

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 Ninth
Legislature

OF THE
STATE OF MAINE

Volume II

First Regular Session

May 7, 1979 to June 15, 1979

INDEX

First Confirmation Session

August 3, 1979

INDEX

First Special Session

October 4-5, 1979

INDEX

Second Special Session

October 10-11, 1979

INDEX

Second Confirmation Session

December 7, 1979

INDEX

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

May 23, 1979

Senate called to order by the President.

Prayer by Reverend Stephen Holmes of the Winthrop Congregational Church.

Reverend HOLMES: O gracious Lord, our minds and hearts are open to the stirrings of your will. Like leaves in spring our lives, our attitudes, our beliefs, and the dictates of our conscience unfolded before ourselves, each other and the people of this fair and beautiful state.

In this place our inter-truth is reviewed, Lord should we stand for an issue, let it be that our hearts know why, and should we stand against let us be in truth to our convictions, should we vacillate between Yea and Nay let indecisiveness be our growing edge, and the deepening of our convictions.

Lord let now this assembly be blessed with righteousness, and Your will shall rule the activities of this day. Amen.

Reading of the Journal of yesterday.

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

Senator Katz of Kennebec, was granted unanimous consent to address the Senate, Off the Record.

On Motion by Senator Pierce of Kennebec, Recessed until the sound of the bell.

Recess

After Recess

The Senate called to order by the President.

(Off Record Remarks)

Papers From the House
Non-concurrent Matter

Bill, "An Act Relating to Gifts in Contemplation of Death." (H. P. 1145) (L. D. 1407)

In the House, May 17, Passed to be Enacted. In the Senate, May 21, the Bill and Papers, Indefinitely Postponed, in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

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

Senator DEVOE: Thank you, Mr. President, I move that the Senate Adhere.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, moves that the Senate Adhere.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I move that the Senate Insist and Join in a Committee of Conference.

The PRESIDENT: The Senator from Cumberland, Senator Conley, moves that the Senate Insist and Join in a Committee of Conference, with the House.

The Chair will order a Division.

Will all those Senators in favor of the Motion to Insist and Join in a Committee of Conference, please rise in their places to be counted.

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

11 Senators having voted in the affirmative and 15 Senators in the negative, the Motion to Insist and Join in a Committee of Conference does not prevail.

Is it now the pleasure of the Senate to Adhere?

The Motion Prevailed.

Non-concurrent Matter

Bill, "An Act to Include Teachers in the Hope Training School for Retarded Children in Mexico in the Maine State Retirement System." (H. P. 1177) (L. D. 1442)

In the House, May 10, Passed to be Engrossed, as amended by Committee Amendment "A" (H-354.)

In the Senate, May 21, the Bill and Papers, Indefinitely Postponed, in non-concurrence.

Comes from the House, the Body having Adhered.

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

Senator LOVELL: I move that the Senate Adhere.

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

Senator O'LEARY: I move that the Senate Recede and Concur. I can't for the life of me understand why we should discriminate between teachers of Normal School Children versus teachers of Retarded School Children especially when these teachers are certified by the State Board of Education. The school is accredited by the State Board of Education. I don't know why we should allow discrimination.

These people are just simply asking to pay their share of the Maine State Retirement System so that in their future years they will have something to look forward to too. I hope you will vote with it.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the Motion of the Senator from Oxford, Senator O'Leary, that the Senate Recede and Concur with the House, please rise in their places to be counted.

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

11 Senators having voted in the affirmative and 18 Senators in the negative, the Motion to Recede and Concur does not prevail.

Is it now the pleasure of the Senate to Adhere?

The Motion Prevailed.

Non-concurrent Matter

Bill, "An Act Concerning Arbitration Involving Municipal Fire and Police Departments" (H. P. 1191) (L. D. 1463)

In the House, May 17, Passed to be Engrossed, as amended by Committee Amendment "A" (H-415), as amended by House Amendment "A" (H-444), thereto.

In the Senate, May 21, the Minority Ought Not to Pass Report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I move that the Senate Insist and Join in a Committee of Conference.

The PRESIDENT: The Senator from Oxford, Senator Sutton, moves that the Senate Insist and Join in a Committee of Conference with the House.

Is this the pleasure of the Senate?

The Motion does Prevail.

Non-concurrent Matter

Bill, "An Act to Reduce the Minimum Public Utility Monthly Electrical Charge to \$2 and to Prohibit the use by Electrical Utilities of an Estimated Meter Reading as a Basis for a Customer Bill." (H. P. 1193) (L. D. 1444)

In the House, May 15, Passed to be Engrossed, as amended by Committee Amendment "A" (H-383).

In the Senate, May 18, Report "B", Ought Not to Pass, Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted.

HOUSE OF REPRESENTATIVES

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

Senator DEVOE: Thank you, Mr. President. I move that the Senate Insist and Ask for a Committee of Conference.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, moves that the Senate Insist and Ask for a Committee on Conference with the House.

On Motion by Senator Conley of Cumberland, Tabled until later in today's session, pending the Motion by Senator Devoe of Penobscot.

On Motion by Senator Katz of Kennebec, under Suspension of the Rules the Senate voted to send L. D. 1407, L. D. 1442, L. D. 1463 forthwith for concurrence.

Non-concurrent Matter

Bill, "An Act to Establish Assessments Upon Certain Public Utilities and to Authorize Use of the Funds Generated by Those Assessments to Pay Certain Expenses of the Public Utilities Commission." (H. P. 380) (L. D. 487)

In the House, May 7, Passed to be Engrossed as amended by Committee Amendment "B" (H-322).

In the Senate, May 9, Passed to be Engrossed as amended by Committee Amendment "A" (H-321), in non-concurrence.

In the House, May 11, the House Insisted.

In the Senate, May 14, the Senate Adhered.

In the House, May 15, the House Receded and Concurred.

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A," as amended by House Amendment "A" (H-480) thereto, in non-concurrence.

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

Senator KATZ: Mr. President, I call the attention of the Senate to the rather long listing of actions on this Bill. You will notice that on May 14, the Senate Adhered. According to our Joint Rules when the Senate Adheres, it means that we want to see the Bill, only in the same posture we Adhered.

The Bill has gone down to the other Body. They have made several parliamentary moves, and they have sent it back to us in a different form from which we sent it to them. I think that this is improper. I think this is a misuse of the Joint Rules and I would ask the President to rule on whether or not this matter is properly before the Senate.

The PRESIDENT: The Chair would advise the Senator, that in the opinion of the Chair, this item is improperly before the Senate.

Communication
SENATE CHAMBER
President's Office

May 21, 1979

Honorable Barbara Gill
Honorable Sandra Prescott
Chairmen, Health & Institutional Services
Committee

State House
Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is nominating Mary C. Golden of Bangor as a consumer member of the Health Facilities Cost Review Board.

Pursuant to Title 22, MRSA, Section 353, this nomination will require review by the Joint Standing Committee on Health and Institutional Services and confirmation by the Senate.

Sincerely,

JOSEPH SEWALL
President of the Senate
JOHN MARTIN
Speaker of the House
(S. P. 568)

Which was Read and referred to the Committee on Health and Institutional Services.
Sent down for concurrence.

Honorable May M. Ross
Secretary of the Senate
109th Legislature
Augusta, Maine 04330
Dear Madam Secretary:

The House today voted to Insist and Join in a Committee of Conference on Bill "An Act to Assist School Administrative Units in Addressing Problems Associated with Alcohol, Tobacco and Drug Use and Abuse" (S. P. 209) (L. D. 582)

Respectfully,
EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

HOUSE OF REPRESENTATIVES

May 22, 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 Relating to Resident State Police Troopers" (H. P. 841) (L. D. 1069)

Respectfully,
EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

COMMITTEE ON AUDIT AND PROGRAM REVIEW

May 21, 1979

The Honorable Joseph Sewall
President of the Senate
State House
Augusta, Maine 04333
Dear President Sewall:

The Committee on Audit and Program Review is pleased to report that it has completed all business placed before it by the First Regular Session of the 109th Legislature.

Bills received in Committee 1
Unanimous Report
Ought Not to Pass 1

Sincerely,
JAMES McBREAIRTY
Senate Chairman

Which was Read and Ordered Placed on File.

Orders

An Expression of Legislative Sentiment recognizing that:

Bob and Dot Duffy of Blue Hill have celebrated their 50th wedding anniversary. . . (S. P. 570) is presented by Senator Perkins of Hancock, Cosponsored by Representative Bordeaux of Mount Desert.

Which was Read and Passed.
Sent down for concurrence.

Committee Reports House

The following "Ought Not to Pass" reports shall be placed in the legislative files without further action pursuant to Rule 22 of the Joint Rules:

Bill. "An Act to Increase Parental Responsibility for Habitual Truants." (H. P. 658) (L. D. 818)

Bill. "An Act to Provide Minimum Attendance Requirements for Students Enrolled in Regular School Programs which shall be met Before Those Students will Qualify for Promotion." (H. P. 294) (L. D. 393)

Leave to Withdraw

The Committee on Judiciary on, Bill, "An Act Prohibiting Fraudulent Communication Devices and the Publishing of Information on how to Fraudulently Avoid Payment of Telecommunication Services." (H. P. 742) (L. D. 956)

Reported that the same be granted Leave to Withdraw.

May 22, 1979

Comes from the House, the Report Read and Accepted.

The Committee on Education on, Bill, "An Act to Permit Persons Under 17 Years of Age to Attend Adult Education Classes." (H. P. 693) (L. D. 871)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1979. (Emergency) (H. P. 1417) (L. D. 1621)

Reported that the same Ought to Pass, pursuant to Joint Order (H. P. 135).

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

The Committee on State Government on, Bill, "An Act to Increase the Short-term Investment Capabilities of the State." (H. P. 1048) (L. D. 1306)

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

The Committee on State Government on, Bill, "An Act to Revise the Medical Examiner System." (H. P. 1151) (L. D. 1533)

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. The Bills and Resolve Read Once and Tomorrow Assigned for Second Reading.

The Committee on Local and County Government on, RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1979. (Emergency) (H. P. 1416) (L. D. 1620)

Reported that the same Ought to Pass, pursuant to Joint Order (H. P. 135).

Comes from the House, the Resolve Passed to be Engrossed, as amended by House Amendment "A" (H-487)

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

Ought to Pass - As Amended

The Committee on Transportation on, Bill, "An Act to Revise the Laws Relating to Motor Vehicle Operators' Licenses." (H. P. 618) (L. D. 759)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-473)

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

The Committee on Transportation on, Bill, "An Act Providing Additional Funds to Acquire Land for a Passenger Terminal, Transfer Bridge and a Parking Area for the Casco Bay Ferry Service in Portland and to Provide Funds for their Construction." (H. P. 199) (L. D. 248)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-474)

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

The Committee on Marine Resources on, Bill, "An Act Concerning the Adoption of Management Plans by the Commissioner of Marine Resources." (H. P. 912) (L. D. 1120)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-475)

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

The Committee on Business Legislation on, Bill, "An Act to Permit Optional Credit Life Insurance for the Comaker of a Debt." (H. P. 929) (L. D. 1142)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-471).

