

MAINE STATE LEGISLATURE

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



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

LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

INDEX

Senate Confirmation Session

June 14, 1978

INDEX

First Special Session

September 6, 1978 — September 15, 1978

INDEX

Second Special Session

October 18, 1978

INDEX

Third Special Session

December 6, 1978

INDEX

APPENDIX

SENATE

February 8, 1978

Senate called to Order by the President.

Prayer by Reverend Donald W. Jacques, St. Joseph's Church, Gardiner.

Reverend JACQUES: Heavenly Father, we gather here today as citizens all concerned for the common good of this State of Maine.

We ask that you assist these legislators to make right decisions, that the people of Maine may continue to live in this beautiful state in the health and happiness and prosperity which are justly theirs — endowed to them by God because of the human dignity which he has given us.

We ask your blessings then on those involved in this assembly. Grant them wisdom and compassion in their efforts for all of God's people. Amen.

Reading of the Journal of yesterday.

Papers of the House
Joint Resolution

A Joint Resolution In Memoriam:

Whereas, the Legislation has learned with deep regret the death of Clara E. Stackpole, a teacher, writer and community leader of Lebanon, (H. P. 2085)

Comes from the House, Read and Adopted.

Which was Read and Adopted, in concurrence.

Committee Reports
House
Ought to Pass

The Committee on Public Utilities on, Bill, "An Act to Amend the Charter of the Gray Water District." (Emergency) (H. P. 1967) (L. D. 2048)

Reported that the same Ought to Pass.

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

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

Ought to Pass — As Amended

The Committee on Public Utilities on, Bill, "An Act to Increase the Authorized Indebtedness of the Kennebunk Sewer District and to Limit the Use of that Increase." (H. P. 2012) (L. D. 2087)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1011).

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

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

Second Readers

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

House — As Amended

Bill, "An Act Relating to Preventive Discipline in the Schools". (H. P. 1866) (L. D. 1916)

RESOLVE, to Appeal the Decision of the State Claims Board Regarding Property Loss Suffered by Henry E. Ripley of Augusta Because of Theft at the Augusta Mental Health Institute. (H. P. 2011) (L. D. 2086)

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

Senate — As Amended

Bill, "An Act to Exempt the Industrial Accident Commission From the Administrative Procedure Act." (S. P. 644) (L. D. 2011)

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

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported the following:

An Act Pertaining to Ordinary Death Benefits Under the Maine State Retirement System. (H. P. 1885) (L. D. 1939)

On Motion of Mr. Huber of Cumberland, placed on the Special Appropriations Table.

An Act to Exempt Special Mobile Equipment from the Motor Vehicle Title Statutes. (H. P. 1901) (L. D. 1962)

An Act Concerning Limitation of Actions and Assumptions of Risk under the Elevator and Tramway Statutes Pertaining to Ski Areas. (H. P. 2060) (L. D. 2118)

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

RESOLVE, to Appeal the Decision of State Claims Board Regarding Property Damage Claims from Collapse of Building at Northern Maine Vocational-Technical Institute. (H. P. 1876) (L. D. 1912)

On Motion of Mr. Huber of Cumberland, placed on the Special Appropriations Table.

Emergency

An Act Concerning Membership on the Food and Farmland Study Commission. (H. P. 1962) (L. D. 2045)

Emergency

An Act to Delay Implementation of the Court Intake Worker Function until July 1, 1978. (H. P. 1869) (L. D. 1926)

These being emergency measures and having received the affirmative votes of 29 members of the Senate, were Finally Passed and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Orders of the Day

The President laid before the Senate:

House Reports — from the Committee on Legal Affairs — RESOLVE, to Terminate any Liability of the Town of Oakland to Clear Debris from the Fish Screen at Messalonskee Lake. (H. P. 1874) (L. D. 1911) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass

Tabled — February 6, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Either Report

On Motion of Mr. Speers of Kennebec, Retabled until Monday next.

The President laid before the Senate:

Bill, "An Act to Increase the Amount which Qualifies a Financial Institution for Exemption from Insurance of Deposits on Accounts. (H. P. 1862) (L. D. 1920) Emergency

Tabled — February 7, 1978 by Senator Speers of Kennebec

Pending — Consideration.

On Motion of Mrs. Snowe of Androscoggin, the Senate voted to Reced and Concur.

The President laid before the Senate:

Bill, "An Act to Repeal Mandatory Eye Tests for the Renewal of Driver's Licenses for all Persons over 40. (H. P. 1884) (L. D. 1938) Emergency

Tabled — February 7, 1978 by Senator Speers of Kennebec

Pending — Consideration

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

Mr. COLLINS: Mr. President, I move that the Senate Adhere.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate Adhere. It is the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I move that the Senate Recede and Concur.

