

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Ninth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

**January 3, 1979 to May 4, 1979**

STATE OF MAINE  
One Hundred and Ninth Legislature  
JOURNAL OF THE SENATE

April 19, 1979

Senate called to Order by the President.

Prayer by Father Paul Ouellette, Oblate House, in Augusta.

Father OUELLETTE: Heavenly Father, we raise our minds and our hearts to you this morning, asking that you would enlighten the thoughts and rule the deeds of these Senators, whom you hold responsible for good Government in our State. We ask that you would be in the midst of this assembly today; free its members from all distractions; free them from misunderstandings, from any weariness that might come from speaking out on the issues they face from self-seeking.

Help each person here this morning to be honest and sincere with you, with each other, within themselves, and so make of this session a moment of truth, and a moment of light.

Lord, we ask that you'd make of each one of these Senators and their Staffs instruments of reason, of true justice and real compassion. Send them your spirit of truth, and may they always be servants of truth.

We thank you, Lord, for enabling us this morning to present these petitions before you, knowing that in your great mercy, you already know our needs and are willing to fulfill them, and so we place ourselves in your hands this morning, we bow to your judgements, and we rejoice in your service, Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

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

Bill, An Act to Amend the Spruce Budworm Protection District Boundary. (S. P. 320) (L. D. 950)

In the Senate, April 12, Minority 'Ought Not to Pass' Report, Read and Accepted.

Comes from the House, Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-92), in non-concurrence.

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

Senator O'LEARY: Mr. President, I move we Adhere.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now moves that the Senate Adhere.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: I move we Recede and Concur.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, moves that the Senate Recede and Concur, with the House. The Chair will order a Division.

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

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

7 Senators having voted in the affirmative and 20 Senators in the negative, the Motion to Recede and Concur does not prevail.

Is it now the pleasure of the Senate to Adhere?

It is a vote.

**Non-concurrent Matter**

Bill, "An Act Relating to Municipal Use of Land Control Techniques Under the Zoning Law." (H. P. 371) (L. D. 482)

In the House, April 11, Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-187).

In the Senate, April 17, Minority 'Ought Not to Pass' Report Read and Accepted, in non-con-

currence.

Comes from the House, that Body Adhered. On Motion by Senator Katz, of Kennebec, Tabled for 2 Legislative Days, pending Consideration.

**Non-concurrent Matter**

Bill, "An Act Relating to Nomination Petitions for Municipal Office." (H. P. 556) (L. D. 703)

In the House, April 6, Majority 'Ought to Pass' Report Read and Accepted, and the Bill Passed to be Engrossed.

In the Senate, April 11, Minority 'Ought Not to Pass' Report, Read and Accepted, in non-concurrence.

Comes from the House, that Body Insisted. On Motion by Senator Katz, of Kennebec, Tabled for 1 Legislative Day, pending Consideration.

**Joint Resolution**

A Joint Resolution In Memoriam:  
WHEREAS, the Legislature has learned with deep regret of the death of Honorable Harry R. Williams of Hodgdon, who served 10 terms in the Maine Legislature.... (H. P. 1311)

Comes from the House, Read and Accepted. Which was Read and Adopted, in concurrence.

**Communication**

**HOUSE OF REPRESENTATIVES**

April 18, 1979

Honorable May M. Ross  
Secretary of the Senate  
109th Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The House today voted to Insist and Join in a Committee of Conference on Bill "An Act to Permit Deer Hunting with Muzzle-loading Rifles" (S. P. 39) (L. D. 25)

Respectfully,  
EDWIN H. PERT  
Clerk of the House

Which was Read and Ordered Placed on file.

**Senate Papers**

Senator Pierce of Kennebec presented, Bill, "An Act to Extend the Deadline for Legislative Determination of Municipal Cost Components. (Emergency) (S. P. 508) (Reported out pursuant to Legislative Council order 4/17/79)

Committee on Appropriations and Financial Affairs suggested.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Rules be Suspended, and that (S. P. 508) be given its first Reading at this time, without reference to Committee.

Is this the pleasure of the Senate?

It is a vote.

The Bill Read Once.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, without Reference to Committee and Ordered Printed.

Sent down for concurrence.

Senator Clark of Cumberland presented, Bill, "An Act to Amend the Rate Filing Disapproval Requirements Pertaining to Nonprofit Hospital and Medical Service Organizations and Health Insurance Carriers." (S. P. 505)

Which was referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Senator Pierce of Kennebec presented, Bill, "An Act to Grant the Public Utilities Commission Jurisdiction to Review Adjustments under the Fuel Adjustment Clause." (Emergency) (S. P. 507) (Approved by a Majority of the Legislative Council pursuant to Joint Rule 27).

Which was referred to the Committee on Public Utilities and Ordered Printed.

Sent down for concurrence.

**Order**

An Expression of Legislative Sentiment recognizing that:

Rose Kulberg of Penobscot has celebrated her 99th birthday. . . (S. P. 506) is presented by Senator Perkins of Hancock, cosponsored by Representative Bowden of Brooklin.

Which was Read and Passed.

Sent down for concurrence.

**Committee Reports**  
**House**

**Ought to Pass**

The Committee on Business Legislation on, Bill, "An Act to Exempt Out-of-State Technical and Vocational Schools from Registration under the Transient Sellers Law." (H. P. 1076) (L. D. 1329)

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.

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

Senator KATZ: Mr. President, I wonder if a member of the Committee can very briefly explain the purpose of this exemption?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to any Senator who may care to answer.

On Motion by the Senator from Sagadahoc, Senator Chapman, Tabled until later in today's session, pending Assignment for Second Reading.

The Committee on Local and County Government on, Bill, "An Act to Permit the Use of Facsimile Stamps on Municipal Sewerage Assessments and Charges." (H. P. 524) (L. D. 646)

Reported that the same Ought to Pass.

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

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

**Ought to Pass — As Amended**

The Committee on Business Legislation on, Bill, "An Act Providing for Rent Receipts and Requiring Disclosure of a Landlord's Identity." (H. P. 394) (L. D. 502)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-219).

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

The Committee on Health and Institutional Services on, Bill, "An Act to Provide for Certain Signs to Assist Blind Persons in Elevators." (H. P. 708) (L. D. 882)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-226)

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

The Committee on Local and County Government on, Bill, "An Act Extending Reimbursement to Municipal Clerks and Municipalities for Revenue Loss Due to Amendment of the Uniform Commercial Code." (Emergency) (H. P. 335) (L. D. 434)

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

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

The Committee on Local and County Government on, Bill, "An Act to Allow Registrars of Deeds to use Rubber Stamps in Lieu of Original Signatures." (H. P. 159) (L. D. 187)

Reported that the same Ought to Pass as

amended by Committee Amendment "A" (H-223)

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

The Committee on Judiciary on, Bill, "An Act Establishing Penalties for Cutting Timber Without the Owner's Permission." (H. P. 434) (L. D. 551)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-172)

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-192) thereto.

Which Report was Read.

On Motion by Senator Katz, of Kennebec, Tabled for 1 Legislative Day, pending Acceptance of the Committee Report.

#### Divided Report

The Majority of the Committee on Agriculture on, Bill, "An Act to Eliminate the Jurisdiction of the Maine Milk Commission over 1/2 Pint Containers of Milk." (H. P. 482) (L. D. 613)

Reported that the same Ought Not to Pass.