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 Create a Special Commission on State Mandates Imposed on Local Units." (H. P. 1083) (L. D. 1350)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-468)

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

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

The Committee on Judiciary on, Bill, "An Act Relating to Personnel Records of Employees of Political Subdivisions of the State." (H. P. 666) (L. D. 826)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-460)

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A", as amended by House Amendment "A" (H-482) thereto.

Which Reports were Read and Accepted, in concurrence, and the Bill Read Once.

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

Ought to Pass in New Draft

The Committee on State Government on, Bill, "An Act Establishing Mechanisms to Pinpoint Responsibility and Facilitate Coordination Between the Various Manpower Training and Economic Development Programs." (H. P. 714) (L. D. 887)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1418) (L. D. 1622)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

On Motion by Senator Ault of Kennebec, Tabled until later in today's session, pending Acceptance of the Committee Report.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Preventing the Release of Names of Victims of Crimes." (H. P. 1293) (L. D. 1553)

Reported that the same Ought Not to Pass. Signed:

Senators:
COLLINS of Knox
DEVOE of Penobscot
TRAFTON of Androscoggin

Representatives:
STETSON of Wiscasset
JOYCE of Portland
SILSBY of Ellsworth
SEWALL of Newcastle
CARRIER of Westbrook
GRAY of Rockland
HUGHES of Auburn

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-462)

Signed:
Representative:

LAFFIN of Westbrook

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 Conley.

Senator CONLEY: Mr. President and Members of the Senate: I have no illusions to the fact that this is a very heavily divided report. But the bill itself, I think, is a very well meaning bill. I think it's a bill that many of my constituents, certainly in a larger community would be happy to see on the books.

It's a bill, really, that gives a victim, a victim of a crime the rights of not having their name published in the local newspapers once that crime has been committed. There is no one really, who is more concerned, I believe. We're trying to protect the rights of an individual that does have a problem like this. To see their names battered across the newspapers and many times I'm sure for an example, when we see the elderly who receive a social security check, it's dropped in the mail, and then they have it stolen and she reports it stolen. You pick up the news blotter the next day and there it is. Mrs. Jones, of 57X Street, reported today that her Social Security Check was stolen.

Well that doesn't seem too much to us, the average reader, perhaps, but there are other people who are in a community that look at a report like that in the paper. Already they size Mrs. Jones up for another hit 2 months down the road.

Or the young lady whose been attacked and molested in the park, who really doesn't want her name mentioned, but the fact is she'll go to the police and give a full description of the individual that molested her, give the police all the information that is needed, to try to apprehend the assailant and bring him to justice. But still the victim becomes again the individual who has suffered because of the unwanted publicity by making a report to the police department, doing her bit as a citizen to try to retain or maintain some civil rights within the community.

I know it's not a big item. It's not a big bill. But I do believe that the victim of a crime should at least have the equal protection of those who are committing the crime. In the old days before the Miranda Case we used to look back with our eyes wide open and see the criminals abused in jail cells, and pounded until the point that they reluctantly, finally just said anything that came to their mind to cease the alleged violations by the police on them. Such was the Miranda Case that no criminal, or alleged criminal had to confess to any crime. He had rights.

Well I think the victim has equally as many rights. I think this is one area that this Legislature can address them. There are other States in this Union, who have similar Legislation for protection of the victim. I would move, Mr. President, that the Senate Accept the Minority Ought to Pass Report.

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

Senator COLLINS: Mr. President, there is certainly a great deal of sympathy in the position stated by the Senator from Cumberland, Senator Conley. Our committee recognized that and struggled for some time trying to find a way that could be useful to the victims, and at the same time not violate the First Amendment, not do away with Freedom of the Press, and not slow down the efficiency of the police operations.

This Miranda Warning for victims unfortunately does interfere with the efficiency of the police. It's really only the new item here. The

victim can now request the police not to release their names, whether the police do it or not, of course, is up to the police. But even more importantly, it's up to the press.

Sometimes a considerate and wise reporter refrains from putting in his story the name and address of the victim of crime, and does a service to both the community and to the victim. But when we put an absolute ban on that sort of thing, of course, we're smack against the First Amendment.

Now in this particular version of the bill here, the records that are going to be kept in the police station and elsewhere are still going to be open to the press. So that even if the victim requests that their name not be given out, and the police do what they can to keep it quiet, the press can still get at the name, as long as they're persistent in exercising the rights of the press to see certain records that are available under our Freedom of Access Law.

So you have 2 good purposes coming to a clash here. You can make your choice. I guess that I made my choice on the basis, that if a reporter wants to be compassionate and discerning, he can be that without having this process delaying him a bit.

The fact that the policemen tell a victim, well, you don't have to have your name released by us, if you don't wish, I think, really isn't going to change the circumstances of police administration, except to slow it down a bit. So that maybe the policeman that day instead of waiting on 10 cases where people have gotten mugged, he waits on 8 cases. So that's the thinking that goes into this report. Therefore, I would urge you to vote no on the pending motion.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: I would support the pending motion. I really think the question here is whether a person's right to privacy is more important than the neighbor's right of curiosity, if you will.

We seem to be doing very little to help victims of crime and we continually seem to do a lot to help the perpetrators of the crime. Many people ask me, well, just whose side is the Legislature on? This is really a minor little item. If you read House Amendment 462, which, I believe, now is the bill; it says that "a victim of crime may request, and if so requested, the name of the victim shall be confidential and shall not be opened to the public inspection, and is not to be disseminated."

Now, I've heard all the arguments about the press, and right to know, and all this. I was given another argument this morning, that if, you know, people won't become concerned about crime in their neighborhood if we don't have these names published in the paper.

I maintain that an item published in the paper about a mugging on Maple Street, will create just as much public awareness as if the mugging happens to have taken place on 94 year old Mrs. Johnny Jones. I don't really think this is necessary. I think you might see a slightly more effective law enforcement agency if this type of confidentiality were to become part of our statutes, because maybe some shy witnesses might step forward if they didn't think that their names were going to be involved as having been at the scene of the crime. We might just become a little bit more law enforcement oriented.

The argument about this is going to put a terrific burden on the police, I don't think is really valid because I was a law enforcement officer when the Miranda Warning first came into vogue. They were a genuine pain, but it was something that I think most of us recognize that were needed, and we went along with it, obviously because of the court ruling. We learned to live with it. It's now second nature to any law enforcement officer. The type of

confidentiality warning, if you will, that a law enforcement officer would have to give in this instance is much less structured and much less severe than has to be done by the so-called Miranda Warning. We have several items on a card that have to be read and have to be read in a proper way.

I don't really think that the whole lot is served in our system by publishing the names of these crime victims. I think that we might serve the victims of these crimes very well by enacting this statute. The precedent has already been set. This is nothing new. Rape victims, sometimes, names are not released. Juvenile names are not released. We're not doing anything new and drastic here. It was just another step that might in some way, help some victims of crime. I would urge your support of the pending motion. Thank you.

The PRESIDENT: The Chair will order a Division.

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

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

9 Senators having voted in the affirmative, and 12 Senators in the negative, the Motion to Accept the Minority Ought to Pass, as amended, Report does not prevail.

The Majority Ought Not to Pass Report of the Committee, Accepted, in non-concurrence. Sent down for concurrence.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Monitor the Juvenile Code." (H. P. 892) (L. D. 1080)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-461)

Signed:

Senators:

COLLINS of Knox
DEVOE of Penobscot
TRAFTON of Androscoggin

Representatives:

HOBBINS of Saco
SIMON of Lewiston
SEWALL of Newcastle
HUGHES of Auburn
JOYCE of Portland
SILSBY of Ellsworth
GRAY of Rockland

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

Signed:

Representatives:

CARRIER of Westbrook
STETSON of Wiscasset
LAFFIN of Westbrook

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" thereto (H-488)

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee, Accepted, in concurrence. 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 Concerning Preservation Interests under the Property Laws to Preserving or Restoring Historic Property." (H. P. 1212) (L. D. 1500)

Reported that the same Ought to Pass.

Signed:

Senators:

COLLINS of Knox
TRAFTON of Androscoggin

Representatives:

GRAY of Rockland
JOYCE of Portland
STETSON of Wiscasset
LAFFIN of Westbrook
SILSBY of Ellsworth
SEWALL of Newcastle
HUGHES of Auburn
SIMON of Lewiston

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

Signed:

Senators:

DEVOE of Penobscot

Representatives:

CARRIER of Westbrook

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed.

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: I'd like you, if you could, to take L D 1500 and take a look at it. It seems to me even though it is voluntary and permissive in nature, it's far-reaching in its affects. I'd simply like to go through some of the provisions of the statute of the proposed LD so that you can consider them when you take a vote. I'm opposing the motion of the Senator from Knox, Senator Collins, to accept the Majority Report.

This deals with historic property. Section 1 of the Bill says that "Historic property shall mean a structure, a plot of land, or any combination of land and buildings which was the setting of an event, which has a special historical architectural or archeological interest or value in which it's predominantly in its original historical or nature condition." It goes on to define what a preservation agreement is, what a preservation interest is, and it defines a qualified holder as meaning a non-profit preservation or historical organization or a governmental body.

Yet, if you look at the Statement of Fact, the Statement of Fact says that a governmental body may be the holder of a preservation interest, such as the Local Conservation Commission. I frankly question, I think there is an inconsistency between the Statement of Fact and what the proposed LD purports to provide.

There is then a provision for the scope of the preservation interest. The interest can reach to exterior alterations on the house, interior alterations in the house, demolition and additions to the house, and landscaping.

I don't know what the purpose of the sponsor was in sponsoring this, whether it's to provide a vehicle by which people may gain a charitable deduction, if they wish to donate a preservation interest to a local non-profit corporation or historical organization. But it will have the effect of binding and I think, posing some great difficulties for subsequent owners of property.

The town of Orono has a historical district. Many years ago we had an application before the Zoning Board of Appeals in which a building located in the historic district had to come in to get permission to get a couple of new windows put in the first floor of the building.

I think this is going to be rather restrictive on future owners of the property. I don't think it's going to serve any particular great need. I think it is going to just clutter up the transfer of titles, and the right which all of us have, I think, when we own a property to look after it according to our own best information as to what is good for that particular property. I don't think we need L. D. 1500. For that reason I'm going to vote against adoption of the Majority Ought to Pass Report. Thank you very much, Mr. President.