The PRESIDENT: The Senator from Penob-

scot, Senator Pray, now moves that the Senate Recede and Concur with the House.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I request a Roll Call on this Motion.

This matter was thoroughly debated last week. The Bill has been amended in the fashion that spreads the eye testing over a period of time clarifying the language that was passed last year and I think in its present posture, it ought to be comfortable both in administration and in acceptance by the public which once in 12 years will find a requirement for a very simple visual acuity eye test.

One of the best reviews of this whole matter appeared in the Press Herald Editorial Column on Monday of this week. And copies of that editorial have been on our desk and I know that many of you have read it, so I will not read it, but I think that it is important to recognize that we have here a modest program for reducing automobile accidents on our highways. An inexpensive program and one that we really ought to support in the interest of the public safety.

I would urge you to vote no on the pending motion, because the pending motion would have the effect of just completely wiping out the existing law.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: I would hope this morning that the Senate would vote for the Motion to recede and concur.

The Transportation Committee really gave a great deal of consideration for this particular Bill and I would just like to reiterate again for the Senate, there was no valid justification of statistics bought before the Committee to say that it was going to reduce accidents in the State of Maine.

Many of the people who read the editorials in the Portland Press Herald have got the leisure time which is matriculate back and forth when an eye examination is due them. And we do have categories of people who fall in a particular classification but the average rank and file worker who works for a weekly salary or a weekly hourly rate does not have this flexibility. And my concern is with this particular individual. And if I understand the statistics correctly, there are over 200,000 people in the State of Maine that fall in that category. And worse than that, maybe in my area where one of the major opponents was the Lewiston Motor Vehicle Registration Bureau. These statistics are now just being developed, and these people are just going to wake up to the fact that it is a mandatory eye examination, but again the people in the out lying areas who must travel 60 or 70 or 80 miles, they may be losing an entire days salary, another group that I am concerned about.

The justification that has been brought out for this particular, enactment of this particular Amendment presented by Senator Collins, is what I would classify as infinitesimal. It really has no substantial value. It was brought out very clearly during public hearings, we should be looking at the people who are driving on our highways that are inebriated. They are the ones who are causing the major problems. And if we start mandating things of this nature, and as I mentioned previously will have to go to every single person who is a diabetic, a person who has a heart condition, or many other different ailments and before long, we are going to mandate people right into oblivion.

I do not feel that it is justified just to pick on one particular category, on age 40 to 52 to say once in 12 years you have to have an eye examination. And as I brought out previously, in Senator Sam Collins Amendment, the classification age 52 to 64 are exempt, and you would think that would be the category if there

are going to be any serious eye impairments that would take place. Not the group from 40 to 52.

Mr. President and Members of the Senate, I would hope that you would move to recede and concur with the House in this particular Bill.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate, I was part of that large majority last week that voted for the Amendment as offered by the Senator from Knox, Senator Collins. I have no problem with the concept unlike the Senator from Androscoggin, Senator Minkowsky. I have no problem with the concept of an eye test once every 12 years. I think regardless of which side you are on this issue, I think we have heard both sides of this issue here in this Senate admit that the law is presently written is a mess, and I think that this morning's vote ought to be to recede and concur, because at this point we have nothing left to deal with and we are going to leave it on the books as a mess. I would hope that we would vote to recede and concur this morning. Take the law off the books. I for one, if I am back in the 109th Legislature, would support Legislation clarifying this situation and the possibility of an eye test every 12 years. As long as the situation is clarified. What strikes me as a bit ridiculous this morning is that we have gotten to the position of where everyone is in agreement that the law as it is presently being enforced is intolerable especially if you live in a rural area such as I do. The Amendment as offered by the Senator from Knox, Senator Collins made it fallible for me. We no longer have that in front of us. We have to leave the law as it is or we must repeal it, and those are our only two options and if this Senate was willing and Senators individually talking to me and other Members of the Senate are willing to admit the Bill, the intent of the law was good, the intent of the original legislation was good, but the way it is being enforced the way it is being forced on the people of the State of Maine is not good and I think that we should back up and drop back five and punt, and wait for the 109th and perhaps come back with some type of legislation to correct the situation, and I would hope that you would vote to recede and concur this morning.

