are going to benefit from killing the individual initiative of doctors throughout this State. I see that this amendment particularly as providing more interference than the doctors really need. We want our doctors to practice and practice with the best equipment they can have. If they themselves want to purchase this equipment God Bless them. May they do the best job and I hope I have the best doctor using the best equipment working on me if I ever need it. But I do not want to make sure that if this doctor decides he needs a cat scanner and is willing to financially go out and spend up to \$500,000 for it, to punish this individual, punish this doctor who wants to do the best job and punish him by withholding payment of public funds, Medicare, Medicaid or any other payments. They do that in certain countries, and we do not call them Democracies. And certainly this is not the place to start and I would urge you to vote against this Amendment.

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

Mr. PRAY: Mr. President and Members of the Senate, I did have an Amendment prepared at the \$75,000 level. I will be supporting the Amendment offered by the Senator from Penobscot, Senator Trotzky. Basically on a philosophical support.

I think contrary to the statements of the last speaker, that when we talk about governmental interference, and over regulations, individual rights, and what not, that we have to understand to compare the fuzz buster, which to me is a completely optional item which somebody would buy, and medical care, which is a necessity, is ridiculous. If we took a piece of equipment that costs \$150,000 said it had a life span of 10 years and the doctor worked 50 weeks a year, which we know he doesn't. It would still be costing an average weekly cost of \$3,000 just for that one piece of equipment. Even though we have a Certificate of Need and the doctor would be reimbursed by Governmental Funds, he is going to pass that on to his other patients in office calls. So he is going to pick up an extra \$3,000 right there per week, just to pay that over a ten year period.

When we talk about medical costs, medical care for the American people, the people in the State of Maine, we are talking about an item that is a necessity to these individuals. Noticing in the Bangor paper today the amount of funds is increasing because of starvation in this country, that are being provided for the low income families and what not. Medical Health far exceeds this one issue. Last night on the radio I heard reference to a Blue Cross and Blue Shield convention, in reference to what medical costs are going to be in the next ten years, and how they are going to sore. I think that when we talk about Governmental interference, then we should talk about it as items of necessity, such as medical care. And what we are being addressed with at this time, is an additional step in that direction, to insure every person in this State some type of regulation over a run away cost, and that is the issue right there.

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

Mr. COLLINS: Mr. President and Members of the Senate, I am hopeful that the good Senator from Penobscot, Senator Pray, will introduce his Amendment because I shall be happy to support it. I do not intend to support the pending Amendment which I feel defines the roll of the Government only and I would like to broaden the scope of that particular proposal.

I should perhaps tell you that my interest in this subject is a result of being a hospital trustee. I am also a member of the Maine Health Systems Agency. And I have been interested in health care for a considerable period of time. And I should also say that I generally do not like to regulate people or industries, but I do make an exception in this particular instance because I think that there is no control whatsoever over the run away cost of health care in this country at the present time.

I should like to point out to you that the matter which we are discussing is really not such an infringement upon the physicians as some people would lead you to believe, and I would point out that a doctor when he enters practice is not prohibited from making his initial purchases of equipment subject to the pending proposal. He may, in fact, buy whatever equipment he needs in order to get into business. What we are really talking about are the high cost items that are in direct competition with services that are offered within our hospitals. And when a bunch of doctors get together and buy a cat scanner, which is an extremely sophisticated piece of equipment and extremely expensive and is needed very little, I think that they ought to be subject to some review before making that purchase.

When this item was originally discussed in

the Maine Health Systems Agency, there were those that advocated that everything be controlled, that a doctors office building be subject to approval, and a great many other things, and I opposed that particular wide sweeping proposal. But it seems to me that what we are really talking about are relatively few pieces of very sophisticated medical equipment. Cat scanners happen to be a name that is familiar to some of you and it is one that has caused some trouble within the State of Maine. The other areas of concern that we are really talking about are in the area of radiology, in general, pathology and perhaps ophthalmology and it seems to me that because of the extreme high cost, and because these are areas that compete very directly with the equipment that hospitals have and need that we ought to subject these areas to a certain amount of review, and that is what we are talking about. We are not saying that doctors cannot have this equipment, we are saying that it ought to be reviewed as to whether or not it is in fact needed. And it seems to me, that if we are going to control our costs of medical care which we are not doing now, that we have got to have some control. So I shall vote against the pending Amendment, but if the other amendment is offered, I shall be very happy to support it.