Signed:

Senator:

HICHENS of York

Representatives:

NELSON of New Sweden

ROOPE of Presque Isle

LOCKE of Sebec

SHERBURNE of Dexter

TORREY of Poland

ROLLINS of Dixfield

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-212).

Signed:

Senator:

CARPENTER of Aroostook

Representatives:

MICHAEL of Auburn

MAHANY of Easton

TOZIER of Unity

WOOD of Sanford

Comes from the House, the Minority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A"

Which Reports were Read.

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

Senator NAJARIAN: I move acceptance of the Minority Ought To Pass Report.

The PRESIDENT: The Senator from Cumberland, Senator Najarian, now moves that the Senate accept the Minority Ought To Pass, as amended. Report of the Committee. Is this the pleasure of the Senate?

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: I'd ask for a Division on that Motion.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, is there somebody on the Committee that could give me, at least, an explanation as to the intent of the Amendment under Filing Number H-212, to this particular bill. It's a little bewildering at the present time as to what is intended here, in so far as the sale of raw milks in 2 School Administrative Districts and I'd rather have a little more clarification, before I vote on this particular issue.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair to any member of the Committee who may care to answer.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, in the original bill, Hospitals and Schools were included, the amendment excludes the hospitals and just refers to schools, as far as the 1/2 pint regulation is concerned.

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

Senator NAJARIAN: Mr. President, I'd like to speak to the Members of the Senate, briefly, to the reasons why I think the Minority Ought to Pass Report should be accepted.

There are really probably three most important reasons why the Milk Commission should be prohibited from regulating 1/2 pints of milk sold at schools.

First of all there's an inconsistency, now in the statutes. We prohibit the Milk Commission from regulating 1/2 pints of milk sold to the State Institutions and Hospitals, but we did not make a similar provision for local units of Government. I think, you know that it has some legal ramifications that ought to be considered, any distinction between State Institutions and Local Institutions should be on a rationale basis. Probably the only reason that we passed Legislation prohibiting the Milk Commission from regulating milk sold to State Institutions was to keep our price down and therefore, be a benefit to our State Budget, and the same rationale certainly ought to apply to Local Government, since it concerns the same taxpayers.

Since milk has been deregulated, it saves the school systems, my own school system over \$100,000 since 1976, and if they're allowed to regulate the price of milk again, at the 12 1/2¢ that's been proposed recently, it would cost the school state-wide close to \$1,000,000.

Another problem is that they can reconsider this issue at any time that they choose to and so once school budgets are set, and if they did decide again to regulate the price of milk, then that could have a large impact on a school budget, in the case of my own school, it would amount to \$100,000 which could have a severe impact on their budget.

The way the present system is now its very time-consuming and they are very unpredictable. Now in May 1978, they had a hearing on the re-regulation of 1/2 pints. In June they decided not to regulate 1/2 pints. In July they scheduled another hearing for August and September, then in December they decided to re-open the hearings and another day was held in late January, all on the subject of 1/2 pints.

The sale of 1/2 pints totals only 6% of the Dairy Industry's business, it's a small percent and since it has been deregulated the volume has increased. In our own schools, since the price has gone down, the volume has increased 500,000 pints for fewer students, and I hope that this Senate will go along with the Ought to Pass Report.

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

Senator MINKOWSKY: Mr. President, and Members of the Senate. I'd like to have just one more point of clarification, that's relevant to the statement, that Senator Hichens made that hospitals will be exempted from this particular bill. I guess I'm a little apprehensive about having hospitals exempted from it, since they pretty much have their way, in setting their own particular prices as far as hospital rates are concerned, and basically pay no taxes to a municipality, I don't see why they should be given further leverage along that line.

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

Senator HICHENS: Mr. President, I think the good Senator from Androscoggin, misread the Amendment. This leaves the Hospitals

under the regulation, but would exclude the Schools from regulation, if this amendment is passed. So the hospitals would be regulated by the Maine Milk Commission, and I hope that you'll vote against the Motion, so the schools could be, if it ever came to a necessity.

At the present time the Maine Milk Commission does not regulate the prices in the schools, but it is a safeguard to keep this on the laws so in case there is a problem that comes up, that they could do if necessary.

These hearings which have been described by the good Senator from Cumberland, have been requested, the Milk Commission does not have hearings on their own but if a demand is made, they are forced by law to have the hearings, and it is an inconvenience at times, but it is a safeguard to keep this on the books, and so I hope you'll vote against the Motion.

The PRESIDENT: Is the Senate ready for the question?

The pending motion before the Senate is the Motion by the Senator from Cumberland, Senator Najarian, that the Senate accept the Minority Ought to Pass, as amended, report of the Committee.

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

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

6 Senators having voted in the affirmative and 17 Senators in the negative, the Motion to accept the Minority Ought to Pass as amended. Report does not prevail.

Is it now the pleasure of the Senate to accept the Majority Ought Not to Pass Report of the Committee, in non-concurrence?

It is a vote.

Sent down for concurrence.

#### Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act Regulating Business Practices Between Motion Picture Distributors and Exhibitors." (H. P. 365) (L. D. 473)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-206)

Signed:

Sensors:

CHAPMAN of Sagadahoc

AULT of Kennebec

CLARK of Cumberland

Representatives:

ALOUPIS of Bangor

JACKSON of Yarmouth

DUTREMBLE of Biddeford

LIZOTTE of Biddeford

GWADOSKY of Fairfield

BRANNIGAN of Portland

SPROWL of Hope

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

Signed:

Representatives:

HOWE of South Portland

BROWN of Bethel

WHITEMORE of Skowhegan

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-220), thereto.

Which Reports were Read. The Majority Ought to Pass, as amended, Report Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" Read. House Amendment "A" Read and Adopted, in concurrence. Committee Amendment "A" as amended, Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Judiciary

on. Bill, "An Act to Provide Restitution to Innocent Victims of Crime." (H. P. 644) (L. D. 798)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-214).

Signed:  
Senators:

COLLINS of Knox  
TRAFTON of Androscoggin

Representatives:

HOBBINS of Saco  
HUGHES of Auburn  
SEWALL of Newcastle  
SILSBY of Ellsworth  
JOYCE of Portland  
STETSON of Wiscasset  
CARRIER of Westbrook  
LAFFIN of Westbrook  
SIMON of Lewiston

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

Signed:

Senator:

DEVOE of Penobscot

Representative:

GRAY of Rockland

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" (H-228) thereto.

Which Reports were Read.

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

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate: This is a rather lop-sided Committee Report as you can observe. I'm sure the idea has been around here for sometime. I want to explain briefly my reasons for signing Ought Not to Pass.

The Amendment H-214 is now the bill.

The concept that people in this State ought to reimburse victims of crimes to me is an unusual one. Implied in accepting this amendment is the concept that we all collectively are responsible for the acts committed by people that result in physical injury, occupational disability, as a result of crimes, I don't happen to subscribe to that view.

Let us take the recent tragic occurrence in Portland, where the owner of the pool hall was killed. Let us assume that, that man has survived the attack, and as a result suffered severe physical injuries that caused him to lose work for a few months before he was able to go back to his place of business. I grant you that is a tragic occurrence, and would have been had he survived, and had lost work.

But passage of this bill would mean that collectively the people of the State of Maine are in some way responsible because this bill would call on the General Fund to reimburse that person and all persons like him injured in a criminal proceeding.