The PRESIDENT: The Chair recognizes the

Senator from Knox, Senator Collins.

Senator COLLINS: After recent experience, I guess I ought to know better than to oppose the views of my brother from Penobscot, but since the committee trusted me with that responsibility, I would explain the position of the Majority of the Committee.

Suppose that I live next door to a house which was owned by Major General Henry Knox, who was George Washington's General, and that building has historical significance and people are interested in seeing it preserved in some fashion. Suppose that I decide that I'd like to build a 5 story apartment building where my house is, and the people interested in local history come by and say: "Well, we wish you wouldn't, it will spoil the character of the neighborhood and cut out the light from this historic place." And so I say, "Well, I'll reconsider but if I can't do what I want to my property I ought to be paid something." They say, "all right, we'll pay you \$1,000 if you will give us a written agreement, which we might call an easement, that provides that you won't build any building on your land that's higher than 25 feet off the ground."

Now that's perfectly valid under common law, under today's law, we can do that sort of thing. What this bill would do would be to extend the right to have that sort of an agreement, to extend the right of enforceability to 2 new groups. Right now the enforceability would be between just 2 parties, me and my neighbor, with whom I made the agreement, whoever owned the adjoining lot. The 2 of us would have rights, each as against the other, because of the written agreement that we've freely entered into, and recorded in the Registry of Deeds.

Now this bill simply extends the right to enforce such an agreement to 2 new bodies. One body is governmental, it might be the town or the county or the State. It might be designated to be a specific agency under that governmental body such as a Conservation Commission or even an Historic Preservation Agency at the state level. The other entity that might be given the right to enforce such an agreement would be, that's described in the bill, an Historic Preservation Organization. There are various groups like that around the State. This particular bill had it's strongest support from people in the Cumberland County area where they have 2 or 3 organizations that are interested in the preservation of historic places and buildings.

So the extension of who may enforce this sort of agreement to those 2 bodies is the real issue here. I do not see it as a radical extension of authority over property. It's entirely free and voluntary. The people who own the property have to make the agreement just as they do now if they're dealing with their neighbors about their own property. But if they should choose to do that, then those who might enforce that agreement would be somewhat enlarged.

In my own city we have a couple of places like this, the buildings are long gone, but the people who own them and have replaced them agreed to put a little plaque saying that this is a place where Maxine Elliott was born. You see these if you go through historic parts of Boston, and other cities you'll see little plaques on buildings that just record what happened there historically. Frequently that's the only thing that's added by a covenant of this type. It's a useful way of preserving history. It doesn't cost anybody anything. They do it freely. It simply permits a group of public minded citizens, history minded citizens, to have a hand in the enforcement, if it happens to come about that way.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, I've listened to the good Senator from Knox, Senator Collins, and in his example that he posed concerning Colonel Knox's

House, if he owned the adjoining land to it I question whether that would be covered under L. D. 1500. Because in order for it to be covered, the land adjoining Colonel Knox's would have to be a structure or a plot of land first, which was the setting of an event, which had a special historical, architectural or archeological interest of value and which was predominantly in its original historical and natural condition.

Another problem that concerns me with the bill is that if you have people who are in the local Historical Society or local governmental body, who are historical buffs, purists, they are not going to want to see the slightest thing done to alter the exterior or sometimes even the interior of the building unless they have the say. So you're going to have local historical groups or preservation groups dictating what the homeowner can do down to the minutest detail on the inside or on the outside because I remind you that exterior alterations are not limited to maintenance placement, removal, or decoration. Interior includes maintenance renovation, construction, or decoration. What kind of wall paper you'll put on your wall, what color paint you will have to paint the inside. It could get that bad.

You want to put some nice shrubs outside. The local historical group might disagree with the way you're going to place those shrubs. That's the kind of thing that you can get into with this bill. I don't think it's needed. I don't think the State of Maine needs Legislation like this. Therefore, I urge you to defeat the pending motion. Thank you very much, Mr. President.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

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

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

15 Senators having voted in the affirmative, and 5 Senators in the negative, the Motion to accept the Majority Ought to Pass Report in concurrence does prevail.

The Bill Read Once, and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act Relating to Furloughs for Inmates of County Jails." (H. P. 414) (L. D. 514)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-439).

Signed:

Senator:

CARPENTER of Aroostook

Representatives:

PAYNE of Portland
MATTHEWS of Caribou
CLOUTIER of South Portland
CURTIS of Milbridge
NORRIS of Brewer
BRODEUR of Auburn
MacBRIDE of Presque Isle
PRESCOTT of Hampden
BRENERMAN of Portland
VINCENT of Portland

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

Signed:

Senators:

GILL of Cumberland
HICHENS of York

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

On Motion by Senator Gill of Cumberland, the Minority Ought Not to Pass Report of the Committee, Accepted.

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Require Attorneys to Have Sufficient Professional Malpractice Insurance as a Requirement for Admission to the Bar." (H. P. 743) (L. D. 929)

Reported that the same Ought Not to Pass.

Signed:

Senators:

CHAPMAN of Sagadahoc
AULT of Kennebec

Representatives:

SPROWL of Hope
JACKSON of Yarmouth
LIZOTTE of Biddeford
ALOUPIS of Bangor
WHITEMORE of Skowhegan
BRANNIGAN of Portland
GWADOSKY of Fairfield
HOWE of South Portland
BROWN of Bethel
DUTREMBLE of Biddeford

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

Signed:

Senator:

CLARK of Cumberland

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

Which Reports were Read.

The Majority Ought Not to Pass Report of the Committee. Accepted in concurrence.

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act to Establish Strike Penalties." (H. P. 313) (L. D. 381)

Reported that the same Ought Not to Pass.

Signed:

Senator:

PRAY of Penobscot

Representatives:

WYMAN of Pittsfield
BEAULIEU of Portland
TUTTLE of Sanford
MARTIN of Brunswick
LEWIS of Auburn
BAKER of Portland
McHENRY of Madawaska

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-467).

Signed:

Senators:

SUTTON of Oxford
LOVELL of York

Representatives:

FILLMORE of Freeport
CUNNINGHAM of New Gloucester
DEXTER of Kingfield

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

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I'd like to just draw the attention of the Senate to the fact that we've had many binding arbitration bills before us for public employees. We have a situation where public employees are not allowed to strike, but we have no strike penalties for them. This is the second strike penalties bill that's come before us. The other passed this body and was defeated in the body down the hall. This bill started down the hall and is coming up here, Indefinitely Postponed, or not accepted, I assume that regardless of what we do here, the same fate will reach this.

Now I'm told all the time about the inequities of the positions that we take sometime trying to keep a balance between management and labor. I'd just like to bring to your attention, this is what we're faced with.

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

Senator LOVELL: Mr. President, and Ladies and Gentlemen of the Senate: We quite often in this Senate, pass a bill which in the other body was also passed by maybe 1 vote or 2 votes. In fact, we just did that a few minutes ago. Now this is truly a Republican bill. We don't very often get a Republican bill out of the bar or the Committee on Labor.

The purpose of this bill is to identify statutory penalties for participating in illegal work stoppages, slowdowns or strikes. Now if that isn't good reasoning, I don't know what is.

The present law fails to adequately identify what penalties may be applied to local public employees who participate in illegal strikes, work stoppages, or slowdowns.

I would ask for a Roll Call vote.

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

Senator PRAY: Mr. President, and Members of the Senate. I would just point out to the previous speaker that we've had several bills in here that have had strike penalties. There's been no opposition by the Minority Party in the Senate to it. The first bill came through and went under the hammer. Upon my own urging we suspended the rules and gave the bill it's Second Reading.

My three terms here, or at least my first two terms, I always taught and told that we were to take our own appropriate action no matter what happened elsewhere, and that we weren't supposed to constantly refer to other sections of the Legislature and to those actions that they took there, to preclude our own actions, that we were to act independently.

The several other bills dealing with binding arbitration, which was addressed, impasse and collective bargaining law, sometimes when an impasse is reached is when we have a strike. The binding arbitration was an attempt to avert the strikes and the walk-outs and the slowdowns and what else has happened across this country of ours.

I think that although the issue itself will still be before us. This morning we joined in a Committee of Conference, and I hope it is a productive one. I hope that action was taken with an open mind, and not one to preclude the procedure of killing a bill in a Committee of Conference or anything, even prior to the fact before the parties met.

Those binding arbitration bills that we have had before us did have a penalties in there for those who did strike and this body saw fit at that time, not to address the fact that those bills did have penalties for strikes.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate: I thank the good Senator from Penobscot, my friend Senator Pray for drawing to my attention the fact that I guess I wasn't educated well enough in that we should do our own thing down here and not be concerned about the other Body. So based on that, I will move that we accept the Minority Ought to Pass Report. I would also like to just again draw attention to the fact that even though we have bills down here with strike penalties on them, that's not what we're addressing, we're addressing binding arbitration, we weren't addressing strike penalties.

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.

The Chair recognizes the Senator from York, Senator Lovell.

Senator LOVELL: I'm afraid I might win, so I wish to withdraw the Roll Call vote.

The PRESIDENT: The Senator from York, Senator Lovell, now Requests Leave of the Senate, to Withdraw his Request for a Roll

Call.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair will order a Division.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, I would ask the members of my party to vote for the enactment of this bill.

The PRESIDENT: 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 pending question before the Senate is the Motion by the Senator from Oxford, Senator Sutton, that the Senate Accept the Minority Ought to Pass, as amended, Report of the Committee.

A Yes vote will be in favor of Accepting the Minority Ought to Pass, as amended, Report.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Chapman, Clark, Collins, Conley, Devoe, Emerson, Farley, Gill, Katz, Lovell, McBreairty, Najarian, Perkins, Pierce, Pray, Redmond, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher.

NAY—Carpenter, Cote, Minkowsky, O'Leary.

ABSENT—Danton, Hichens, Huber, Martin.

A Roll Call was had.

24 Senators having voted in the affirmative, and 4 Senators in the negative, with 4 Senators being absent, the Motion to accept the Minority Ought to Pass, as amended, Report in non-concurrence, Report does prevail.

The Bill Read Once.

Committee Amendment "A" Read and Adopted, in non-concurrence.

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

Senator KATZ: I move under Suspension of the Rules, that this Bill be given its Second Reading at this time.

Under Suspension of the Rules, the Bill, as amended, was Read a Second Time.

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

Senator CONLEY: Mr. President, I request a Roll Call on the Engrossment of this Bill, and urge the Senate to vote for it.

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 York, Senator Farley.

Senator FARLEY: Mr. President and Members of the Senate: One remark made by the Senator from York, Senator Lovell, I don't know whether it's accurate or not. We have a law on the books saying you can't strike and so what? I think we ought to do something, some minimal thing to have some coverage, 2 days pay, I think, is what the bill calls for now, I think, is rather strong.