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

Mr. COLLINS: Mr. President, I submit that the good Senator from Aroostook, Senator Carpenter is mistaken in his opinion about the stature of the Bill, the status of the Bill as it comes before us in this issue. He suggested to us that we either have no Bill or we have a Bill that was enacted last year which he says is a mess. That will not be the case if the Senate votes to Adhere, then the Amendment that I presented last week would be the status of the Bill and the Bill would then go back to the other Body and that Body would have the choice of going along with the Senates position or simply killing the Bill so that there would be that choice in the House and I submit that the wise choice is to accept the Bill as amended and as passed by the Senate last week.

Just one more word about the concerns of the Senator from Androscoggin, Senator Minkowsky. The State already owns a number of portable units for this acuity testing. This matter of the test once in 12 years would mean instead of 200,000 people in a year, it would probably mean between 20,000 and 30,000 people in the course of the year. And there are volunteer troupes that are interested in using these portable testing sets. The training is simple. It is a visual acuity test. Lions Clubs all over the State have shown an interest in this, but have of course, been side tracked by the administrative position of the Secretary of State about this. So if these units sit unpacked in the closet owned by us but not at work. If they are put to work, I think that the people in outlying areas

can very readily be accommodated at no expense. So I do not see the inconvenience argument as a major obstacle. The people in the district represented by the good Senator from Androscoggin, can in many cases have these portable units come right into their factories or other places of occupation and do mass testing which will be acceptable to the Secretary of State's program. And I submit that this ought to be done, it will be good for these people to know something about how their eye sight has changed and whether they need some further checking. It is a good health measure as well as a good safety measure. I again urge you to vote no.

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

Mr. HICHENS: Mr. President and Members of the Senate, I think one point that has not been brought out this morning, is the fact that the Bill as now given to us from the House and would be a result of our receding and concurring is that the law will not be repealed until sometime in June. Which means that for about eight months, from the first of November until the middle of June, all of those people whose licenses have to be renewed, have to take an eye test if the motor vehicle division complies with the law as it now stands. That means that one-third of all the people with the license renewal in the two year period, which they have to be screeching about would cost so much and so much inconvenience would have already been taken care of. Is that fair to have one-third of all of these people have to abide by a law and then the other two-thirds get away without having their eyes tested? I think that we should consider that this morning.

In remarking on the report from our good Senator from Androscoggin, Senator Minkowsky, I think he is crossing his bridges before he gets to them. That always seem to be a ploy, well if we do this, just think of what we are going to have to do in the future. I think that we should take each step as it comes and live each day at a time.

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

Mr. O'LEARY: Mr. President, I represent a rather large district here in the State of Maine, and alot of it is rural and I listen to the words of the Senator from Androscoggin, Senator Minkowsky speak about this. To elaborate more upon it, I would submit to this Legislature, that there are a number of unorganized townships in my area, such as Lincoln Plantation, Magalloway Plantation, Coburn Gore and Dallas Plantation, Coplin Plantation, but for any of these people to get to an eye doctor, or to a place where they may take an eye test or before the motor vehicle division, they would travel upwards of 90 miles. Now mind you, Oxford County is only about 140 miles long, but when you talk about the northern part of Franklin County, the closest you can get to an eye doctor or to a motor vehicle division office, they will travel between 70 to 90 miles. Now this is not a one day, one hour thing, it is a whole day trip for them. Because these are remote areas, and I am sure that the good Senator from Somerset, Senator Redmond, represents towns very similar to mine.

I think this is an undo hardship, and like the good Senator from Aroostook, Senator Carpenter reiterated, this, if we do not go along with it, we will in substance in the end be killing the entire Bill and we will live with something that no one wants. I would hope that we defeat the Motion to adhere and we will recede and concur.

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

Mr. LOVELL: Mr. President and Ladies and Gentlemen of the Senate, as I look around, I see quite a number of you with glasses on, and I do not doubt that you need them. Now I understand there are several hundred people in the State of Maine that are legally blind that have a

driver's license, and those people who are legally blind have driver's license could very well kill one of you people while you are going home some day. So I think that we should definitely pass this. Once every 12 years is not too much. There are Lions Clubs all over the State. We are having one in York County and over in Berwick we are giving an eye test all the time. There is no reason why a person out in the woods can not get a ride in some where once every 12 years and not only that, but if they go to a doctor or optometrist, they might find something else wrong with them. A bad heart or something, and they might even save their life by just going in and having their eyes tested. So I think that we ought to go along with and adhere.

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

Mr. SPEERS: Mr. President, I am a little bit disturbed with some of the references that have been made to the action that might be taken in the other Body should we vote to adhere on this particular matter. The other Body has been known to reasonable at times, and I would certainly hope that they would not take the position that if this Bill is not to be repealed that it at least not to be improved.