For that reason I ask that the Senate accept the Minority Ought Not to Pass Report. I would also point out that there was very little evidence presented at the hearing or discussed during work session, that gives any credence to the reliability of the Fiscal Note attached to this bill.

As with a lot of bills, that start out this is a low Fiscal Note, and if you note the second sentence in the Fiscal Note, it says the awards will be covered by funds from other sources. If those other sources are the criminal himself, how are we to know that the concept of restitution is going to work or the concept of reimbursement is going to work? Unless the person who perpetrated the act, in fact, has the money and is able to give it to the victim, with court supervision. Thank you very much, Mr. President.

On Motion by Senator Pray of Penobscot, Tabled for 1 Legislative Day, pending Accep-

tance of Either Committee Report.

#### Senate at Ease

The Senate Called to order by the President

#### Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Require that Persons Convicted of Habitually Sexually Molesting a Child under the Age of 14 May be Asexualized." (H. P. 816) (L. D. 1018)

Reported that the same Ought to Pass in new draft under new title: "An Act to Direct the Criminal Law Revisions Commission to Study Treatment Alternatives for Sex Offenders," (H. P. 1310) (L. D. 1564).

Signed:

Senators:

COLLINS of Knox  
DEVOE of Penobscot

Representatives:

SEWALL of Newcastle  
SILSBY of Ellsworth  
GRAY of Rockland  
STETSON of Wiscasset  
LAFFIN of Westbrook

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

Signed:

Senator:

TRAFTON of Androscoggin

Representatives:

HOBBINS of Saco  
HUGHES of Auburn  
JOYCE of Portland  
SIMON of Lewiston

Comes from the House, Bill and Papers Indefinitely Postponed. (Chair ruled New Draft L. D. 1564 Not Germane).

Which Reports were Read.

On Motion by Senator Katz, of Kennebec, Tabled for 1 Legislative Day, pending acceptance of Either Committee Report.

#### Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Exempt from Sales Taxes Depreciable Machinery Used in Commercial Farming and Fishing." (H. P. 762) (L. D. 942)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-213)

Signed:

Senators:

TEAGUE of Somerset  
CHAPMAN of Sagadahoc  
CLARK of Cumberland

Representatives:

MARSHALL of Millinocket  
KANE of South Portland  
WOOD of Sanford  
POST of Owl's Head  
IMMONEN of West Paris  
CARTER of Bangor  
COX of Brewer  
BRENERMAN of Portland  
TWITCHELL of Norway

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

Signed:

Representative:

LEONARD of Woolwich

Comes from the House, the Majority Report Read and Accepted, and the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read.

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

Senator PRAY: Mr. President and Members of the Senate. I'd like to pose a question to the Chair to a member of the Taxation Committee if they could explain how this bill may relate to Legislation which we passed last year dealing with tax exemption of farm and fishing equip-

ment?

The PRESIDENT: The Senator from Penobscot, Senator Pray has posed a question.

The Chair recognizes the Senator from Somerset, Senator Teague.

Senator TEAGUE: In answer to the good Assistant Minority Leader, if he would turn to the Committee Amendment (H-213), this takes the place of the bill. All this does, is allow somebody that wants to make a large purchase of over \$5,000 of a piece of machinery to go to the Bureau of Taxation be certified that this would be tax exempt and then present the certification to the dealer and then he would not have to pay the sales tax.

Then, if the Bureau of Taxation goes back to check the dealer, he will have the certification in his files that the piece of equipment was sales tax exempt.

The PRESIDENT: Is it now the pleasure of the Senate to Accept the Majority Ought to Pass, as amended Report of the Committee?

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you, Mr. President. I'd like to follow that up with another question. That is if you could explain, I believe presently they do receive the exemption now, is it my understanding that presently they have to file to receive the sales tax dollars back from the Bureau of Taxation?

The PRESIDENT: The Senator from Penobscot, Senator Pray has posed an additional question.

The Chair recognizes the Senator from Somerset, Senator Teague.

Senator TEAGUE: At the present time a farmer or fisherman is tax exempt on capital items. He takes his bill of sale, right now and presents it to the Taxation Department. The Taxation Department has his income tax report on file and also his depreciation schedule on file, so its a 30 day waiting period before he gets his rebate back. This bill, on a large purchase item, would not have to pay the tax.

The Majority Ought to Pass, as amended Report Accepted in concurrence. and the Bill Read once. Committee Amendment "A" was Read and Adopted in concurrence. The Bill, as Amended, tomorrow Assigned for Second Reading.

#### Committee of Conference

The Committee of Conference on the disagreeing action of the Legislature on, Bill, "An Act to Provide for a Student Member of the Board of Trustees of the University of Maine." (H. P. 155) (L. D. 194)

Have had the same under consideration, and ask leave to report: That they are unable to agree.

#### On the Part of the House:

Representatives:

DAVIES of Orono  
HUGHES of Auburn  
TARBELL of Bangor

#### On the Part of the Senate:

Senators:

GILL of Cumberland  
TROTSKY of Penobscot  
COTE of Androscoggin

Comes from the House, Read and Accepted. Which was Read and Accepted, in concurrence.

#### Senate

#### Leave to Withdraw

Senator Gill for the Committee on Health and Institutional Services on, Bill, "An Act to Provide Assistance to Certain Elderly Persons Needing Dentures." (S. P. 325) (L. D. 955)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.

Sent down for concurrence.

#### Ought to Pass

Senator Lovell for the Committee on Aging,

Retirement and Veterans on, Bill, "An Act to Revise the Method of Accounting for the Restriction on Additional Compensation for Retirees under the Maine State Retirement System." (S. P. 355) (L. D. 1103)

Reported that the same Ought to Pass.

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

#### Ought to Pass - As Amended

Senator Redmond for the Committee on Fisheries and Wildlife on Bill, "An Act Relating to the Operation of Snowmobiles on Private Ways." (S. P. 188) (L. D. 455)

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

Senator Carpenter for the Committee on Health and Institutional Services on, Bill, "An Act Authorizing a Legislative Study on Family Impact." (S. P. 386) (L. D. 1198)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-112)

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

#### Second Readers

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

##### House

Bill, "An Act to Amend the Frozen Dairy Products Law." (H. P. 992) (L. D. 1229)

Bill, "An Act to Revise the Statutes Governing Chemical Control of Rodents as Agricultural Pests." (H. P. 990) (L. D. 1227)

Bill, "An Act Concerning the Powers of the Board of Trustees and the Treasurer of the University of Maine and Concerning Real Property Belonging to the University." (H. P. 793) (L. D. 1001)

Bill, "An Act Providing for the Fee for Examination by the Office of State Fire Marshal of Plans for the Construction of Hotels or Motels with 2 or More Stories." (H. P. 958) (L. D. 1188)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1979. (Emergency) (H. P. 1304) (L. D. 1560)

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

##### House — As Amended

Bill, "An Act to Appropriate \$10,000 to the Maine Food and Farmland Study Commission." (Emergency) (H. P. 362) (L. D. 472)

Bill, "An Act Relating to Forfeiture of Bail on Persons Who Have Left the State." (H. P. 304) (L. D. 415)

Bill, "An Act to Amend Existing Stumpage Allowance to the Passamaquoddy Indian Tribe." (H. P. 442) (L. D. 517)

Bill, "An Act to Amend the Safe Drinking Water Act." (H. P. 279) (L. D. 353)

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

##### Senate — As Amended

Bill, "An Act to Repeal the State Lottery Commission." (S. P. 172) (L. D. 378)

Which was Read a Second Time.