If we pass this bill to be engrossed today, now there's probably no chance of getting this amended to make it more palatable to a lot of

us. I think it's ridiculous to have them saying you can't strike, and nothing to support it, but I think this bill goes too strong. There ought to be some easier remedy to the situation. If we pass this bill to be engrossed today, it's chances for amendment are probably nearly impossible.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I would just draw the good Senator's attention to the amendment which gives an adjudication remedy.

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

Senator CONLEY: Mr. President and Members of the Senate: First of all I know what we've all been through here the last several months with respect to the Collective Bargaining Agreement or the contract of the MSEA. No one supported them more than the members of my party, and some members of the opposition.

But I honestly think that we have to have some type of balance. We have passed a collective bargaining statute. We recognize the rights to bargain in good faith. We recognize the fact that it is a tedious long period of time, on occasions, when negotiating contracts. The fact is that we established the right to allow public employees or the state employees, the purpose of collective bargaining is so that they can sit down and negotiate a contract, was the greatest step forward for the employees of this State that's ever happened.

Now the State must be protected, it must be protected. We have currently on the statutes that no one can go out on strike. I don't like to see people go out on strike. I don't like to see the collective bargaining process, on the other hand, not being conducted in a manner that we would all be proud. I think when we say 'bargain in good faith', we mean exactly that. I don't believe that any employee or the employer should have the right to, in some way, move away from that intent of that law. But I think also that the employee must remain on his job. He can take all types of public information, picketing, etc. They can get on the phones. They can do everything they can to try to get the Executive Branch of Government to move in a straight manner if the Executive Branch is, in fact, holding up the program, so to speak.

But the citizens of this State are equally as important as its employees. Therefore, I see nothing wrong with this particular bill. I think that the State has to be protected and that we have to have some type of a situation, there's got to be some type of a threat in a sense to prevent the employees from walking off the job.

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

Senator CARPENTER: Mr. President, I apologize to the Senate for my confusion on this bill. I was under the impression that if a public employee took part in an illegal strike, that they could be fired. That's in the form of a question through the Chair, to anybody that may care to answer. I also understand that our little mini-strike we had there a month ago, that the employees, their wages are being withheld for the days they were out. I would like to have somebody address that situation, and also answer the question, whether or not under existing law, a public employee who goes out on strike can or cannot be fired. Thank you.

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

The pending question before the Senate is Passage to be Engrossed of L. D. 381.

A Yes vote will be in favor of Passage to be Engrossed.

A No vote will be opposed.

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

YEA—Ault, Carpenter, Chapman, Clark, Collins, Conley, Devoe, Emerson, Farley, Gill,

Huber, Katz, Lovell, McBairty, Minkowsky, Najarian, Perkins, Pierce, Pray, Redmond, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher.

NAY—Cote, O'Leary.

ABSENT—Danton, Hichens, Martin.

A Roll Call was had.

27 Senators having voted in the Affirmative, and 2 Senators in the negative, with 3 Senators being absent, the Bill Passed to be Engrossed as amended in non-concurrence.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Provide a Grant to Community Health Services, Inc. for a Long-term Care Demonstration Project." (H. P. 1087) (L. D. 1343)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-390).

Signed:

Senators:

GILL of Cumberland
HICHENS of York

Representatives:

BRENERMAN of Portland
PAYNE of Portland
MATTHEWS of Caribou
CLOUTIER of South Portland
CURTIS of Milbridge
NORRIS of Brewer
BRODEUR of Auburn
MacBRIDE of Presque Isle

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

Signed:

Senator:

CARPENTER of Aroostook

Representative:

PRESCOTT of Hampden

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "B" thereto (H-455).

Which Reports were Read.

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

Senator GILL: I move the Ought to Pass Report.

The PRESIDENT: The Senator from Cumberland, Senator Gill, moves that the Senate accept the Majority Ought to Pass as amended, Report of the Committee.

The Senator has the floor.

Senator GILL: This bill originally started off as a Portland based bill for the Community Health Service Incorporated.

In committee what we did is we allowed it to service 13 agencies or 13 perspective agencies throughout the State realizing that long term health care is an expensive proposition and a lot of people who are in nursing homes, do not belong in nursing homes. We were looking for a demonstration project to put into effect to see if we could really provide care cheaper in the State. We believe that we can and we would like to prove that we can.

I just would like to read some of the agencies that are certified to take care of the people throughout the State, or where they are located:

We have York County, Androscoggin County, Aroostook County, Bangor, Bar Harbor, Bath, Blue Hill, Kennebec Valley. We have a combination of Knox, Waldo and Lincoln County. These are statewide and it is a Bill that will allow any of these agencies to apply for a grant to have a demonstration project in their area.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate. I strongly urge you to vote against the pending motion. I am one of 2 who signed the Minority Ought Not to Pass. Very briefly I would like to explain

why.

What we have in front of us here under L. D. 1343 and the House Amendment 390 which is on it, which is the Committee Amendment. What we have here, in my opinion in my very humble opinion, is nothing more than a \$100,000 study order. This is the reason that I am against this "demonstration projects."

Everyone who will debate this Bill today, on the positive side in the debate in the committee and all of the debate on this Bill has talked about how wonderful long term, home health care is and how much more beneficial it is and in most cases how much cost effective it is, as compared to nursing homes.

I agree with all of those things, I am very supportive of long term home health care. If everybody feels this way, all the people who support this Bill say they feel this way, yet now we want to set up a "demonstration project."

I saw the faces of the people that came to the public hearing on this Bill, they were by and large bureaucrats and what I am scared of is that we what what we have in this Bill, in reality is another bill to set up a study project for 9 more bureaucrats to gather 30,000 more statistics to prove something that we already know.

Now the Bill was amended to make it more palatable so that it wasn't a Portland Bill, and now Aroostook Home Health Care is eligible for one of these grants. Okay, let's take this \$100,000 and divvy it up 9 ways and sent it out and establish 9 different demonstration projects and accomplish 9 times as as little as we would have under the original bill.

If you look at the Bill and you read the Bill and you talk to the people who are supporting this Bill, you will find that they all support long term home health care. Let's take \$100,000 of the State's money and let's put it into one of the many agencies that the good Senator from Cumberland, Senator Gill, just read to you. Let's do that. I would support that in a minute, but let's not set up another "demonstration project," another bureaucracy to gather more statistics to convince us of something that we all believe in today. That is my reason for opposition to the Bill, it is not the idea of long term home health care, as compared to nursing homes and convalescent homes. It is the idea that we do not need another "demonstration project." We do not need another study, we do not need any more statistics. If anybody here has any doubts about the relative costs effectiveness or the benefits of home health care, please let me know after the debate and I will provide you with studies. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate: I rise to support the good Senator from Aroostook in his comments, because the amendment was originally stated for \$100,000 for Portland. Portland was the only group which were eligible. In an effort to make this, as he said more palatable for the areas who might also be eligible they may have put an amendment in which I guess now falls in the area of 2 urban and 2 rural grants.

I think that that would mean that \$25,000 would go in four different areas, I can see that the rural areas might possibly fall somewhere in Aroostook, and that would be the eastern Maine rural grant. Then there would be 1 urban for that and we would assume that Bangor would have that; another urban which would be Portland; and another rural would maybe be in Oxford County. \$25,000 for each, which for my thought, that would be totally ineffective. My assumption is in checking with the department that this can already be done by the department if they so desire now. We have a new commissioner who has strong feelings in this area. Let's give him a chance to try it.

The PRESIDENT: Is the Senate ready for

the question?

The Chair will order a Division.

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

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

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: I request a Roll Call.

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 Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate: I think that this is a good Bill, the fact that it is only a \$100,000 on it and it is going to be divided between 4 different areas of the State does not take into account that this would be matched three dollars for every state dollar by the Federal Government so that actually we would have \$400,000 to work with.

Granted the Department of Human Services might be able to do this without this Bill, but the fact is that they do not have the money to do this. I think the department previously has always argued that home health care is not less expensive than institutional care. I believe this money would be used for services but at the same time they would keep careful documentation and for that reason I think that it is important that we have a study.

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

Senator CARPENTER: Mr. President. Just briefly to respond to the remarks by the good Senator from Cumberland, Senator Najarian. I really think that you take, granted this is matching money; but if you take this money and you spread it out the way that it proposes to be spread out here, you set up four different demonstration projects. If you do that the amount of service that you are going to provide in terms of long term health care will be totally ineffectual. We presently have home health care projects being carried on in all these areas that the good Senator from Cumberland name for you, and I would much rather see this money go to these organizations.

If these organizations today are not keeping statistics on what they are doing, then I think we had better take a long look at them, and not set up another bureaucracy to gather more statistics. That is what I am very concerned about.

The PRESIDENT: The pending motion is the motion by the Senator from Cumberland, Senator Gill, that the Senate Accept the Majority Ought to Pass as amended, Report of the Committee.

A Yes vote will be in favor of the Ought to Pass Report.

A No vote will be opposed.

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

ROLL CALL

YEA—Clark, Conley, Gill, Najarian, Silverman, Trafton, Usher.

NAY—Ault, Carpenter, Chapman, Collins, Cote, Devoe, Emerson, Farley, Huber, Katz, Lovell, McBreaity, Minkowsky, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trotzky.

ABSENT—Danton, Hichens, Martin.

A Roll Call was had.

7 Senators having voted in the affirmative and 22 Senators in the negative, with 3 Senators being absent, the Motion to Accept the Majority Ought to Pass Report does not Prevail.

The Minority Ought Not to Pass Report of the Committee, Accepted, in non-concurrence. Sent down for concurrence.

Senate

Leave to Withdraw

Senator Minkowsky for the Committee on Education on, Bill, "An Act to Permit the Town of Canton to Withdraw from School Administrative District No. 21 and to Establish an Independent School Supervisory Unit". (Emergency) (S. P. 567) (L. D. 1630)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted. Sent down for concurrence.

Ought to Pass — As Amended

Senator Chapman for the Committee on Business Legislation on, Bill, "An Act to Amend the Unit Ownership Act." (S. P. 429) (L. D. 1377)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 222).

Senator Chapman for the Committee on Business Legislation on, Bill, "An Act to Amend Financial Institutions and Credit Union Law." (S. P. 450) (L. D. 1413)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 223).

Senator Chapman for the Committee on Business Legislation on, Bill, "An Act Relating to the Listing of Contracts Made by Real Estate Brokers and Salesmen." (S. P. 389) (L. D. 1200)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 224).

Senator Chapman for the Committee on Business Legislation on, Bill, "An Act to Amend the Maine Consumer Credit Code." (S. P. 243) (L. D. 692)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 225).

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.