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

Mrs. SNOWE: Mr. President and Members of the Senate, I was pleased to hear the thoughts echoed by Senator from Penobscot, Senator Pray. Since he was never present at any of the Sessions on Certificate of Need nor did he sign the report. So I was glad to hear his thoughts on the Certificate of Need process. I might mention at this point and I think it was reiterated yesterday, the fact that the reason for including the acquisition of equipment for review under the Certificate of Need process by any individuals was included merely as a reaction to an isolated incident that occurred in Bangor last year. There has not been any other demonstrated need to include physician's offices. It seems to me interesting that 36 other states which have passed Certificate of Need have not included physician's offices at this point. Nor has the Federal Government recommended including physician's offices. And also as I mentioned yesterday one very important distinction in reimbursement to hospitals and reimbursement to physicians. Hospitals have no need not to purchase equipment because they are reimbursed a portion of that cost by the Federal Government. On the other hand, physicians, when they receive reimbursements it is on the basis of fee for service performed. So it is only on those services which are performed by a physicians are they reimbursed by a third party payer.

I think to that I should caution the Senate to pass such an amendment as offered by the Senator from Penobscot, Senator Trotzky, which is clearly discriminatory, clearly allowing second level of care for one kind of group as opposed to another, and I do not think that we want to pass this kind of legislation. Also, I hope that we are not under the misrepresentation that Certificate of Need is going to be the end all or it is going to contain health care costs. As a matter of fact, to the contrary. Several studies have been done on the Certificate of Need Process throughout the country and in fact, it is shown that the Certificate of Need process has exacerbated costs rather than constrained them. So I think that we ought to bear that in mind when we consider including such an Amendments as offered by the Senator from Penobscot, Senator Trotzky.

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

Mr. PRAY: Mr. President and Members of the Senate, contrary to the method of attack by the Senator from Androscoggin, Senator Snowe, as to my attendance at the summer session. I did attend the public hearing on this bill

last year, and I vote over the carry over system that we had adopted at that time. No I did not attend the summer meetings that they had so that I could make a livelihood and support my family. I did read the materials that were sent to me by the Committee. Also on that same argument, I would suppose that the Senator from Cumberland, Senator Conley; the Senator from Penobscot, Senator Trotzky; the Senator from Androscoggin, Senator Mangan; and the Senator from Aroostook, Senator Collins, should perhaps not have addressed this issue in this Chamber. Perhaps we should have let only the Committee make the discussion, and not have it rubber stamped by this Legislature.

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

Mr. TROTZKY: Mr. President and Members of the Senate, Senator Snowe from Androscoggin says that this Amendment is discriminatory. Well it is possible, very possible under the Bill which she signed that a piece of equipment can be bought by a group of physicians after it has been denied to a hospital, which everybody has access to. So in this case the majority report can end up being very discriminatory. It is my understanding that in the City of Bangor, that when the cat scanner was bought, originally, it was intended to be put in a private office. However, the agency, the Health Systems Agency, recommended that it be put in the hospital and it was finally leased to the hospital. So I would deny that this Amendment is discriminatory.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate, as a former member of the Maine Health Systems Agency, which did the original study on this particular matter. I do not think that I have to expand any further on the remarks made by Senator Don Collins, because he covered it extremely well.

In making inquiries about this particular Bill, especially the minority report, I have become more convinced that we should keep the capital at \$75,000, instead of expanding it to \$150,000. And if Senator Pray intends to introduce that Amendment, then I am sure that he has one guarantee vote as far as that is concerned, to keep it at \$75,000. In addition to all the points brought out by Senator Conley, Senator Trotzky, Senator Pray, and Senator Don Collins, another factor that I feel which is of paramount importance is in reading some of the letters I received, these physicians classify themselves in a free enterprise system, although they are professionals they do take taxpayers money and they have no reservations about that as far as I can tell, but another factor which is very important in many publications throughout the United States, it came out clearly saying many people have been over exposed to radiation treatments and cat scanners and things of this nature. And I would visualize that if a physician or a group of physicians were not making it, shall we say, insofar as the operating costs, that some of their patients would be unnecessarily subjected to a full cat scanning of their entire body, at again the expense of the insurance of the person might have or at the expense of the taxpayer. Where I think more discretion is utilized by our various hospitals in the State of Maine. I just want to put that additional point in, that I think basically, Americans are being overexposed to radiation, and this is one particular abuse, and who are we as lay persons to accept or reject a doctors evaluation that you need cat scanner for whatever ailment you might think you have. I think it is totally unfair. It is basically capitalizing upon a persons inability to understand the scope or magnitude of the type of ailment that he or she says that they actually have and possibly very serious abuse on the part of the medical profession.