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

Senator LOVELL: Mr. President, and Ladies and Gentlemen of the Senate: In the 101st Session of the Legislature, I entered a Lottery Bill, and in entering that Lottery Bill I passed out a full page, from the now defunct Boston Post telling the Lotteries that had been run in the country in the 1800's. Lottery, in fact, back in those days even helped in the Revolutionary War, it even helped to build bridges, State Houses, and many official buildings. Then it

became outlawed because it was overused and wasn't run properly.

Now in the Legislature, in the 101st Session of the Legislature as I say, I only lost by 3 votes on that Lottery Bill. I passed out that page from the Boston Post to each member, but as I look at this present attempt to kill the lottery, I note that it is going to cost \$974,000 this year and \$2,211,000 next year, in addition \$100,000 to the State Liquor Commission who sells Lottery Tickets in their Liquor Stores.

Now I think one thing that I noticed in particular is in Sanford, the town population of 18,000. We used to have 2 bookies, we had somebody that sold the numbers pool, we had somebody that sold the treasury balance. When the lottery came in, these people who could only afford, in Sanford we're a poor town, they could only afford 50¢ or \$1.00 for a ticket, so they bought the lottery tickets and those bookies are not now there. There are no number pool salesmen there, and no treasury balance salesmen there.

So with that and with the loss that I'm sure that the State can't stand, and I'm sure that the Governor wouldn't stand for it, I'd move the Indefinite Postponement of this bill and all its accompanying papers, and ask for a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, and Members of the Senate: I can't say anything pleasant about the lottery. In fact, when the Legislation was initially introduced, a few years back, I voted against it, and I think many people of both Chambers voted to kill the bill. Somehow or another it was recouped through some means of being recalled from the Legislative File and was amended to be allowed to go to the voters of this State, who voted in favor of allowing the State to establish a Lottery. Perhaps the only good thing that's come from it is that Spike Carey has a job, and even he wasn't happy with the Lottery.

I know the good Senator from Kennebec, Senator Katz and I share the same feelings, but I do recognize that there are many people out there who enjoy it. There is some small means of revenue that does come into the State.

It would be fool hardy I believe, at this time anyway, to Pass on this Bill when we are looking for dollars. I know we all have to look down the road to the final days, and we're going to be looking for every penny we can find. So therefore, I would agree with the good Senator from York, Senator Lovell, would request the Senate Indefinitely Postpone this bill.

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

Senator HICHENS: Mr. President, I hope that you will vote for this bill. The State Lottery was approved by the people of the State of Maine, and I've had many, many people ask me to give them the right, by referendum vote to put it out of its misery. I say misery because the State Lottery has not proved to bring in the income which was promised up in the 6 or 7 millions of dollars. Where they get the figure on this amendment, that we're going to lose \$2,000,000 in the next biennium, I can't figure it out, because we haven't made over a million yet in any one year, and when they can project that we're going to make \$2,000,000 all of a sudden. We're being pressured by all the states round about us, and in the paper not too long ago, it said that Maine had the lowest income of any State, as far as their Lottery was concerned.

This bill, if passed, sends it out to the referendum, lets the people make the decision, and I think we should allow them to do so.

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

Senator LOVELL: In quoting the \$2,000,000 I only went by the Amendment here in the book; but Ladies and Gentlemen of the Senate, the

good Senator from York, Senator Hichens has stated, that's why Maine needs a 50¢ Lottery.

Everybody likes to gamble, I don't care who it is. Some people like the horse races, if they've got a little more money. Some people like the dog races, but everybody likes to bet on something, to gamble on something.

So 50¢ isn't very much and these people that spend that 50¢, if you notice television, they're all happy, they all seem to be winning, and my gracious let's let them keep on doing it.

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

Senator NAJARIAN: Mr. President and Members of the Senate: I notice this morning on LD950, that we voted to allow the State to tax certain people who would derive no benefits from that tax. On LD613, we have voted to allow the potential of our taxpayers, of \$1,000,000 to hit our taxpayers at any day of the year. Now here is a bill before us which would bring in about \$2,000,000 of revenue to the State, voluntarily without any force on the part of the State on the people. I can't see any reason for doing away with the Lottery. It currently does bring in some revenue, it employs around 69 people, and God knows employment is a problem in this State, and it's not corrupt, as far as I've been able to see. The people voted for it and I don't see any reason in the world, at this point anyway, to do away with it.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, while some of my colleagues have been filing 20 to 30 Bills, I filed just three or four, a paltry handful, one of which had to do with a bridge over the Kennebec, which in a moment of clarity I withdrew. I am appalled at the rough treatment that this Bill is getting this morning.

It is always fascinating to go into the record, and see what we said at the time we passed the legislation. I would be tempted to read what Congressman David Emery said on May 17, 1973 and Mr. Kelleher and Mr. Maxwell and Mr. Dudley, but perhaps then Representative, Senator Farley's, remarks were probably the clearest and to the point and evidence of Senator Lovell's clear thinking.

Representative Farley said "You can't stop a gambler from gambling, put him in jail and within 10 minutes he'll discover 2 ants crawling up the wall and place a bet as to which one reaches the ceiling first."

Representative Cote, as usual, is a man of few words right to the point and he understood, he said, "My constituents want it," and I suspect that they still do.

May the 18th, I suggested that this Bill, the Lottery Bill, contains the best of two worlds. For those who are interested, it gives the implication that maybe you will be lucky enough to make a fast buck or if you are not interested, it means the other guy is going to help pay for the services that you want. This is primarily the benefit of this Bill.

I said that "I oppose it, it would create jobs, a lot of jobs administering the program," I was correct, I think that there are 61 or so in the Department.

I suggest, if we want revenue from gambling we might consider a bank of slot machines in the rotunda of the State House, where we might conveniently raise enough money to pay for the Legislative Session. If that is our motivation to raise money, no overhead, no employees, just put a bank of slot machines up there, those that want to throw your money into it, we would raise enough money certainly to pay for the Legislative Session.

Sure there is some demand on the part of some, for the lottery, just like there is a demand for legalized gambling, prostitution, and many other yummies.

That session Senator Brennan, in a continuation of his clear thinking, which has carried

him into the Blaine House, his understanding of fiscal affairs. He said, "I don't think this is going to raise any significant amount of money. He said: I don't think that we should try to raise dollars with gimmickry which would not enhance our image, but should face our needs for revenue honestly."

Why in the world did any rational, experienced legislator come to the Legislature and ask you willingly to give up revenue? I think that the question of the Lottery should go out to the people, for three reasons.

In the first place it was sold to the Maine people on false pretences. The most telling arguments for the Lottery at the time that it was enacted, was that it would raise up to \$10,000,000. At that time, the figure of 1.5 million dollars was raised by a knowledgeable source. The 1.5 million dollars turned out to be at best optimistic, too. It was sold to Maine people based on its capacity to raise up to \$10,000,000. It is not true, never was true, never will be true.

The second reason that I ask you to send it out to the people again, is that it has put my state and your state into the posture of being a pusher, an unabashed pusher of gambling, encouraging people to gamble.