Divided Report

The Majority of the Committee on Education on, Bill, "An Act Providing for the Career Development Needs of Maine Citizens Through the Creation of a Division of Career Education within the Department of Educational and Cultural Services." (S. P. 258) (L. D. 731)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Providing for the Career Development Needs of Maine Citizens through the Establishment of a Career Education Consultant within the Department of Educational and Cultural Services" (S. P. 569) (L. D. 1635)

Signed:

Sensors:

TROTZKY of Penobscot

GILL of Cumberland

Representatives:

FENLASON of Danforth

LOCKE of Sebec

GOWEN of Standish

BEAULIEU of Portland

ROLDE of York

CONNOLLY of Portland

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

Signed:

Sensors:

MINKOWSKY of Androscoggin

Representatives:

LEWIS of Auburn

DAVIS of Monmouth

LEIGHTON of Harrison

BIRT of E. Millinocket

Which Reports were Read.

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

Senator MINKOWSKY: Mr. President I do not intend to make a motion to accept the Minority Report on this particular bill, but I just want to bring the bill to the Senate's attention.

The original bill itself called for an appropriation of almost a 1/2 million dollars. The redraft of the Bill only talks in the area of \$25,000 for the first year for 2 people and \$26,000 for the second year.

I think that we have witnessed the proliferation of the bureaucratic system and I think that this is one particular area that we are seeing this thing expanding in.

If you people have analyzed what Guidance Departments have done in the State of Maine so far, and read this Bill very closely I think that you would find that it is rather repulsive to continue along those lines.

The important part which really struck my interest when this Bill was debated, comes under the new redraft of 1935, which says relating "education and career aspirations the Legislature finds that career education holds a promise of improvement of the quality of education and opening career opportunities for all students, by relating education to their career aspirations".

If that is the case, Mr. President and Members of the Senate, why do we maintain the present curriculum for the kids in the State of Maine? If there are other alternatives that these people are going to employ. If the out A. B. C.'s do not any longer prevail then certainly we should eliminate them entirely and then go to career education.

Now I understand that this is a pilot program somewhere in the Portland, South Portland area and was very successful and since in the previous bill things started off successfully in the Portland, South Portland area that it does not necessarily mean that we are going to continue throughout the entire State of Maine at a huge expense.

Now the redraft itself only addresses personnel but it is opening the door for future allocations along these lines and I do not think that the pilot program itself, in my estimation, has proven itself sufficiently worthy to be implemented throughout the entire State of Maine.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President and Ladies and Gentlemen of the Senate: I would like to rise to support the good Senator from Androscoggin, Senator Minkowsky in his views. I do with a little fear and trepidation, when I look at the ought to pass Senators.

I am concerned also, we have a guidance program in our school systems that I am pretty well convinced is not working. It is not working well, but I do not think that the answer is to start another whole program and a whole new bureaucracy. I think that we should get in and shape up what we have got, and I therefore would oppose this Bill.

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

Senator GILL: Mr. President, I would urge the acceptance of the Majority Ought to Pass Report. I would like to speak to my motion.

Career Education — South Portland, did start a pilot project, I went for a grant and we developed it about 6 years ago. It has been a fantastic project. The previous guidance instructors, that maybe were ineffective, have been very effective under the new career education program.

We no longer just gear the children in the system to go to college, we expose them to many other facets of employment throughout the elementary grades and up. It is not a channeling at any point. There was a concern with some people that we would start to channel our youngsters in the school systems at a young

age, it is not a channeling at a young age. What it is is an exposure to other facets of employment in the area.

We found that our business communities in South Portland, have been very supportive of this. We bring children into different businesses, they can decide that they think that they would like to try a certain job, and they can shadow someone for 1/2 a day to see if they would like that.

A lot of this is worked right into the curriculum during the regular classroom. In an English Class or a Reading Class they expose them to the different types of things.

I use this as an example of myself. If when I was in school, going to elementary school, junior high school, there wasn't a guidance program as such, you were either a nurse or became a teacher, or you went out to work. I could have very easily followed in the foot steps of my parents and my mother happens to work in a factory. If someone had not have come along and seen that I had 1/2 a brain somewhere I probably would have worked in that factory for the rest of my life, but I had the chance in high school which was late for me to be exposed to something else. So I chose another route to follow. I think that I would like to see this happen for the young people now and we have got this in place we have got a National Career Education Act, we have got funding from the Federal Government that will give the State of Maine \$125,000 for a 5 year period.

South Portland put their pilot project into effect. It is working beautifully, we have assisted other communities. We have assisted Bangor in setting up a system up there, and we have many people who have come and testified at the hearing and told how effective this was. So I would urge you to let us try to put this in — in the State of Maine. We are asking for very little money to develop career education program. What we want is someone in the department that is really aware of the career education and can help the communities that want to get involved in it.

The PRESIDENT: The Chair will order a Division.

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

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

5 Senators having voted in the affirmative and 18 Senators in the negative, the Motion to Accept the Majority Ought to Pass in New Draft Report does not prevail.

The Minority Ought Not to Pass Report of the Committee, Accepted.

Sent down for concurrence.

Committee of Conference Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature 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)

Ask leave to report: that they are unable to agree.

On the Part of the Senate:

HICHENS of York
EMERSON of Penobscot
USHER of Cumberland

On the Part of the House:

BRENERMAN of Portland
STOVER of West Bath

Which Report was Read and Accepted.

Sent down for concurrence.

(Off Record Remarks)

The President would ask the Sergeant-at-Arms to escort the Senator from Kennebec, Senator Katz, to the rostrum to assume the duties of President pro tem.

The Sergeant-at-Arms escorted the Senator

from Kennebec, Senator Katz, to the rostrum, where he acted as President pro tem.

The President then retired from the Senate Chamber.

Second Readers

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

House

Bill, "An Act Relating to Abortions." (H. P. 1394) (L. D. 1612)

Which was Read a Second Time.

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

Senator TRAFTON: Mr. President, I now offer Senate Amendment "A" to L. D. 1612, under Filing Number S-228, and move its Adoption.

The PRESIDENT pro tem: The Senator from Androscoggin, Senator Trafton, offers Senate Amendment "A" under Filing Number S-228 and moves its Adoption.

Senate Amendment "A" (S-228) Read.

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

Senator TROTZKY: Mr. President and Members of the Senate: I would strongly oppose this amendment. It says "the purpose of this amendment is to repeal Maine's Unconstitutional Abortion Statute." The amendment does no such thing, as I see here, the Bill does that. The Bill repeals the statute which is unconstitutional on the book. However, the amendment repeals the intent of the bill, which is the section on viability.

Now the Supreme Court, and I think the Senate should be reminded of this, said that basically a woman's right is not absolute in that she's entitled to terminate her pregnancy at any time, in whatever way and for whatever reason she alone chooses. The Supreme Court Decisions have been consistent by saying, in the beginning basically each case must be handled on an individual basis, and that basically it's up to the woman in the beginning. But it states that, as the gestation period goes on, you eventually have a potential for a life that can live on its own. The Supreme Court says that when a fetus reaches viability, meaning a potential of a life on its own, at that time, a state has a right to proscribe abortion, to prohibit abortion except for the life or the health of a mother.

Without any statutes on the books concerning abortion, Maine says nothing during the whole pregnancy period. I feel as the Supreme Court says also, there's a compelling reason at the end of pregnancy for the state to step in and protest the potential of a life that can live on its own. So I would hope that the Senate would defeat this amendment offered by the Senator from Androscoggin, Senator Trafton.

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

Senator COLLINS: Mr. President, I support the amendment from the Senator from Androscoggin, Senator Trafton. I won't plow old ground, but I noticed today that we had on our desks a list of reasons for voting in favor of this bill, in its present state without the amendment. The first 3 paragraphs, I think, are not argument. Senator Trafton's amendment, would insure that the bill would go along with number 3, that only physicians could perform abortions.

The whole argument in this bill concerns the term viability and what it means, because as the Senator from Penobscot, has said, every case is different and ought to be judged on its own merits.

The thing that we continue to ignore in this whole problem is that we are intruding into the area of the judgment of the physician.

When we get into that area, we have constitutional question marks. I don't proclaim to be an authority about whether this bill is or is not

constitutional. I have a lot of doubt about it in a very technical area, but I think it's just bad policy to continually be trying to regulate the medical profession in using its judgment.

Now the Bill is carefully written to preserve an area where the physician does use his judgment about the health of his patient. But physicians like everyone else are very anxious to stay on the proper side of the law. The effect of this bill is to intimidate them, to make them feel that they have to lean over backward on the side of not doing abortions.

There are very few abortions done beyond the 24th week. Really this type of bill is like putting in a cannon to kill an ant. We really don't need it in the State of Maine. This isn't where the difficult area is at all, in the second and third trimesters.

I think it's interesting that there is a very diverse group of people who support the position that I speak for today. I respect the right of everyone in this Legislature to employ their own particular religious philosophy in making decisions in matters of this sort. This sort of thing goes deeply into our heritage and our own personal thinking. It's a very personal choice, I think, for all of us.

I think that as we respect the right of others to differ from us, we must always be careful not to impose a particular philosophy on everyone else. We look at one of the other lists on our desks, for example, we see a list that supports public funding of abortions, that includes American Baptists, B'nai B'rith, Catholics with Free Choice, Episcopal Church, the Union of American Hebrew Congregations, the Unitarian Universalist Association, the United Church of Christ, Board of Homeland Ministries, the United Methodist Church, Board of Church and Society, the National Council Churches of Christ in the United States of America, the Episcopal Church, the United Methodist Church. This is a group of religious thinking bodies that encompasses probably all of us in one way or another, some of our religious compatriots. Yet each of us retains our own privilege to make our own decision regardless of what our church or particular philosophy may lead to in a formal context.

But again I urge you not to tie the hands of our physicians, not to impose a particular religious philosophy upon all the citizens of this State. But to have confidence in the professional judgment of the doctor, in consultation with the patient. I urge you to vote yes on this amendment.

The PRESIDENT pro tem: Is the Senate ready for the question?

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I haven't spoken on this, and I guess I really don't want to make a positive statement now. I, more or less, want to ask a question. I'm a little confused.

As I understand the law of the land says that abortions are legal. We have passed a law that says a girl has to be counseled, told all the ramifications, given all the places she can go, and all the alternatives. We've passed a law that says she has 48 hours to change her mind. We've passed a law to require physicians to notify the parent of a girl that's intending to have an abortion.

I don't quite understand how this particular document fits into this program. Is there some reason that we need to legislate after all this has gone on at what particular time a girl can have an abortion? I know I'm confused. If you could help me, I might vote better.

The PRESIDENT pro tem: The Senator from Oxford, Senator Sutton, has posed a question through the Chair to any member who may care to answer.

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. I will endeavor to answer the question of the

good Senator from Oxford, Senator Sutton.