I think that the Amendment that we placed on this Bill in this Body is certainly a reasonable one. It certainly improves the law and if this Senate adheres to its previous position, I am sure that the other Body is not going to be stubborn as to say that we do not wish to improve the law if we are not even able to repeal it.

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

Mr. O'LEARY: Mr. President in regard to the remarks from the good Senator from York, Senator Lovell, noting that a lot of us in this Body wear glasses. Well I have worn glasses sine I was 24 years of age. I do not think anyone here has ever seen me without a pair of glasses.

Three years ago I purchases a motorcycle and in order to get an operators permit, I had to take a written test, and a visual test. Where as I have never been noted on my drivers license as being restricted to glasses, I thought for sure that I was going to be this time, but the officer in charge asked me if I wanted to try it without my glasses and I did. This is my license now, and if you will notice on here where it says restrictions, if any, that I am still not restricted to glasses.

I am aware of one case, of one gentleman who had to appear to take his eye test and he flunked at the Motor Vehicles Bureau and; consequently, went to an optometrist and after the examination of the optometrist and a fee of \$20.00 he was given a certificate saying that he did not need glasses. This is not right. And I do not entirely disagree with the comments of the good Senator from Kennebec, Senator Speers, that the other Body has at times reacted responsibly, but I believe in my own mind that this will spell the defeat of this Bill.

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 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 York, Senator Lovell.

Mr. LOVELL: Mr. President, just in answer to the good Senator from Oxford, Senator O'Leary, I have my drivers license here and I am not restricted to glasses either, but I cannot see a thing without my glasses, but it is not restricted on my drivers license.

The PRESIDENT: The pending question before the Senate, is the Motion by the Senator from Penobscot, Senator Pray, that the Senate

recede and concur with the House.

A yes vote will be in favor of receding and concurring.

A nay vote will be opposed.

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

ROLL CALL

YEAS: Carpenter, Conley, Cummings, Danton, Farley, Greeley, Hewes, Jackson, Martin, Merrill, Minkowsky, O'Leary, Pray, Redmond, Usher.

NAYS: Chapman, Collins, D., Collins, S., Curtis, Hichens, Huber, Lovell, Mangan, McNally, Morrell, Pierce, Snowe, Speers, Trozky, Wyman.

ABSENT: Katz, Levine.

15 Senators having voted in the affirmative, and 15 Senators in the negative, with 2 Senators being absent, the Motion to Recede and Concur does not prevail.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President, I now move that the Senate Insist, and I would like to speak to my Motion.

The PRESIDENT: The Senator has the floor.

Mr. PRAY: Mr. President, since we have made a number of references today to what may take place once this Bill leaves this Body and goes wherever it goes, and whatever may happen to it there, I think that we should consider the original intent of the piece of Legislation that we have.

By far, this Bill I have received more comments from my constituency back home. Being here in Augusta, I listen to Channel 13 out of the Portland area. Listen to the polls that one of the Portland Television Stations took and found that the general public also in the Southern part of the State, as well as the Northern part of the State dislike this law immensely. They have expressed desires that they would prefer to see this law repealed. The original intent of the piece of Legislation was to do that. In response to a general outcry from the general public who all of a sudden who found out that they had to have their eyes tested to have their licenses renewed.

I think it is the action that we would be taking on that piece of Legislation, the one which repealed it would be responding to the general public. The action that happened in the Legislative process was that we completely turned the Bill around from one which repealed to one which revised. The Senator from Knox, Senator Collins, had his amendment adopted in here and elsewhere wherever these Bill go. His Amendment was amended back to the original intent of the Bill. I would like to see the two Bodies have an opportunity to attempt in some way to work this measure out. To adhere today would only be putting this Bill in a posture which has already been on of disagreement between this Legislative Branch and wherever else it may go. I would hope that the Body here today would go along with my Motion now to Insist that this matter could be discussed on a less political standpoint.

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

Mr. COLLINS: Mr. President, I would ask for a Roll Call and would urge the Senate to vote no on this motion to Insist.

I would also submit to the Senate that some of the displeasure of the public which the good Senator from Penobscot, Senator Pray has spoken of, could very readily be alleviated if the Secretary of State would only permit those uncrated machines for testing to be let out into the public domain and used as this Legislature intended they should be, rather than have them bottled up there so that he can use them as a political ploy. I hope that the Senate will vote no on the pending motion.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, parliamentary inquiry. Is the present motion simply a Motion to Insist or to Insist and Join in a Committee of Conference?

The PRESIDENT: The Chair understood the Motion to be Insist.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, is the Motion to recommit in order at the present time.

The PRESIDENT: The Chair would answer in the affirmative. The strongest motion possible.