Now we sell cigarettes and we tax them, but the State benefits from the revenue, but we do not push people to smoke cigarettes. We sell liquor, we benefit financially, but we do not push people. You do not see an advertising trying to increase the consumption of liquor paid for by the State.

In every other occasion whether pari-mutuel betting the State does not push, but here the State is the pusher.

I want to thank those members of this Body who helped me dramatize this beautiful television commercial on which we spent some thousands of dollars creating an image of our beautiful State of Maine.

Now remember that we do not spend a penny advertising beautiful Maine on television, we do not spend one penny advertising our beautiful lakes, our streams, our forests. Thousands, and I want to read you the copy.

I wish that I had thought to recruit Senator Minkowsky and Senator Usher and others who did such a good job at the hearing.

The Coach says: OK settle down Oranges? HERE! Cherries? YO! Bells, bars and sevens? HERE! Today is the day of the big game, and you all have a job to do!

What Job Coach?

You ding-a-ling. It's up to you to make winners out of people who play the Lottery's new Money Machine game.

Now WHAT MAKES A WINNER?

Three of a kind!

And what's the big prize? \$10,000.

And who's gonna make a lot of winners?

WE ARE!

That's the ticket?!!

Thousands of dollars creating an image of the State of Maine. So far as I know, the only money that the State of Maine spends in television. Makes you proud doesn't it? Makes you proud, you're hustlers. You are nothing but shameless hucksters, trying to force people to spend their money gambling.

Would you stand still for this if the Liquor Commission did it? Would you stand still if the State of Maine got into other sources of pushing people to smoke cigarettes so that we could increase our take?

The second reason that I am opposed to the State Lottery is because it puts Maine in the position of being a shameless huckster for gambling.

The third reason is it is the darndest rip-off that anybody who wants to gamble could find. Only 45% goes to the winners. My God, the Mafia gives better odds than that. The little household poker game gives better odds than that. It is a real sucker's game, a rip-off and who are we ripping off? We are ripping off

Maine people.

I am delighted that I understand the committee gave me 5 votes, I expected perhaps one compassionate vote, and one other, who might, just as a matter of friendship, support me. But I am deadly serious. I think that the people of the State of Maine should have an opportunity to review, in light of everything that has gone on whether they still want a Lottery.

If it results in a loss of revenue, So Be It!

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Danton.

Senator DANTON: Mr. President, and Members of the Senate: Following the good Senator from Kennebec, Senator Katz, is not an easy task, but it amuses me somewhat that the good Senator is the one who would like to send the Lottery back out to the people. It really amuses me that he doesn't think the revenue amounts to very much, and I agree with him. He throws a \$10,000,000 figure around but if he'd researched the record, I'm sure for some of us who were around during that 106th session, somebody mentioned 4 or 5 million dollars. I think it was Senator Danton, then from Saco, and its gone as high as \$2,600,000.

Now the Lottery bill came along, for some of you freshmen who weren't around, went into the House, and got defeated; came into the Senate and got defeated, and then the good Senator from Kennebec, Senator Katz, decided to come along with L. D. 1994.

Some of us can remember that bill. I mean we don't want to forget about it. If the Senator wants to be quickly reminded, I'll call up Mary Adams and I'm sure she'll remind him of it. At that time, I was a newly elected Member of Leadership, and you know, we were scurrying around trying to find 4 or 5 million bucks to get the package together, to work for the good Senator from Kennebec, Senator Katz, who was, as we all know the Father of L. D. 1994. At that time we decided, well, listen, let's take a shot at this lottery, let's recall it from the dead files. And we did, and it was Senator Danton that presented the order. At that time we had a fine gentleman serving in this Chamber, Senator Harrison Richardson, who put the Amendment on to send it off to the people, which we thought was fair.

That was the beginning of the Lottery, and that was the reason why we recalled the Lottery, to fund the good Senator's L. D. 1994. Today, he doesn't need the money. Fine, we can do away with everything. Let's do away with liquor, why don't we put liquor out. We can lose \$30,000,000 there too if we want to send that out to referendum. We might as well take a shot at all our sin taxes or sin money.

Let's not forget how these things come about. Let's not look at one guy with a black hat, to use the Senator's quote again, black hats and black horses. You know we all voted with it thinking it was going to do something. The people voted it in. We didn't vote it in. We sent it out to the people, 3 to 1, they said we want a Lottery.

Now we want to bother them again with another statewide referendum, \$1,500,000 isn't a lot of money. Have the newspapers ever allowed the Lottery to run successfully? Never! The banks deserted it, and we can go on and on and on and on, and my Governor, Joe Brennan, even appointed as a Director someone that wanted to get rid of the Lottery last year. The same as the Senator from Kennebec, Senator Katz is trying to do now, as its Director. So chances are that with a Director like Spike Carey, maybe the Lottery won't be around too much longer anyway. So I don't think we have to waste the taxpayers money and time to send this bill out for another referendum, but I just thought I would bring out a little bit of this history. I thought the good Senator should be reminded that it was his L. D. 1994 that caused us to run around here looking for millions of dol-

lars, and we thought that maybe we could raise 4 or 5 million dollars. Thank you.

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

Senator KATZ: Mr. President, to the Senator from York, Senator Danton, welcome back to the bosom of those who love you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: I request when the vote is taken, it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: Mr. President, very briefly, I just like to go on the Record as agreeing entirely with the comments of the Senator from Cumberland, for once, Senator Najarian, in regard to this bill. Second, I wonder why the Senator from Kennebec, in a flash of good sense didn't do with this bill what he did with his bill on the bridge over the Kennebec?

The PRESIDENT: The Senator from Cumberland, Senator Huber, has posed the question to the Chair, to the Senator from Kennebec, Senator Katz, if he cares to answer.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: That other one's water under the bridge.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from York, Senator Lovell, that L. D. 378 and its accompanying papers be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

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

#### ROLL CALL

YEA—Ault, Carpenter, Chapman, Conley, Cote, Danton, Farley, Gill, Huber, Lovell, Martin, Minkowsky, Najarian, O'Leary, Pray, Redmond, Teague, Trafton, Usher.

NAY—Clark, Collins, Devoe, Emerson, Hichens, Katz, McBreaity, Perkins, Shute, Sutton, Trotzky.

ABSENT—Pierce, Silverman.

A Roll Call was had.

19 Senators voted in the affirmative and 11 Senators in the negative, and 2 Senators being absent, the Motion to Indefinitely Postpone does prevail.

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

Senator LOVELL: Mr. President, having voted on the prevailing side, I now move reconsideration and I would urge you to vote against my motion.

The PRESIDENT: The Senator from York, Senator Lovell, now moves the Senate Reconsider its action whereby this Bill was Indefinitely Postponed.

Will all those Senators in favor of Reconsideration please say Yes.

Will all those Senators opposed please say No.

A Viva Voce Vote being had the Motion to Reconsider does not prevail.

Sent down for concurrence.

#### Enactors

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

An Act Appropriating Funds to Allow Maine State Retirement Members a Cost-of-Living In-



crease in Benefits. (S. P. 189) (L. D. 456)

On Motion by Senator Huber, of Cumberland, placed on the Special Appropriations Table, pending Enactment.

An Act to Make Private Organizations which Receive a State Subsidy Subject to the Maine Freedom of Access Law. (S. P. 257) (L. D. 763)

On Motion by Senator Perkins of Hancock, Tabled 1 Legislative Day, pending Enactment.