The PRESIDENT: The Chair recognizes the

Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate, I wish to apologize to the Senator from Androscoggin, Senator Snowe, for my sharp rebuttal to her last statement that she made. And I would hope that future debate in the Senate would pertain only to the issues and not to personalities, or individuals that address those issues.

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

Mr. JACKSON: Mr. President and Members of the Senate, I have been sitting here this morning listening intently to the debate on the Maine Health Systems Agency, and I am really not that familiar with the problems in that field.

One thing that does concern me in reading the two Amendments which have been addressed here this morning in the needs for health care and the rising costs and the uncontrollable costs and things of this nature sort of irritate me just a little bit. We see one Amendment here with a proposal of a limit of \$150,000. We have another proposal here which limits to \$75,000. We have heard from the good Senator from Aroostook County; some of the machinery and some of the equipment that are used in the diagnosis and treatment which might cost more than \$75,000. Well gentlemen, I represent rural Maine, and over in my section of the State we have two hospitals that are within the distance of approximately 14 miles from each other. But on the other side of my district we do not have these. We have groups of doctors, groups together, what concerns me is that they might want to buy a radiology machine or an X-Ray machine, that might cost more than \$75,000 to diagnose a broken arm, or a broken toe or a broken finger, instead the Maine Health Systems Agency and the Department across the street might feel that it is unwarranted for section over there, so we have to transport them 50 to 55 miles to a hospital for an X-ray. These are some of the things that concern me.

There is one other thing that concerns me too in listening, is that we would almost think that the medical profession is pirating the people of the State. I feel that sometime I have the feeling sitting here that anybody who provides services for profit in this state is a villain. Well I disagree with that, and I think that to bring Governmental Regulation into a private enterprise or private sector, is a mistake, as far as the public areas are concerned, possibly. We do have some regulation, they have their own board of regulation. So I think that an Amendment such as this, that the Senator from Penobscot, Senator Trotzky, has presented, and the Senator from Penobscot, Senator Pray, are unwarranted and unneeded.

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

Mr. CONLEY: Mr. President and Members of the Senate, I certainly wish to commend the good Senator from Aroostook, Senator Collins, for his remarks relative to this subject matter.

I think that I would point out first that I perhaps reside in what would be considered the hub of the medical care facilities capital of the State. Which is encompassed within the Senate District 9. I would point out that the Maine Medical Center as well as Mercy Hospital not to mention the large number of doctor offices within that area. And the strange thing about it is that I have not heard from one doctor relative to this particular Bill. Not one doctor. Of course I would have to be a little bit honest about it, that I do not think that many doctors live within my area. But on the other hand, I think it is important that we again think of the words or statements made by the good Senator from Aroostook, Senator Collins. We are not restricting doctors, not one iota, not restricting them at all, what we are doing is setting up a policy of review, that is all. And once that board determines that there is a necessity for that piece of equipment, they get the green

light to go ahead and buy it. Nobody is restricting them, saying they cannot buy it, what they are doing is saying lets see what the need is in that particular area. And it should remove any objections the good Senator from Cumberland, Senator Jackson has, but we are not a bunch of school children around here. Anybody who has been walking the corridors since this Bill was put on the table, knows that this Bill has been lobbied to death. It has been lobbied to death by the medical profession of this State. You could not walk down this Senate aisle here a week ago without getting clobbered. Now I ask the Members of the Senate as to whether or not they are going to keep the people of this State in mind when voting on this Amendment this morning, or whether or not they are going to be dictated to be a lobbyist and some doctors who have probably got you on the phone over the weekend.