The Chair recognizes the same Senator.

Mr. MINKOWSKY: Mr. President, I so move that the Bill and accompanying papers be re-committed to the Committee on Transportation.

The PRESIDENT: The Chair would ask the Senate to be at ease for a moment.

(At Ease)

The PRESIDENT: The Chair would advise the Senator that the Motion to recommit is not in order at this time, because the Senate is not in concurrence with the House.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I move that the Senate Recede.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate Recede.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I request a Roll Call and urgently ask the Senate to vote no.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Request that the Secretary read the Committee Report

Committee Reports Read.

The PRESIDENT: 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 the Senate Recede.

A yes vote will be in favor of the Motion to Recede.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Carpenter, Conley, Cummings, Danton, Farley, Greeley, Jackson, Martin, Merrill, Minkowsky, O'Leary, Pray, Usher, Wyman.

NAYS: Chapman, D.; Collins, S.; Collins, Curtis, Hewes, Hichens, Huber, Lovell, Mangan, McNally, Morrell, Pierce, Redmond, Snowe, Speers, Trozky.

ABSENT: Katz, Levine.

14 Senators having voted in the affirmative and 16 Senators in the negative, with 2 Senators being absent, the Motion to Recede does not prevail.

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

Mr. PRAY: Mr. President, question through the Chair as to whether or not my Motion to Insist would be amendable to Insist and Ask for a Committee of Conference?

The PRESIDENT: The Chair would answer in the affirmative.

The Chair recognizes the same Senator.

Mr. PRAY: I thus do so.

The PRESIDENT: The Senator from Penob-

scot, Senator Pray, now moves that the Senate Insist and Request a Committee of Conference with the House.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I would ask for a Roll Call and urge the Senate to vote no.

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

Mr. CONLEY: Mr. President, I would really hesitate to have another Roll Call because I know after the last two, that the retention period in this Chamber has lasted about five minutes.

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

Mr. PRAY: Mr. President and Members of the Senate, I always have thought that the mule was the symbol of the Democratic Party.

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 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 Penobscot, Senator Pray, that the Senate Insist and Ask for a Committee of Conference with the House.

A yes vote will be in favor of the Motion.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Carpenter, Conley, Cummings, Danton, Farley, Greeley, Martin, Merrill, Minkowsky, O'Leary, Pray, Usher, Wyman

NAYS: Chapman, Collins, D.; Collins, S.; Curtis, Hewes, Hichens, Huber, Jackson, Lovell, Mangan, McNally, Morrell, Pierce, Redmond, Snowe, Speers, Trozky.

ABSENT: Katz, Levine.

13 Senators having voted in the affirmative, and 17 Senators in the negative, with 2 Senators being absent, the Motion to Insist and Ask for a Committee of Conference does not prevail.

The PRESIDENT: Is it now the pleasure of the Senate to Adhere?

The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: 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 Merrill.

Mr. MERRILL: Mr. President and Members of the Senate, this debate has been long enough, but I would just like to ask the Members of the Senate before we vote on this final Bill to consider whether or not it is not possible to improve the consciousness of people's eye sight in some other way than passing a new law that is going to put a new restriction on our citizens and take extra time away from their other activities.

It would seem to me, if we undertook an effort to educate the people of Maine, we could make these eye tests available and started making them available on a ready basis and travelling around to places where people work, that we could accomplish many of the goals that we are trying to do here without keeping another regulation, another impediment upon people in their daily lives. And I think that that is an approach that we ought to at least try before we pass on more small law that makes it necessary for the citizens to make one more

step out of their daily lives in order to comply with the State Laws.

The PRESIDENT: The pending question before the Senate, is the Motion of the Senator from Knox, Senator Collins, that the Senate Adhere.

A yes vote will be in favor of the Motion to Adhere.

A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

YEAS: Chapman, Collins, D., Collins, S., Curtis, Hewes, Hichens, Huber, Lovell, Mangan, McNally, Morrell, Pierce, Redmond, Snow, Speers, Trotzky.

NAYS: Carpenter, Conley, Cummings, Danton, Farley, Greeley, Jackson, Martin, Merrill, Minkowsky, O'Leary, Pray, Usher, Wyman.

ABSENT: Katz, Levine.

16 Senators having voted in the affirmative, and 14 Senators in the negative, with 2 Senators being absent, the Motion to Adhere does prevail.

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

Mr. LOVELL: Mr. President, I move reconsideration and hope that the Senate votes against me.

The PRESIDENT: The Senator from York, Senator Lovell, now moves that the Senate reconsider its action whereby it voted to adhere.

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.