Let's go back to 1973 when the Supreme Court decided *Roe vs. Wade*. That struck down 46 out of the State's abortion laws. One of the things that *Roe vs. Wade* said was that abortions were up to the medical judgment of the doctor and the woman prior to viability. It attempted to set out standards that would determine viability.

Now a later case called *Planned Parenthood vs. Danforth* was decided by the U.S. Supreme Court in 1976. That case among other things addressed the definition of viability, which you will find verbatim in L. D. 1612, and I quote: "Viability means the state of fetal development when the life of the fetus may be continued indefinitely outside the womb by natural or artificial life supportive systems." This definition has taken verbatim from the *Planned Parenthood vs. Danforth* Case. So in our view it has the stamp of approval of the U.S. Supreme Court.

Now it's ironic when we have those who oppose measures like this we're campaigning the decision of the Supreme Court several years ago in the *Roe vs. Wade* and *Doe vs. Bolton* Case. One of the things that seemed to escape a lot of people was that those 2 cases beside striking down the abortion laws, of 46 of the States, did go on to say that States have a right, there is a state interest, states have a right to do certain things in regulating abortions.

This bill is an effort to go forward, within the guidelines of the *Planned Parenthood vs. Danforth* Case, that have been approved by several federal courts subsequent to 1976. It's an attempt to go forward within the limits set out by the *Planned Parenthood* Case to do precisely what the U.S. Supreme Court said that States had a legal right to do in 1973.

Now that we are coming forward with proposals to live within the guidelines set out by *Planned Parenthood* and *Roe vs. Wade*, those very people who years ago said it was a grave decision to decide *Roe vs. Wade* and *Doe vs. Bolton*, they're now objecting. I think it's rather inconsistent, that they want to pick and chose the aspects of a Supreme Court Case that they will follow.

If they find some paragraphs that they like that's great. If they find some other paragraphs or there are paragraphs that say states may do certain things then the court goes on to set out guidelines of what the state does and does not have right to regulate. Then we try to do it and we can show you in cases where we believe we are living within the limits set out by the U.S. Supreme Court. Now the people who liked what the court did in *Roe vs. Wade* are standing up and bitterly objecting to it.

I can't understand how they can be consistent in liking some part of *Roe vs. Wade*, and not liking other parts of *Roe vs. Wade*.

Now I haven't viewed this as an effort by any group to impose a particular religious philosophy. The Right to Life Group certainly or the various Right To Life Groups are not monopolized by those of any particular religious persuasion. Maybe there are some Senators here who feel that it is a religious issue, but I do not believe that it is a particularly religious issue. You certainly can fairly say it's a moral issue, but it's a moral issue that people, I think, of many religious faiths seem to be agreeing on. Thank you very much, Mr. President.

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

Senator TRAFTON: Mr. President and Members of the Senate: I too would like to briefly answer the good Senator's question, the Senator from Oxford, Senator Sutton.

I guess since this whole issue has come before us again this year, many of us have tried to become constitutional scholars, and some of us feel very insecure in that role. But we can

review the various cases that are before us. As the good Senator from Penobscot, Senator Devoe, has suggested, it seems as if those on one side choose certain paragraphs to demonstrate their points.

I have been referring to the same cases as the good Senator from Penobscot, has been referring to, and I find different language which again raises into question the definition of viability. That's the issue that's really before us today. I don't think anyone questioning what has been set out by the Supreme Court, that the State does have an interest at a certain point in the abortion question. What we are questioning is the very definition, which we see before us today. Although the good Senator has quoted from the *Planned Parenthood vs. Danforth*, he failed to mention this other paragraph which states "it is not the proper function of the Legislature or the courts to place viability which essentially is a medical concept at specific points, in the gestation period. The time when viability is achieved may vary with each pregnancy, and the determination of whether a particular fetus is viable is and must be a matter of judgment of the responsible attending physician."

Also he failed to mention that in the Supreme Court Decision of *Roe vs. Wade*, we have another definition of viability and I quote states: "Potentially able to live outside the mother's womb, albeit with artificial aid." Again this seems to suggest that we have various decisions which have spoken to the question of viability.

With the changes in technology that we experience every day, viability will be in a state of flux, I think, until the Supreme Court speaks again. Again my amendment, which is before you, is to leave in those portions which I think are good portions, making it a crime for a person who is not a licensed physician to perform an abortion, striking the unconstitutional language from our statutes, but eliminating those portions which deal with the definition of viability, which, I think, will continue to remain constitutionally vague and give us problems if we enact them in this statute.

The PRESIDENT pro tem: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate: I would like to read the second paragraph that was written by the Supreme Court in the decision *Roe vs. Wade*. I think it's an important paragraph because it shows the sensitivity of the Justices in dealing with this issue. I quote: "we forthwith acknowledge our awareness of the sensitive and emotional nature of the abortion controversy, of the vigorous opposing views, even among physicians, and of the deep and seemingly absolute convictions that the subject inspires. One's philosophy, one's experiences, one's exposure to the raw edges of human existence, one's religious training, one's attitude toward life and family and their values, and the moral standards one establishes and seeks to observe are all likely to influence and to color one's thinking inconclusively about abortion."

I think the Supreme Court Justices, in that paragraph, show the sensitivity that they were showing towards this issue. Now in Western Society, in the United States, there's a high regard for the individual life. It's highly precious and highly regarded in this country, as opposed to other societies throughout the world.

What this bill basically is saying here, it's saying, when viability is reached, which is somewhere around the 7th, 8th, 9th month, the later part of pregnancy. At that time a physician will perform an abortion only for the life or the health of the mother. It makes the physician, at least, take into consideration when the abortion is performed that the life or the health of the mother must be considered. I don't think

that's asking too much.

Right now we have absolutely no standards that I can see on the books on abortion. An abortion can be performed just because a woman wants it. I feel at that point in time when the potential of a life that can live on its own, at least we can ask for the physician, and that's leaving up to their judgment that it's only performed for the life or health of the mother. I don't think this bill puts that many restrictions on abortion.

The PRESIDENT pro tem: Is the Senate ready for the question?

The Chair will order a Division.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I request when the vote is taken, it be taken by the Yeas and Nays.

The PRESIDENT pro tem: 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 Knox, Senator Collins.

Senator COLLINS: I ask Leave to pair my vote with the Senator from Aroostook, Senator Martin, who if he were here, would be voting no, and I would be voting Yes.

The PRESIDENT pro tem: The Senator from Knox, Senator Collins, now requests Leave of the Senate to pair his vote with the Senator from Aroostook, Senator Martin. If he were here, he would be voting Nay, and the Senator from Knox would be voting Yea.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the Senator from York, Senator Lovell.

Senator LOVELL: Mr. President, I request to pair my vote with the Senator from Androscoggin, Senator Minkowsky, if he were here, he would be voting No, and I would be voting Yes.

The PRESIDENT pro tem: The Senator from York, Senator Lovell, now requests Leave of the Senate to pair his vote with the Senator from Androscoggin, Senator Minkowsky. If he were here, he would be voting Nay, and the Senator from York would be voting Yea.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, I request Leave of the Senate, to pair my vote with the Senator from York, Senator Hichens, who if he were here would vote No, and I will be voting Yes.

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

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The pending question before the Senate is the Motion by the Senator from Androscoggin, Senator Trafton, that the Senate Adopt Senate Amendment "A" to L. D. 1612.

A Yes vote will be in favor of the adoption of Senate Amendment "A".

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Clark, Emerson, Huber, Najarian, Perkins, Sutton, Trafton, Sewall.

NAY—Ault, Carpenter, Conley, Cote, Devoe, Farley, Gill, Katz, McBreairty, O'Leary, Pierce, Pray, Redmond, Shute, Silverman, Trotzky, Usher.

ABSENT—Danton, Teague.

A Roll Call was had.

8 Senators having voted in the affirmative, and 17 Senators in the negative, with 6 Senators pairing their votes, and 2 Senators being absent, the Motion to Adopt Senate Amendment "A" does not prevail.

The Bill, Passed to be Engrossed, in concurrence.

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

Senator O'LEARY: Mr. President, having voted on the prevailing side, I now move reconsideration, and ask you to vote against me.

The PRESIDENT pro tem: The Senator from Oxford, Senator O'Leary now moves that the Senate reconsider its action whereby L. D. 1612 was Passed to be Engrossed.

Will all those Senators in favor of the Motion to Reconsider, please say Yes.

Will all those Senators opposed, please say No.

A Viva Voce Vote being had.

The motion does not prevail.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Enactor

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

Emergency

An Act to Amend Provisions of the Charter of the Gardiner Water District Relating to Trustees and Funding. (H. P. 712) (L. D. 885)

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

On Motion by Senator Devoe of Penobscot, Recommended to the Committee on Public Utilities, in concurrence.

On Motion by Senator Huber of Cumberland, the Senate voted to take from the Special Appropriations Table: "An Act to Amend the Laws Relating to Games of Chance" (H. P. 672) (L. D. 833)

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

House — As Amended

Bill, "An Act to Permit a Resident of an Intermediate Care Facility who Receives Aid for the Medically Needy to Give at Least \$250 a Month from His Income to a Dependent Spouse." (H. P. 1054) (L. D. 1305)

Bill, "An Act to Provide for the Issuance of a Warning for Operating an Unregistered Motor Vehicle within One Month of the Expiration of Registration." (H. P. 858) (L. D. 1058)

Bill, "An Act to Exempt Farmland from Sewer Assessments When the Land Receives no Benefit from this Construction." (H. P. 960) (L. D. 1185)

Bill, "An Act to Clarify the Provisions Relating to Hearings on Juvenile Crimes and to Establish an Experimental Program for Education and Counseling of Juveniles." (H. P. 1375) (L. D. 1601)

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

Bill, "An Act to Increase the Funds for the Displaced Homemakers Program." (H. P. 779) (L. D. 981)

Which was read a Second Time.

On Motion of Senator Perkins of Hancock, Tabled for 2 Legislative Days, Pending Passage to be Engrossed.

Bill, "An Act Concerning Licenses Issued by the Department of Inland Fisheries and Wildlife." (H. P. 270) (L. D. 344)

Which was Read a Second Time.

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

Senator PERKINS: Mr. President I offer Senate Amendment "A" to L. D. 344, under Filing Number S-216, and move its adoption.

The PRESIDENT pro tem: The Senator from Hancock, Senator Perkins, offers Senate Amendment "A", (under Filing Number S-216) and moves it's adoption. Senate Amendment "A" (S-216) Read and Adopted.

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

Senate — As Amended

Bill, "An Act to Clarify the Statutory Requirements for Issuance of Maine Guides Licenses." (S. P. 734) (L. D. 1154)

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

Sent down for concurrence.

Bill, "An Act to Regulate Commercial Whitewater Outfitters". (S. P. 348) (L. D. 1094)

Which was Read a Second Time.