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

Mrs. SNOWE: Mr. President and Members of the Senate, one final point that I would like to make and that is; I also see including individuals under this Certificate of Need process for purchase of equipment, is somewhat counter productive, in the sense that we are preventing the development of, or at least deterring the development of, health clinics in rural settings. Right now we know that we are trying to get primary care physicians in rural areas, we are trying to get clinics set up, we do not know how to get this man power of these needs, and the Senator from Cumberland, Senator Conley, mentioned the need. Well that is just it, we do not really know what the need is in the State until we develop a State Health Plan. That is what the Federal Government wants us to do. To establish a State Health Plan, and until we do, we really do not know what our allocation of resources are, nor do we know what the need is. So I think that is very important.

Insofar as lobbying is concerned, I was prepared to debate this Bill when it was first on the Calendar. But it was requested time and again by others to table this Legislation. We could have avoided the lobbying, if in fact lobbying did occur, but I do not think that really bares any merits to this issue.

The PRESIDENT: Is the Senate ready for the question?

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 all those Senators present and voting.

Will all those Senators who favor 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 adoption of Senate Amendment C to LD2013.

A yes vote will be in favor of adoption of Senate Amendment C.

A nay vote will be opposed.

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

ROLL CALL

YEAS — Carpenter, Conley, Danton, O'Leary, Pray, Trotzky

NAYS — Chapman, Collins, D; Collins, S; Cummings, Curtis, Greeley, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, Martin, McNally, Minkowsky, Morrell, Pierce, Redmond, Snowe, Speers, Usher, Wyman

ABSENT — Farley, Hewes, Merrill

6 Senators having voted in the affirmative, 23 Senators in the negative, and 3 being absent, Senate Amendment C fails of adoption.

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

Mr. PRAY: I offer Senate Amendment D.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now offers Senate Amendment D to L. D. 2013 and moves its adoption.

The Secretary will read Senate Amendment D.

Senate Amendment D (S-435) Read.

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

Mr. PRAY: Mr. President and Members of the Senate, just to clarify what this Amendment does, it is basically the very same Amendment that the Senator from Penobscot, Senator Trotzky, offered except it has a limitation of \$75,000. I think that the Senator from Aroostook, Senator Collins, addressed that issue quite well and it really desires no further comment.

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

Mrs. SNOWE: Mr. President and Members of the Senate, I again arise to oppose the Amendment offered by the Senator from Penobscot, Senator Pray.

I think that I have made my position quite clear on this issue. I think that this is discriminatory legislation when you allow the Department to determine what kind of care will be provided for one class as opposed to another.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley. I think that I have made my position quite clear and once again I would ask that when the vote is taken it be taken by 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 on the adoption of Senate Amendment D please arise in their place to be counted.

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

The pending question before the Senate is the Adoption of Senate Amendment D to L. D. 2013. A yes vote will be in favor of adoption.

A nay vote will be opposed.

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

ROLL CALL

YEAS — Carpenter, Collins, D; Conley, Danton, Farley, Levine, Minkowsky, O'Leary, Pray, Usher

NAYS — Chapman, Collins, S; Cummings, Curtis, Greeley, Hichens, Huber, Jackson, Lovell, Mangan, Martin, McNally, Morrell, Pierce, Redmond, Snowe, Speers, Trotzky, Wyman

ABSENT — Hewes, Katz, Merrill

The PRESIDENT: 10 Senators having voted in the affirmative and 19 Senators in the negative, and 3 being absent, Senate Amendment D fails of adoption.

The Bill, as amended, Passed to be Engrossed.

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

Mr. SPEERS: Having voted on the prevailing side, I move that the Senate reconsider its actions, and I would urge the Senate to vote against the Motion.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate reconsider its action whereby this Bill was passed to be Engrossed.

Will all those Senators in favor of reconsideration will please say Yes.

Will all those opposed say No.

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

Sent down for concurrence.