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act to Provide for the Payment of Costs for Relocating Utility Facilities in an Urban Renewal Area." (H. P. 2072)(L. D. 2131) Emergency.

Tabled — February 7, 1978 by Senator Cummings of Penobscot.

Pending — Passage to be Engrossed.

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

Mr. COLLINS: Mr. President, I offer Senate Amendment "A" (S-549) and move its adoption, and would speak to my Motion.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now offers Senate Amendment "A" to L. D. 2131 and moves its adoption. The Secretary will Read Senate Amendment "A".

Senate Amendment "A" (S-549) Read.

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

Mr. COLLINS: Mr. President and Members of the Senate: the Bill provides for the ability of the Urban Renewal Authority to request federal funds when utilities are put under ground. The Amendment expands a little further recognizing that the cost of under ground facilities are substantial and it provides for an overview by the Public Utilities Commission so that these cost may not get out of hand and it recognizes that it does go into the rate base.

Senate Amendment "A" Adopted.

This Bill, as amended, Passed to be Engrossed in non-concurrence. Sent down for concurrence.

The President laid before the Senate:

House Reports — from the Committee on Education — Bill, "An Act to Provide for Alternative Election Procedures for School Budgets on a Local Basis." (H. P. 1909) (L. D. 1970) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass, as amended by Committee Amendment "A" (H-999)

Tabled — February 7, 1978 by Senator Speers of Kennebec,

Pending — Acceptance of Either Report

On Motion of Mr. Speers of Kennebec, Re-tabled for One Legislative Day.

The President laid before the Senate:

House Report — from the Committee on Agriculture — Bill, "An Act to Permit Persons other than Arborist to take down Trees by Topping or Sections." (Emergency) (H. P. 1858) (L. D. 1925) Ought to Pass as Amended by Committee Amendment "A" (H-981)

Tabled — February 7, 1978 by Senator Conley of Cumberland.

Pending — Acceptance of Report.

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

Mr. CONLEY: Mr. President and Members of the Senate: sometime ago when this Bill first came before the Legislative Leadership for its introduction, I was concerned with the fact with the statements that were made as to why this particular Bill was such an emergency to come before this Session. At that time, I believe, it was indicated that no person could go out and top a tree unless he had a license under the state statute and giving some rationale to that, I thought that was indeed a hardship on any individual who wanted to top a tree within his own yard or possibly have a neighbor or someone who is in that business to be able to come over and do it. I find that that is not quite true today.

I remember back several years ago when I had the opportunity of serving on the Legal Affairs Committee, that I was extremely skeptic of legislation that came before us that dealt with various Regulatory Boards because it always seemed to me that everytime we got a piece of legislation before us dealing with these Boards, the Legislation generally meant more restrictions for those outside of that general area to try to get in and perform the services provided under that regulatory Board. In fact, I remember once one year that the Plumbers Board came in and they were concerned about the Plumbers Examination that was being given, and apparently a Master Plumbers Degree and apparently the regulations were not strict enough as far as they were concerned, and they wanted to make it a wee bit stronger because of the great influx on the citizens of this State and the large number of master plumbers that were coming about. When I remember that the Committee at that time became a little bit concerned when they got into executive session and they saw and reviewed the Bill exactly for what it was, just an additional hardship on citizens within the State who wanted to engage in the profession of becoming plumbers.

The Committee sat down with that Bill and they rewrote it and what they did was instead of making it more restrictive, what they did was they rewrote it to make it easier to become a master plumber. One reason for that being, and I am not in that particular professional trade, but part of the examination I guess, a great percent of that examination depended on whether or not the plumber could, what they say is "wipe a lead joint". Well, I know that "wiping lead joints" is not something that we commonly hear about, but those who work in hospitals or heavy industrial plants realize that there is an opportunity on occasion to fix a crack or something that consist very highly of lead. What we did was we cut down the examination, the total examination given to master plumbers at that time, that "wiping a lead joint" could not consist of more than 10 or 20 percent of the total examination and I know that it became very disturbing to the Plumbers Board and the Master Plumbers throughout the State.

When I first saw this Bill, I thought again it was another private group coming in or that the present statute is self protected, the Arborist Association throughout the State from allowing anyone to come in and start topping trees. I find that that is quite contrary, and I look upon the particular piece of Legislation before us today if the Committee Report is

adopted, to be extremely very dangerous piece of Legislation and I am concerned because the fact is that anyone today has the right on his own property to go out and top or fall any tree without any kind of a license or without any kind of insurance. What I am concerned though is, if we are going to allow any Tom, Dick and Harry who comes down the pike with a saw in his hands just to be able to come in and start topping trees in peoples yards without any kind of insurance whatsoever, that we are going to find indeed a very, very serious and damaging situation.