An Act Relating to Weight Imparted by Tire Width of Tires on Certain Farm Trucks. (H. P. 231) (L. D. 336)

An Act Concerning the Reason for Nonrenewal of Policies Under the Maine Property Insurance Cancellation Control Act. (S. P. 392) (L. D. 1196)

An Act to Exempt Automobile Assigned Risk Policies from the Countersignature Requirements. (S. P. 393) (L. D. 1197)

An Act to Aid Recovery of Medicaid Funds. (S. P. 408) (L. D. 1254)

An Act Relating to Tending Traps in the Unorganized Territories. (H. P. 391) (L. D. 500)

An Act to Make the Voluntary Payment of Workers' Compensation Nonprejudicial. (H. P. 417) (L. D. 542)

An Act Concerning Rules and Regulations on the Licensing of Ambulances and Ambulance Personnel. (H. P. 594) (L. D. 738)

An Act to Relate the Qualifying Wage Levels for Unemployment Compensation to the Average Weekly Wage. (H. P. 437) (L. D. 554)

An Act to Compensate for Certain Wells within Highway Rights-of-Way. (H. P. 536) (L. D. 657)

An Act to Provide for Metric Measurements. (S. P. 286) (L. D. 856)

An Act Relating to the Rules Governing the Inspection and Licensing of Motor Vehicle Racing. (S. P. 232) (L. D. 684)

An Act to Amend the Definition of Wholesale Life Insurance. (S. P. 234) (L. D. 686)

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

An Act to Authorize Municipalities of Under 2,500 Inhabitants to Permit Persons other than Arborists to Remove Trees within Municipal Boundaries." (S. P. 219) (L. D. 761)

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

Senator CHAPMAN: Mr. President, I'd like to request a Roll Call on the Passage of this Item.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate: I was looking over the engrossed copy of this Bill, pertaining to any municipalities of 2,500 residents or less, that they do not have a licensed arborist to do the work for them, and in the process I happened to be reviewing my mail and I came across a letter from the Arborists' Association, which I think is of significant value, and possibly somebody from the Judiciary Committee might address this also, insofar as what effect if this law went into being, would it have on the Maine Tort Claims Act, insofar as a small municipality being sued, for some person who is not licensed or possibly uninsured.

But of significant value to the points that were brought out by the Maine Arborists Asso-

ciation in their Fact Sheet, which was distributed at least 2 weeks ago, was this particular statement here, that the existing Arborist Law already has several exemptions, and the ones that they listed are:

A. Any person with reference to trees on his own premises or on the property of his regular employer would be exempt.

B. Any trees which do not need to be climbed, topped and roped or which do not require specialized equipment such as a crane for their removal. In small communities and rural areas this exemption could apply to most of the trees that the municipal officials in those towns are concerned with.

C. State, county, municipal, quasi-municipal or public utility employees while engaged in their regular line of duty are exempt.

D. Highway contractors during performance of contracts for highway construction.

Now the point that they stress most heavily in this particular letter is:

(L. D. 659) The Existing Arborist Law, which requires that every job site will either be covered by a licensed foreman or closely supervised by a licensed supervisor, is more flexible and workable but still provides the home owner with personal and property damage insurance protection. There are over 200 licensed and insured arborists in the State of Maine, who fall under this particular provision.

Now, it might be well to say to a municipality with inhabitants of 2,500 or less that you may contract for this locally, but I'm also concerned as I mentioned in the beginning that if this does Pass and the Maine Torts Claims Act, does come into effect, would they not be held liable for a larger damage versus paying somebody who is licensed and qualified to protect the interests of those inhabitants in that community?

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, the concern of the Senator from Androscoggin, Senator Minkowsky, is certainly a valid one. It would be my observation that the answer to it is contained in LD761, the Act under consideration, because it provides that the local ordinance may establish conditions of financial responsibility for the permittee.

If I were a member of a town council, a board of selectmen, or a legislative body in a town, I think I would want the ordinance to say that the permittee should furnish evidence of satisfactory insurance coverage. Usually when that sort of arrangement is made with a public body, in this type of contracting, the contractor has to furnish them evidence of his insurance coverage and agree that he holds harmless the public body. I think that the terms of this proposed bill are adequate to permit that and that it would be a wise thing for any town to do it.

I would think, however, that our towns in general, by this time have had enough experience with Tort Claims and are sufficiently aware of liability factors, and they have insurance salesmen in their areas that inform them of these problems, so that I don't think we need be more explicit than putting it in the form of this bill.

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

Senator REDMOND: This Bill concerns the interests of 412 of Maine's 497 municipalities. Many of these communities must take action to remove diseased trees but are restricted due to the lack of arborists available to serve them.

Arborists are not the only persons knowledgeable in the removal of trees and they are not the only persons who possess the equipment or insurance coverage necessary for this type of work.

Many municipalities contract for snow removal. Snow removal also involves skill, equip-

ment and liability. Does this mean that municipalities should be restricted in their contracting for snow removal services?

It is ironic that municipalities can have their employees remove trees but if they wish to contract for the job, they can only select arborists.

Municipalities have the good sense to choose qualified individuals with proper coverage.

This Bill does not restrict continued contracting with any arborist. It simply opens the competition and provides a service to towns who lack such service under present law.

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

Senator CHAPMAN: Mr. President, and Members of the Senate. I sympathize with the approach that this bill is addressing, however I am opposed to it in its form that we have today, and I urge the Senate to vote against Enactment.

We're not talking about acres and acres of trees in the wilds, as I think was referred to in some of the previous debate. We're talking about trees that are in close proximity to roads, to traffic, to pedestrians, to people, to houses. We're talking about trees that need to be topped by sections, large trees that require an expertise to limb and take down in sections rather than being felled in one fell swoop.

Anybody now, can fell a tree without any of these particular Arborists' Law Provisions, fine if they can fell it in one piece, but we're talking about trees that are so big, in such a precarious situation where they need to be topped by sections with care.

Present law that requires an arborist's oversight and supervision in these operations recognizes that an arborist, in order to be one, has to have certain qualifications of knowledge and expertise. Also, has the equipment that can handle these kinds of jobs, and also has proved that they are financially responsible, with the proper kind of insurance and in adequate amounts. I think this is particularly important. I'd like to emphasize this point, I'm concerned about the people, children, houses, and the property here.

Safety, I think, is a very important part of the present law. It's been stated that many of the towns can't afford the costs of hiring an arborist. Well, I submit that one of the reasons why it costs a fair amount to hire an arborist, is that they have the equipment, which costs, they have the insurance coverage, which costs if they get the right kind, and its expensive, and that they therefore are responsible financially and knowledgeably to do this kind of work.

I'm sure there are people who are knowledgeable who can do this, but we are saying here that we are leaving it up to the smaller towns, the selectmen in most instances, to make these determinations. We are leaving it up to them to choose these qualified people. On what basis are they going to really be sure that the people they select are qualified? On what basis are they going to be sure that they, in fact, asked for insurance coverage? On what basis are they going to be sure that the insurance certificate furnished to them, in fact, provides the kind of insurance that applies to this hazardous kind of work?

This kind of insurance coverage, I know, is expensive, and its hard to get. In order to get it, there must be demonstrated to the insurance company, the ability and the knowledge there to handle this kind of work. An insurance certificate can be presented for liability insurance, which may to selectmen appear to be complying with their desires to look after the safety, but yet it may not be the kind that would apply to the kind of work that they are doing, and parties may not be aware of this.