Orders of the Day

The President laid before the Senate:

Bill, "An Act to Provide Transition Provisions Covering the Recent Amendments to Article 9 of the Uniform Commercial Code. (Emergency) (H. P. 1956) (L. D. 2038)

Tabled—January 16, 1978 by Senator Pierce of Kennebec

Pending—Adoption of Senate Amendment "B" (S - 431)

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

Mr. PIERCE: Mr. President and Members of the Senate, I would urge the Members of the Senate not to adopt Senate Amendment "B" and ask for a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate, It is my understanding that there is a problem with the Amendment that is presently before the Senate; and therefore, would join in voting against this particular Amendment.

The PRESIDENT: Is the Senate ready for the question? Will all those in favor of the adoption of Senate Amendment "B" to L. D. 2038 please rise in their places to be counted. Will all those opposed please rise in their places to be counted. No Senators having voted in the affirmative and 26 in the negative, Senate Amendment "B" fails at adoption.

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

Mr. CONLEY: Mr. President and Members of the Senate, it is my understanding that there is a problem or will be a problem if this Bill is passed to be Engrossed today. Then more than likely it would fail of enactment if it comes back to this Body. Primarily because, it is my understanding, that it is going to mean a loss of revenue between four to five hundred thousand dollars. The sponsor of the Amendment that was just defeated is not in the Chamber at this moment, but it is my understanding that there is another Amendment that is being prepared, to correct the inequity in Senate Amendment "B" that was indefinitely postponed. I for one would just as soon have someone put this on the table. It is my understanding that there is another Bill that is going to be heard Friday, dealing with the same subject matter. I see no real urgency to engross this Bill at this particular time, if it is going to fail of enactment. Come two days from now if it gets back here.

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

Mr. SPEERS: Mr. President and Members of the Senate, the good Minority Leader is mistaken with regard to this particular Bill. It is not this Bill that will bring about a loss of revenue to municipalities of some several thousands of dollars. That occurred in the last Session when this Body and the other Body saw fit to change the place of filing for uniform commercial code security interest, from the municipal clerks to the Secretary of State's office. That Bill, it is my understanding, has become effective as of January 1 of this year. There is as the Minority Leader mentioned, another Bill that is being heard in this legislature that would change the place of filing from the Secretary of State's office back to the municipal clerks. That is not the Bill that is before use at the present time. That Bill will be heard this Friday, and will be determined on its own merits. The Bill that we have before us at the present time was put in to correct some very serious technical difficulties with regard to transition periods with other matters dealing with the Uniform Commercial Code. There is an urgency to the enactment of this particular measure. I am not completely familiar with the problems that do exist at the present time, with the other Bill going into effect on January 1, and from January 1 to the present or until these transition sections are enacted into law, there is a problem that does not exist under the Uniform Commercial Code and under the filing of the security interest. It has nothing to do with the place of filing, which is the issue that is obviously very controversial and which has a number of people very much upset and as I say will be heard and rise or fall on its merits this

Friday.

The attempt was made under some of these Amendments to tack on to this particular Bill a provision which would stay the effectiveness of the Bill that was enacted in the last Legislature until July 1, of this year. As the Senator from Cumberland mentioned there were problems with that particular Amendment. The problems being, that the Amendment did not put back the condition that existed as of December 31st, of this year, as was the intent of that Amendment. It was erroneously drawn and it made some rather substantive changes and did not go back to the position that we were in on December 31st.

Basically, the issue of the place of filing should be decided by the Bill that has been introduced to decide specifically that issue and which will be heard on Friday. This particular measure was introduced to correct some very serious deficiencies, technical deficiencies, in the Bill that was enacted in the last Legislative Session and there are transition sections that are needed to bring that Bill into line. There is a degree of urgency with regard to this matter and I hope that it would continue on its way at this time.

The PRESIDENT: It is now the pleasure of the Senate that this Bill be Passed to be Engrossed in non-concurrence? It is a vote.

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

Mr. SPEERS: I move that the Senate reconsider its action whereby this was passed to be Engrossed and urge the Senate to vote against me.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate reconsider its action whereby this Bill was Passed to be Engrossed.

Will all those Senators in favor of reconsideration please say yes.

Will all those opposed please say no.

A viva voce vote being had, the Motion to reconsider does not prevail.

On motion of Mr. Huber of Cumberland, Adjourned until 10 o'clock in the morning, Wednesday, January 18, 1978.