On Motion by Senator Pray of Penobscot, Table until later in today's session, pending Passage to be Engrossed.

There being no objections, all items previously acted upon, with the exception of those items held, were sent forthwith.

Senator Carpenter of Aroostook was granted unanimous consent to address the Senate, Off the Record.

On Motion by Senator Pierce of Kennebec, Recessed until 4 o'clock this afternoon.

(Recess)

(After Recess)

The Senate called to order by the President.

Enactors

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

An Act Relating to Certified Seed Potatoes. (H. P. 1316) (L. D. 1570)

An Act to Provide for Oversight of Marine Research by the Department of Marine Resources. (H. P. 1272) (L. D. 1476)

An Act to Clarify the Tax Law by Providing that a Retailer's Sale of Equipment Used in its Business is Taxable if it is Like Equipment Sold in the Ordinary Course of Business. (H. P. 1066) (L.D. 1320)

An Act to Amend the Statute Relating to Alternative Procedures for Adoption of School Budgets. (H. P. 238) (L. D. 284)

An Act Concerning Registration of Killed Deer. (H. P. 372) (L. D. 478)

An Act to Prohibit the Practice of a Mandatory Retirement Age. (S. P. 260) (L. D. 790)

An Act Prohibiting a Bank Holding Company from Owning more than One Type of Financial Institution. (S. P. 91) (L. D. 177)

An Act to Insure the Accountability of Counties in the Expenditure of Federal Funds. (S. P. 140) (L. D. 316)

An Act Concerning the Maine Development Districts Law. (S. P. 179) (L. D. 409)

An Act Concerning Insurance Consultants. (S. P. 381) (L. D. 1213)

An Act to Amend the Prohibition of Issuing Fisheries and Wildlife Licenses to Persons Convicted of Certain Offenses. (H. P. 641) (L. D. 795)

An Act to Prohibit Cancellation of Automobile or Property Insurance without Actual Notice to the Insured. (H. P. 170) (L. D. 221)

An Act to Make Arson a Class A Crime under the Maine Criminal Code. (H. P. 810) (L. D. 1013)

An Act Concerning the Posting of Information on the Allowability of Witness and Attorney's Fees under the Workers' Compensation Act. (H. P. 704) (L. D. 879)

An Act to Return a Portion to the Town of Wales by the Town of Sabattus. (H. P. 709) (L. D. 883)

An Act to Amend the Charter of the Lucerne-in-Maine Village Corporation. (H. P. 675) (L. D. 835)

An Act Relating to Telephone Company Directories. (H. P. 1134) (L. D. 1402)

An Act Relating to Criminal Appeals and Search Warrants. (H. P. 1092) (L. D. 1375)

An Act to Establish a Lobster Advisory Council. (H. P. 959) (L. D. 1184)

An Act to Provide for an Official Seal for the Department of Human Services. (H. P. 745) (L. D. 931)

An Act to Define Residency for School Purposes. (H. P. 1160) (L. D. 1425)

An Act to Amend the Statutes Concerning the Practice of Medicine. (H. P. 1240) (L. D. 1502)

An Act Amending Admission Procedure at Pineland Center and Elizabeth Levinson Center. (H. P. 1209) (L. D. 1470)

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 Relating to Arbitration under the State Employees Labor Relations Act. (H. P. 142) (L. D. 162)

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

Senator TROTZKY: Mr. President and Members of the Senate: I would urge the Senate to vote against the Enactment of L. D. 162. This concerns binding arbitration between the Governor of the State of Maine and the State Employee Unions. I understand that the Governor of this State, in reports I've read, is opposed to the bill. Philosophically, I'm also opposed to the bill, believing that we should not bind the hands of an elected Governor of the State of Maine whether it be Republican, Democrat, or Independent.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I move for the Indefinite Postponement of this L. D. and all its accompanying papers.

The PRESIDENT: The Senator from Oxford, Senator Sutton, moves that L. D. 162 be Indefinitely Postponed.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: It wasn't too long ago after we first debated this bill, when it came out of the Labor Committee that the Chairman, the Senator from Oxford, Senator Sutton, sent me a little note congratulating me on my victory, which I responded to that it was only the first round and the bill had not yet seen its last day in this session nor the last of the debate.

Even in reading Wednesday's paper, we find headlines such as "Binding Arbitration to Face Acid Test in Senate". A lot of space just set aside for this issue and we have debated it quite often.

In recent years collective bargaining in the private sector has grown tremendously. Along with the growth in bargaining there has developed a need for an alternative source for us to go, when an impasse is reached. Most bargaining impasses in the private sector, we're all aware, will lead to a strike or to a work stoppage. It's traditionally happened, it's happened in Maine and it's happened elsewhere.

But as we look into the public sector we see the same thing is occurring now. We only have to look at New York, Chicago, or New Orleans, outside of this State and see what has happened when an impasse is reached. We can look within the State of Maine, and we can see

what's happened in the Town of Sanford, I think, that had severe budget cuts, and the employees had some concerns in the inability to negotiate a final settlement.

As we look for an alternative tool to prevent such an event from occurring, the one thing that keeps coming back before the Legislature is binding arbitration. The proposal that we have before us today is one which addresses the state employees. Through that state employees' bargaining process, if an impasse is reached between the 2 bargaining sides, the Executive Branch and the representative of the employees, what would happen by passing this Legislation, is that it would go one step further.

An arbitrator would come in, make a decision on those issues, that were not settled, and it would then go the Legislature. The Legislature could either accept or reject, and if they rejected, it would go back to bargaining. The 2 sides would start over again.

In the private sector a lot of times an impasse though it comes very close, is not actually reached because both sides are not that favorable to going into binding arbitration, which we have. There have been studies, a number of them, and 1, a few years ago, that I read in the State Government magazine that we receive as Legislators, a study shows that representation of both parties have learned to bargain successfully in the face of the binding arbitration law that has been passed.

There's been a number of arguments that this is pro-labor bill. I would only point out something that I pointed out prior to this, is that in Wisconsin, out of 23 cases in the private sector that went into binding arbitration, 12 of them, the decisions came down on the side of management, and 11 on the side of unions. The argument that this is a pro-labor bill or a pro-union bill, I think, is erroneously attached to this bill. But an attempt to solve the problems of individuals who are striving for a better income, striving to negotiate fairly with their employers, when they're told that they have no other recourse, if the management side rejects any offers and refuse to go any further. I think that this is only an item of Legislation of being fair to those individuals who work for the general public throughout this State. Mr. President, I'd request a Roll Call on the Indefinite Postponement motion.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I request Leave of the Senate, to withdraw my motion.

The PRESIDENT: The Senator from Oxford, Senator Sutton, now Requests Leave of the Senate, to withdraw his motion to Indefinitely Postpone L. D. 1612.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

The Chair recognizes the same Senator.

Senator SUTTON: Mr. President, I now urge the Senate to vote against the Enactment of this L. D.

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

Senator PRAY: I request a Roll Call.

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 pending question before the Senate is the Enactment of L. D. 162.

A Yes vote will be in favor of Enactment of L. D. 162.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Carpenter, Clark, Conley, Farley, Martin, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher.

NAY—Ault, Chapman, Collins, Devoe, Emerson, Gill, Huber, Katz, Lovell, Pierce, Redmond, Silverman, Sutton, Trotzky.

ABSENT—Cote, Danton, Hichens, McBreaity, Perkins, Shute, Teague.

A Roll Call was had.

11 Senators having voted in the affirmative, and 14 Senators in the negative, with 7 Senators being absent, LD162 Fails of Enactment.

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

Senator KATZ: I move reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves the Senate reconsider its action whereby LD162 Failed of Enactment.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: I don't mean to belabor this issue, and I'm sure of the outcome, and I'm not arguing the reconsideration. It's just that I would address one factor. We have had recently a growing concern by public employees, as to actions which have been illegal. We addressed it this morning in a strike penalty bill. I just have a feeling that we're going to come back perhaps in the Second Regular Session, or shortly thereafter, sometime to address this issue, in kind of a hindsight, after something has occurred, which we perhaps could have avoided.

The PRESIDENT: 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 does not prevail.

Sent down for concurrence.

An Act to Provide Special Free License Plates for the 100% Disabled Veteran. (H. P. 1174) (L. D. 1436)

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

Senator CHAPMAN: I move that the Senate Suspend its Rules.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman moves that the Senate Suspend its Rules.

Is this the pleasure of the Senate?

It is a vote.

On Motion by Senator Chapman of Sagadahoc, the Senate voted to reconsider its action whereby L. D. 1436 was Passed to be Engrossed.

On Motion by Senator Chapman of Sagadahoc, the Senate voted to reconsider its action whereby LD 1436 was Passed to be Engrossed.

On Motion by Senator Chapman of Sagadahoc, the Senate voted to reconsider its action whereby it Adopted Committee Amendment "A"

Senator CHAPMAN: I now offer Senate Amendment "A" to Committee Amendment "A" under filing S-218 and move its adoption.

Senate Amendment "A" (S-218) read.

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

Senator CHAPMAN: Mr. President and Members of the Senate: This amendment does 2 things. First of all it extends the bills coverage to include veterans who have a disability other than physical, emotional disabilities. It removes the need for fiscal note since it will require that the plates be paid for with the usual fee rather than to be made available without.

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

Senator CONLEY: I understand that the good Senator from Sagadahoc, moved that the Rules be suspended. I notice that the good Senator from Cumberland, took advantage of those rules, are the rules still in suspension, Mr. President?

The PRESIDENT: The Chair would advise the Senator that the Rules have only been suspended in relation to the Bill.

Senator CONLEY: Mr. President I would move that Senate Rule 39 be suspended.

The PRESIDENT: The Senator from Cumberland, Senator Conley moves that the Senate Suspend Rule 39, for the remainder of the afternoon.

Is this the pleasure of the Senate?

It is a vote.

Senate Amendment "A" (S-218) Adopted.

Committee Amendment "A", as amended, adopted, in non-concurrence.

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

Emergency

An Act Relating to Current Funding of Special Education Tuition. (H. P. 410) (L. D. 527)

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

Emergency

An Act to Increase the Membership of the Gardiner Water District to Six. (H. P. 284) (L. D. 362)

On motion by Senator Devoe of Penobscot, Recommended to the Committee on Public Utilities, in non-concurrence.

Sent down for concurrence

Emergency

An Act to Revise the Lobster Escape Vent Law and Remove its Sunset Provision. (H. P. 894) (L. D. 1091)

Emergency

An Act to Amend the Employment Security Law Relating to Termination of Coverage. (H. P. 955) (L. D. 1173)

These being emergency measures and having received the affirmative votes of 25 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.