The Senator from Somerset, Senator Redmond, says that there are 412 municipalities, that would be eligible to take into their own jurisdiction the handling of this type of tree felling operation. That's a lot of potential, that's a



lot of places and towns where damage and injury could occur.

I'm just very concerned that we are, for the sake of some convenience in the communities, which I certainly don't want to burden unfairly, subjecting the citizens to hazards that we have in the past, properly addressed with the present statute on our books, and I'd urge the Senator to oppose Enactment.

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

Senator HICHENS: Mr. President and Members of the Senate. I did not plan to argue on this bill, as it came up for Enactment because I had made my speech when the bill first came out of committee, but as the arguments have proceeded this morning, I feel that I should add a little more to it.

The other day I had to go over to the Civic Center to be present at one of the hearings there. The very gracious Doorkeeper drove me over in his car, mine not being available, as we went down State Street and started down the hill, we were stopped at an intersection, while we had to wait for them to cut a branch off the top of a large elm, very deftly maneuvered that branch down between the wires, down to the sidewalk. It was quite an exhibition.

As we went along, I noticed that on the side of the truck parked on the curb, it said "Tree Services Inc." and then had a license number. I was very pleased to see that the City of Augusta, apparently realized the need for licensed arborists, to cut down their trees. I see the need, that other cities should have that same right, and other towns, no matter how large they are, they should have that protection provided by the arborists.

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

Senator REDMOND: I can appreciate the great concern of some of our good Senators here about the safety of the public, in this great State of Maine. This bill is not going to keep the Arborists from doing their jobs. This bill is simply, I have mentioned it before, to correct a paragraph in the Arborists Law, Title 32, MRSA Chapter 29, Sub-chapter 2.

Last year I went at length, I read the Sec from the Department of Manpower which describes the criteria and requirements of a person who cuts trees in large quantities. Ladies and Gentlemen of the Senate, the person who cuts trees in large quantities, I think most of us know here that he is very conscious of every cut that he makes in that tree because he is concerned about his own life and the safety of his co-workers around him. On top of that, he is also concerned about economics of cutting down trees and taking them to a place where they are going to be used to make paper. So, I don't see any problem there.

With regards to insurance, I have checked out with my own insurance agency, that's located in Skowhegan. His brother-in-law is an arborist, he covers him. He's got his insurance. He covers many, many loggers in the area, and he can't see any problem with that. I have a letter right here from another insurance agency from my district that assures me that there is no problem with insurance coverage, with a logging contractor cutting trees for a municipality or for an individual.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: One particular point now concerns me further than it did previously. If this will exempt 412 municipalities from this provision, then basically we are discriminating against the other 70 or 80 municipalities in the State of Maine, and I thought our laws were designed to serve all municipalities on an equal basis.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Saga-

dahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, I request permission to pair my vote with the Senator from Kennebec, Senator Pierce, who if he were here, would be voting Yes, and I would be voting No.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, now requests Leave of the Senate to pair his vote with the Senator from Kennebec, Senator Pierce. If he were here, he would be voting Yea, and the Senator from Sagadahoc, Senator Chapman would be voting Nay.

Is it the pleasure of the Senate to grant this leave?

It is a vote.

The pending question before the Senate is the Enactment of L. D. 761.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Ault, Carpenter, Clark, Collins, Cote, Emerson, Katz, Lovell, Martin, McBreaity, O'Leary, Perkins, Pray, Redmond, Shute, Sutton, Teague, Trafton, Usher

NAY — Conley, Devoe, Farley, Gill, Hichens, Huber, Minkowsky, Najarian, Trotzky

ABSENT — Danton, Silverman

PAIRED — Chapman-Pierce

A Roll Call was had.

19 Senators having voted in the affirmative, and 9 Senators in the negative and 2 Senators pairing their votes, with 2 Senators being absent, L. D. 761 is Passed to Be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

#### Emergency

An Act to Permit Juvenile Offenders who are Deaf or Mute, or Both, to be Committed to the Maine Youth Center. (S. P. 207) (L. D. 580)

On Motion by Senator Huber, of Cumberland, placed on the Special Appropriations Table, pending Enactment.

#### Emergency

An Act to Allow Reduced Pricing of Discontinued Liquor Items. (S. P. 290) (L. D. 852)

#### Emergency

An Act to Authorize Municipalities to Vote on Certain Local Option Questions Concerning the Sale of Liquor. (H. P. 188) (L. D. 238)

#### Emergency

An Act Concerning 8-Year Semitrailer Registration. (H. P. 578) (L. D. 726)

These being emergency measures and having received the affirmative votes of 24 members of the Senate, were Passed to Be Enacted, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

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

Senator REDMOND: With regards to L. D. 761, having voted on the prevailing side, I move reconsideration and hope that it will not be reconsidered.

The PRESIDENT: The Senator from Somerset, Senator Redmond, moves that the Senate Reconsider its action whereby Bill, "An Act to Authorize Municipalities of Under 2,500 Inhabitants to Permit Persons other than Arborists to Remove Trees within Municipal Boundaries." (S. P. 218) (L. D. 761), was Passed to Be Enacted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I move that this item be Tabled pending Reconsideration.

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

Senator PERKINS: I request a Division.

The PRESIDENT: A Division has been re-

quested.

Will all those Senators in favor of Tabling this item pending the Motion to Reconsider, please rise in their places to be counted.

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

6 Senators having voted in the affirmative and 23 Senators in the negative, the Motion to Table does not prevail.

Will all those Senators in favor of Reconsideration, please say Yes.

Will all those Senators opposed, please say No.

A Viva Voce Vote being had.

The Motion to Reconsider does not prevail.

#### Orders of the Day

The Chair laid before the Senate the First Tabled and specially assigned matter:

Bill, "An Act Relating to Self-insurance under the Workers' Compensation Act." (H. P. 396) (L. D. 526)

Tabled—April 17, 1979 by Senator Chapman of Sagadahoc

Pending—Passage to be Engrossed.

On Motion by Senator Chapman of Sagadahoc, Retabled for 2 Legislative Days.

The Chair laid before the Senate the Second Tabled and specially assigned matter:

Bill, "An Act to Ensure the Safety of Minors Participating in Trip Camping." (S. P. 79) (L. D. 168)

Tabled—April 18, 1979 by Senator Conley of Cumberland

Pending—Enactment.

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

Senator TROTZKY: Mr. President and Members of the Senate. I would just remind the Senate that this bill concerns trip leaders having permits, and taking courses being given by the Department of Inland Fish and Game. I say all the courses in the world will not substitute for mature judgement, in my opinion. The courses that they mention will have to be taken before a person could take trips out for summer camp, would be a first-aid, water safety, life saving techniques and so on. Many of these courses are, by the way, offered by the Red Cross. I think many Camp Directors in the State of Maine are responsible mature people, and usually send their waterfront people and so on to schools that provide these courses. I think that by passing this bill, in many cases, we just put more costs and more regulation on an industry which is having a very difficult time at this moment.

Also, for example, as I mentioned, I see problems with the Bill, it requires that one staff member, at least 18 years of age for every 6 campers who are minors, and that it depends on the age, sometimes it's safe for one staff member to go with, let's say, 7 or 8 kids, if they are 16 or 15 year olds, and are competent in canoeing, whereas it may be with younger children it should be 1 in 6 ratio.