I have a letter before me this morning that is from the Maine Arborists Association and I can tell you that it is not my profession to engage in shubbery or tree topping or anything of that like other then the fact that I have great admiration for the trees everywhere, and I just hope that we can keep them standing rather than falling. But I am concerned with this letter, because I think it is indeed a very serious one. It is addressed to me. And it says,

In no way is the home owner ever in violation of the law in taking down his own trees nor in hiring any one he wishes to take these trees down. Hiring an unlicensed operator is not an illegal act on the part of the home owner.

The law is broken only when an individual solicits or otherwise offers his services for sale in performing hazardous tree removals. The removal of trees which do not require special equipment and special acts, such as needed for climbing or roping, is not covered by the existing law.

Although there have been persons advised to obtain licensing and liability insurance coverage in order to engage in hazardous tree removal operations no one has yet been prosecuted under this law.

The Arborist Law has served simply to provide protection to the public from flagrant violators much the same as automobile speed laws serve to curb excessive speed violations. No one gets arrested for going 2 or 3 miles an hour over the speed limit, but there has to be a starting point somewhere.

The amendment establishing a \$250.00 annual exemption to the present law will provide no benefits to the public which the public does not already have. On the other hand this seemingly harmless amendment would emasculate the law and render it useless since there is no affective means of policing such an amendment.

There are nearly 200 licensed arborists in the State of Maine stretching from York to Fort Kent. Our selfish motive in wanting to stop this amendment is obvious. The licensed operators have a substantial investment in the special safety equipment and the high liability insurance premiums required in this industry. Allowing anyone to operate a business without providing these protections to the customer constitutes unfair competition to the licensed operators and unfairly subjects the customer to accident liabilities. The Home Owner Insurance Policies will not provide protection to the home owners own property or person in these situation.

We submit the following questions for your examination:

What benefits would the proposed amendment provide which the public does not already enjoy?

Just who has been inconvenienced by the Arborist Law — a law which has been in existence for over 30 years?

We respectfully urge you to vote no on L. D. 1925 and amendment A and keep intact a law which has served the citizens of Maine well for many years."

Mr. President and Members of the Senate, I have not heard any good reasons for the adoption of the present Bill before us, and until I hear good reasons for it, I intend to vote against it. And at this time, Mr. President, I would move that this Bill and all its accompany papers be indefinitely postponed.

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

Mr. CHAPMAN: Mr. President and Members of the Senate, I find myself concerned about the advisability of this Bill which would change existing law requiring any person felling a tree by topping or by sections, for hire, to be licensed under the Arborist Law.

Licensing under the Arborist Law, as I understand it, insures that persons doing this kind of work are properly trained in this kind of hazardous activity and are also financially responsible through proper liability insurance. While being so licensed places some restrictions upon person desirous of doing this type of work, I see it as in the best interest of society as a whole that this should be so. Felling trees in this manner usually occurs in either built up areas or in those situations where public roads or electric power lines are in close proximity.

This Bill would exempt from the licensing law anyone who does \$250.00 or less of this type of work in a year. Individuals, therefore, on a limited scale would be encouraged to attempt potentially dangerous tree removal techniques without proper knowledge or instruction, the result of which could be serious property damage or serious injury.

I see the Bill before us as one that will weaken the basic purpose of represent law, which is to protect the public, by insuring the persons doing this type of work are knowledgeable and financially responsible.

I would urge the Senate to support the Motion of the Senator from Cumberland, Senator Conley.

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

Mr. REDMOND: Mr. President, I oppose the Motion to indefinitely postpone this Bill and all its accompanying papers and I would like to speak to my Motion.

The PRESIDENT: The Senator has the Floor.

Mr. REDMOND: Mr. President and Members of the Senate, I live in a rural area. The district which I serve is mostly rural, and inasmuch as I have the most respect for the arborist and their profession, they do a very fine job.

Last year I had a few trees removed around my buildings that cost me \$100.00 and I am sure that under those conditions if I would have required the help from professionals would have probably cost me \$500.00. And many of the people in the area which I serve have a neighbor who has a chainsaw and can perform that type of work and I think that this \$250.00 limit is only reasonable.

I can assure you that the arborist in performing their work are very cautious and they do a very fine job and; however, I do not think that we should compel people to have to go to these experts if they want a tree removed in areas where they are capable of doing it themselves.