I think the intent of the bill is good. The sponsor's intent, again, is noble, honorable, but I feel that its maturity and mature judgement that's the real factor in taking canoe trips. Its basically just looking at the weather and making that first decision whether to venture out from the campsite on the lake, and I don't think courses are going to give people better judgement.

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

Senator O'LEARY: Before responding to the arguments by the Senator from Penobscot, by way of New York, I would like to remind this Body that the bill before us today was reported unanimously Ought to Pass by the Committee on Fisheries and Wildlife. It should also be noted that this bill is endorsed by the Maine State Camp Directors Association. It results from hearings and work sessions held by that committee both this session and prior sessions.

I strongly believe it is a reasonable, and constructive approach to a very serious problem.

The Committee tried very hard to balance bureaucratic burdens versus desired goals. In this regard it is interesting to note that no appropriation is necessary, to implement this measure. A Fiscal Note accompanying the Committee Amendment said, that any costs would be offset by fees collected which would be dedicated to the purposes of this bill.

In general the bill would require a reconstituted Junior Maine Guides and Trip Leaders Curriculum Board to review and approve a Camp Trip Leaders' Safety Curriculum.

At the present time, to obtain a Trip Leaders permit, there are no qualifications necessary. It's just a simple payment of a fee. The curriculum would have included, but not limited to, training in first-aid and water safety with specific attention to life saving techniques. For any camp located in Maine, licensed by the Department of Human Services, or located and licensed in another State, but conducting trips in Maine, the Camp Trip Leader must obtain a permit from the Commissioner of Inland Fisheries and Wildlife.

Further in conducting Trip Camping, this bill requires that at least one staff member over the age of 18 be provided for every 6 campers who are minors.

Now the Maine Camp Directors work for the Committee on this Bill, and this is the figure that they arrived at. I had nothing to do with these figures.

To obtain the required Trip Leaders' Permit, beginning in 1980, the applicant must show successful completion of an approved course, or otherwise demonstrate sufficient experience in training to the satisfaction of the Commissioner. This bill authorizes the Department of Inland Fisheries and Wildlife and the Bureau of Forestry to enforce these requirements. In determining any trip conducted in violation of this section.

I do not disagree with the statement of the Senator from Penobscot, that courses and requirements are no substitute for mature judgement. I don't profess to ever try to make anyone believe that it is. I do, however, strongly believe that the pending bill represents an improvement over the present structure, in providing for review and approval of courses and course material, and in granting explicit authority to enforce these provisions.

Mr. President, we had on Mooselookmeguntic Lake, two years ago a canoeing accident where there was, I think, 23 or 24 boys in the water for 4 1/2 hours, hysterical, and at that time we tried to address it in a different manner. I tried too hard to get too much, this is the compromise.

This past summer we had a boy that's still down in the bottom of the lake from a canoeing accident. The man that took him out was experienced enough, and he would have been a qualified Trip Leader, at any time, even if he was from New York too, that didn't bother me, but what bothers me is that there's others that are going to be taking some of these young people out who have had no experience whatsoever, don't know anything about reading a compass, or a topographical map so they'll know where they're going with these children in the woods, or they don't have any knowledge of how to turn a canoe upright again after it has been capsized. It's very easy to teach them this, and that's all its going to do. It's perhaps going to help to save some of these young people's lives. So I hope you'll vote for the enactment of this Bill.

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

Senator TRAFTON: Thank you, Mr. President, Mr. President, and Members of the Senate, I'm very happy to see this bill before us today for Enactment, and I feel strongly that we should carry forward and Enact it.

For the past seven years I have served as the

Water Safety Chairman for the 3 counties of Androscoggin, Oxford, and Franklin. It's been my occasion to be involved in the training of many of the individuals who serve as trip leaders, in the summer camps located in these areas. It's also been my experience to witness a tragedy of accidents caused by untrained people as mentioned by the Senator from Oxford, Senator O'Leary.

While good judgement is certainly a necessary prerequisite for being a Trip Leader, I would suggest to the Senator from Penobscot, Senator Trotzky, that good judgement alone cannot start a non-beating heart with CPR, and good judgement alone cannot stop a bleeding limb, and good judgement alone cannot save a drowning person.

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

Senator MINKOWSKY: Mr. President, when the vote is taken, I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Enactment of L. D. 168, please rise in their places to be counted.

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

16 Senators having voted in the affirmative and 9 Senators in the negative, the Bill was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The Chair laid before the Senate the Third Tabled and specially assigned matter:

Bill, "An Act Concerning Issuance and Renewals of Liquor Licenses." (H. P. 316) (L. D. 382)

Tabled — April 18, 1979 by Senator Pierce of Kennebec

Pending — Motion of Senator Conley of Cumberland to Reconsider Passage to be Engrossed.

The PRESIDENT: Is it the pleasure of the Senate to Reconsider its action whereby this Bill was Passed to be Engrossed?

It is a vote.

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, I present Senate Amendment "A" (S-113) and move its adoption.

The PRESIDENT: The Senator from Waldo, Senator Shute now offers Senate Amendment "A" to LD 382 and moves its adoption.

Senate Amendment "A" (S-113) Read and Adopted, The Bill, as amended Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the Fourth Tabled, and Specially assigned matter:

Bill, "An Act Regulating Hunting with Muzzle-loading Rifles." (H. P. 498) (L. D. 622)

Tabled—April 18, 1979 by Senator Conley of Cumberland

Pending—Motion of Senator Trotzky of Penobscot to Reconsider whereby Bill Failed of Enactment.

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

Senator KATZ: It is my understanding that this Bill is of some interest to the Senator from Oxford, Senator O'Leary, and although I am not a physician I think that he has just run out of voice, perhaps somebody would like to table.

On Motion by Senator Conley of Cumberland, Retabled for 1 Legislative Day.

The Chair would direct the Senate's attention to Bill An Act to Exempt Out-of-State Technical and Vocational Schools from Registration under the Transient Sellers Law. (H. P. 1076) (L. D. 1329) tabled earlier in today's session.

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

Senator CHAPMAN: Mr. President and Members of the Senate, in reference to the question by the good Senator from Kennebec, Senator Katz, the Transient Sellers Law required registration with the Department of Business Regulations. It was discovered however, that in the case of Out-of-State Vocational Technical Schools who in some instances, came under this law and had to comply with the law and register and post a bond with the Department of Business Regulation, also were subject to similar requirements with the Department of Education and Cultural Services.

The Department of Education and Cultural Services and the Department of Business Regulation got together on this matter and they agreed that the duplication was unnecessary and that registration with the Department of Education and Cultural Services was sufficient.

The Bill, tomorrow Assigned for Second Reading.

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

The PRESIDENT: The Chair would call the Senate's attention to the lovely marine paintings that are now hanging in the Senate. It is totally in keeping with the history of our State. They are excellent examples of 19th century ship pictures and each painting depicts, with the exception of "The Watchman of the Rocks". Over there, each picture represents a ship entering a foreign port.

The oldest painting is dated 1828 and the latest picture is 1868.

These paintings were very kindly loaned to the Senate by the Maine Historical Society in Portland and were hung in the Chamber by Denis Fiori from the Arts and Humanities Commission. Certainly, I know that I express all our feelings when we thank both these organizations very much.

On Motion by Senator Katz of Kennebec, adjourned until 12 noon tomorrow.