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

Mr. McNALLY: Mr. President, I read that \$250.00 Amendment and I am totally confused about it. I am afraid I cannot see here whether it helps or hurts to insist that a fellow can do \$250.00 worth of work while you do not need an arborist anyway. I think he could do any amount of work that you wanted to pay for. I do not understand it, I wish that somebody in that Committee that heard the Bill could explain or whoever has the amendment could explain to me just what good does it do?

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

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate, I will try to explain the Amendment.

The purpose of the original Bill was to allow the felling or topping of trees by other persons other than an arborist for compensation. In

view of the amendment, the amendment was prepared and is a committee amendment was to limit the amount that could be earned by any individual felling or topping trees to \$250.00 total in one year. In reviewing the law of 1973, the provisions, I believe it was made in 1975 to the definition of arborist which I was unaware of when we heard the Bill and when I was contemplating the amendment which I have had an opportunity to read after receiving this letter from Mr. Thibodeau the Executive Director of the Maine Arborist Association and his letter dated January 30, and I am so pleased to see that the good Senator from Cumberland, Senator Conley read this into the record so that if the cause ever arises again or an individual landowner or homeowner hires someone other than an arborist who did not solicit the job, that he would be open to prosecution of the law. This is the one reason that I was glad that he read this into the record, because I think that it clears up the ambiguities that we heard in the Committee Hearing on whether a person if he did solicit a person other than an arborist to assist him in taking down a tree on his own property. He was in violation of the law. I think that this was the biggest concern of the Committee had, although I cannot speak for the entire Committee and I notice that the Chairman is absent from the Chamber at the present time. But I did sign the Report out Ought to Pass and I am changing my vote this morning, I am going to vote with the good Senator from Cumberland, Senator Conley to indefinitely postpone the Bill and I would hope that if anything ever results, that they would refer to the record as indicated this morning by Senator Conley. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: Mr. President, I am still confused. Does it mean that you cannot hire a man and all you can pay him is \$250.00 if he is going to cut the top off of a tree? I have several in my yard that I do not intend to have any arborist cut down. The maples are getting old like I am and I intend maybe if I have to spend as much as \$255.00 if necessary to save one from falling into the barn. And I am going to go along with that Motion to indefinitely postpone this thing.

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

Mr. MARTIN: I request a Division on the pending Motion.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate, I am happy that finally this Bill has come before us where we can debate it. It has been on the table so long I almost forgot about it.

I found the Bill to be quite interesting, and some of the comments that were made here today and some of the material I received in the mail. Such as the letter that was read into the Record by the Minority Floorleader, the Senator from Cumberland, Senator Conley.

And just one thing that caught my eye off hand and I quickly checked out was the fact, the statement that individual who had written the letter stated that the law had been in existence over 30 years. The law was first established in 1954, and if my math is not too bad, and it has not been in existence for over 30 years. I think that the individual that sponsored the piece of legislation presented his case to leadership as to why it was being put in and there was such an instant raise the state where an individual who was doing this was approached and was threatened by the interpretation of the law. Even though in the letter that we stated that these individuals can presently do this. I think that what the amendment does is

spells out a clear limit as to what can be done without receiving a license. I think that the figure \$250.00 is perhaps an arbitrary one, but at least it establishes something for those individuals who do do this part time or to some limited scale. I think that it clears up the existing statute of some individuals in this state that question this. And as Senator Redmond raised the issue that he raised, I think that this would attempt in some way to at least solve his problem.

So I would hope that we would oppose the Motion today and perhaps when more of the Committee Members, I noticed that two of them are absent, are here, on a unanimous report could perhaps enlighten us with a little more debate.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate, I again would just like to reiterate, it is my understanding that under the present law today, that anyone can fell a tree on his own property. Secondly; he can have anyone come over and fall the tree for him, but to adopt what is before us today is what I understand is only going to totally confuse existing statutes for that reason, I see no good sense for us to adopt this language to make it so extremely vague and so difficult to enforce such a law. Therefore, I again would ask the Senate to support the Motion to indefinitely postpone.

The PRESIDENT: Is the Senate ready for the question? A division has been requested. The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Conley, that the Senate indefinitely postpone L. D. 1025.

Will all those Senators in favor of the Motion to indefinitely postpone this Bill please rise in their places to be counted.

18 Senators having voted in the affirmative and 11 Senators in the negative, the Motion to indefinitely postpone does prevail.

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

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

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby it indefinitely postponed L. D. 1925.

Will all those Senators in favor of the Motion please say yes.

Will all those opposed please say no.

A Viva Voce Vote being had,

The Motion to reconsider does not prevail.

Sent down for concurrence.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Adjourned until 11:00 in the morning, Thursday, February 9, 1978.