Emergency

RESOLVE, to Further Study Feasibility of Cargo Port Facilities. (H. P. 1278) (L. D. 1526)

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

Orders of the Day

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

SENATE REPORTS — from the Committee on Appropriations & Financial Affairs — Bill, "An Act to Establish a Statutory Limit on County Expenditures During any One Fiscal Year." (S. P. 256) (L. D. 730)

Majority Report — Ought Not to Pass; Minority Report — Ought to Pass

Tabled—May 21, 1979 by Senator Katz of Kennebec.

Pending—Acceptance of either Report.

On motion by Senator Huber of Cumberland, Retabled for 2 Legislative Days.

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

Bill, "An Act to Make Substantive Changes in the Forestry Statutes." (H. P. 1126) (L. D. 1396)

Tabled—May 22, 1979 by Senator Katz of Kennebec

Pending—Passage to be Engrossed.

On Motion by Senator Redmond of Somerset, Retabled for 1 Legislative Day.

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

Bill, "An Act to Include Services performed by Chiropractors under Health Insurance Poli-

cies and Health Care Contracts which Pay Benefits for those Procedures if Performed by a Physician." (S. P. 131) (L. D. 308)

Tabled—May 22, 1979 by Senator Katz of Kennebec.

Pending—Enactment.

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

Senator HUBER: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Enactment of L D 308, please rise in their places to be counted.

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

18 Senators having voted in the affirmative, and 6 Senators in the negative, L D 308 was Passed to be Enacted.

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

Senator PRAY: Having voted on the prevailing side, I move reconsideration.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves the Senate reconsider its action whereby L D 308 was Passed To Be Enacted.

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 does not prevail.

The Bill, having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Bill, "An Act to Require County Charters and to Transfer Approval for County Budgets from the Legislature to the Counties." (H. P. 1412) (L. D. 1618)

Tabled—May 22, 1979 by Senator Katz of Kennebec.

Pending—Reference.

On Motion by Senator Katz of Kennebec, Indefinitely postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the Fifth Tabled, and specially assigned matter:

SENATE REPORTS — from the Committee on Appropriations & Financial Affairs — Bill, "An Act Appropriating Fund for Abortion Procedures for Persons Otherwise Eligible under Medicaid and to Effect Substantial Savings in the Costs of Government Services." (S. P. 464) (L. D. 1410) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass Tabled—May 22, 1979 by Senator Katz of Kennebec.

Pending—Acceptance of Either Report.

On Motion by Senator Huber of Cumberland, the Minority Ought to Pass Report of the Committee, Accepted, and The Bill Read Once, and Tomorrow Assigned for Second Reading.

The President laid before the Senate the Sixth Tabled, and specially assigned matter:

Bill, "An Act to Require the Reporting of Petroleum Inventories and Deliveries to the Office of Energy Resources." (Emergency) (H. P. 1355) (L. D. 1591)

Tabled—May 22, 1979 by Senator Katz of Kennebec.

Pending—Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator McBreaity. Senator McBREAITY: I offer Senate Amendment "A" to L D 1591, and moves its Adoption.

The PRESIDENT: The Senator from Aroostook, Senator McBreaity, offers Senate Amendment "A" to L D 1591.

Senate Amendment "A" (S-221), Read and Adopted. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

The President laid before the House the Seventh Tabled and specially assigned matter:

Bill, "An Act to Amend Certain Property Tax Exemptions and to Require Continuing Periodic Review of Tax Exemptions." (H. P. 768) (L. D. 855)

Tabled—May 22, 1979 by Senator Teague of Somerset.

Pending—Passage to be Engrossed.

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

Senator GILL: Mr. President, I present an amendment and I move it's passage.

The PRESIDENT: The Senator from Cumberland, Senator Gill, now offers Senate Amendment "A" to LD 855, and moves it's Adoption.

Senate Amendment "A" (S-226), 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 Eighth Tabled, and specially assigned matter:

Bill, "An Act to Increase the Dollar Amount of an Accident that Must be Reported from \$200 to \$500." (H. P. 636) (L. D. 787)

Tabled—May 22, 1979 by Senator Chapman of Sagadahoc.

Pending—Passage to be Engrossed.

The Bill, Passed To Be Engrossed, as amended, in concurrence.

On Motion by Senator Pierce of Kennebec, the Senate voted to take from the Tabled:

Bill "An Act to Permit Performing Arts Centers to Serve Alcoholic Beverages." (H. P. 252) (L. D. 297)

Tabled—March 16, 1979 by Senator Pierce of Kennebec.

Pending—Passage to be Engrossed.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman moves that the Senate Suspend its Rules.

Is this the pleasure of the Senate?

It is a vote.

On Motion by Senator Chapman of Sagadahoc, the Senate voted to reconsider its action whereby it adopted House Amendment "A" (H-69)

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

Senator CONLEY: Mr. President and Members of the Senate, this item has been left on the Unassigned Calendar for a few days now, anyway. I would appreciate it if the good Senator from Sagadahoc, Senator Chapman, might inform the Senate as to what exactly is going on. I don't even have the filing number of the House Amendment.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question to the Senator from Sagadahoc, Senator Chapman, who may answer.

The Chair recognizes that Senator.

Senator CHAPMAN: Mr. President and Members of the Senate: I'd be happy to respond to the Senator from Cumberland, Senator Conley's inquiry.

In offering Senate Amendment "A", I am including not only what is already in the bill, but adding an additional category for licensing under the liquor statute. It had to be constructed this way, because of the way it came from the Committee.

What I'm attempting to do is to add a category of Inns as a category that can be licensed for the serving of alcoholic beverages. There is no category, believe it or no, for the issuance of a liquor license to a small Inn, that wishes to serve residents of that Inn, only and not in addition serve members of the public.

I tabled this item sometime ago, I had it tabled because it seemed that this particular bill was addressing the same subject that I

wanted to address with the subject of Inns. I felt that there might be another way to find a category and not have to use the route that we're taking, but it turns out that this is necessary.

It took some time to resolve this issue and to get the amendment in proper form. This particular amendment would include as new categories, Inns as well as the Performing Art Centers. So therefore, Mr. President, I would move the Indefinite Postponement of House Amendment "A".

On Motion by Senator Chapman of Sagadahoc, House Amendment "A", Indefinitely Postponed, in non-concurrence.

On Motion by Senator Chapman of Sagadahoc, the Senate voted to Reconsider its action whereby it Adopted, Committee Amendment "A" (H-60) and Indefinitely Postponed same.

Senator CHAPMAN: I now move the Adoption of Senate Amendment "A" to L. D. 297.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman now offers Senate Amendment "A" to Committee Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-129) Read and Adopted.

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

Sent down for concurrence.

On Motion by Senator Conley of Cumberland and Senate voted to take from the Unassigned Table:

JOINT ORDER—Relative to the Audit and Program Review Committee studying Costs of Prisoner Incarceration. (S. P. 562)

Tabled—May 18, 1979 by Senator Conley of Cumberland.

Pending—Passage.

On Motion by Senator Pierce of Kennebec, Tabled until later in today's session, Passage.

On Motion by Senator Katz of Kennebec, the Senate voted to take from the Unassigned Table.

JOINT RESOLUTION Urging the State Principal's Association to Allow Participation in New England Championship Games. (H. P. 1280)

Tabled—April 4, 1979 by Senator Katz of Kennebec.

On Motion by Senator Katz of Kennebec, Indefinitely Postponed, in non-concurrence. Sent down for concurrence.

On Motion by Senator Katz of Kennebec, the Senate removed from the Unassigned Table:

Bill, "An Act to Allow State Championship Athletic Teams and Athletics the Right to Participate in New England Championship Events in Competition" (Emergency) (H. P. 901) (L. D. 1117)

Tabled—May 2, 1979 by Senator Katz of Kennebec.

Pending—Consideration.

On Motion by Senator Katz of Kennebec, the Senate Adhered.

On Motion by Senator Pierce of Kennebec, the Senate voted to take from the Table: Joint

Order Relative to the Audit and Program Review Committee studying Costs of Prisoner Incarceration (S. P. 562), tabled earlier in today's session by the Senator from Kennebec, Senator Pierce pending Passage.

On Motion by Senator Pierce of Kennebec, Retabled.

The President would direct the Senate's attention to:

HOUSE REPORTS — from the Committee on Public Utilities — Bill, "An Act to Reduce the Minimum Public Utility Monthly Electrical Charge to \$2 and to Prohibit the use by Electrical Utilities of an Estimated Meter Reading as a Basis for a Customer Bill." (H. P. 1193) (L. D. 1444) Report A — Ought to Pass as Amended

by Committee Amendment "A" (H-383); Report B — Ought Not to Pass.

Tabled—Earlier in the Day by Senator Conley of Cumberland.

Pending—Motion of Senator Devoe of Penobscot to Insist and Ask for a Committee of Conference.

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

Senator CONLEY: I move that the Senate Recede.

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, earlier today, I caused to be reproduced a proposed Senate Amendment to this Bill. I was seriously concerned that the Bill as drafted was mucking around in the setting of rates. I felt that it was completely inappropriate for the Legislature to get into the posture of rate setting.

The value of the amendment that I was considering and I hope that the Senator will permit me to anticipate that he is going to offer it under his name, had the advantage of taking the Legislature out of the rate setting business, and put us back into the business of establishing policy, for PUC.

It takes out any mention of any particular dollars and instead it sets a policy of what may not be included in the establishment of that basic rate.

I felt that it had some merit.

Earlier today in a Republican Caucus I expressed my interest in presenting this amendment. In the debate that ensued it was pointed out that although this was a vast improvement over the bill itself in that it established policy, and didn't attempt to set rates, that there are still some problems. One of the problems that perplexed many of us is the fact that people with second and third homes would be treated much more advantageously by the bill and the amendment than they are in existing laws. I quickly figured out to myself that people that own 2 and 3 homes, usually have more money than people who have 1 home or who rent.

I was also concerned that it didn't really address the problem of those people who were pushed by Farmers Home Administration during the days when electric heat was so inexpensive to install, into installing electric heat in their homes. Very clearly these people will be significantly penalized by the enactment of this bill even as amended. Whereupon I backed away from my concern about the amendment, because I felt that there should be considerable more discussion before we adopted the amendment even though I do consider the Senator from Cumberland's about to be presented amendment an advantage over the original bill.

On that basis I agreed and I felt that it is extremely reasonable that a Committee of Conference can sit down and take a look at this proposal and take a look at the handicaps as well as the advantages. We are all concerned about conservation. On a Roll Call vote, the vote in here for conservation would be 33 to nothing. But in the pursuit of conservation, we must be aware of any problems and any additional burdens that we are creating. That's why I decided that I would not present this amendment to the Senate today. I would ask the Senate if indeed, it is presented, not to support the motion to Recede, but to go along with the original motion to Insist and Join in the Committee of Conference.

Now you can presume that a Committee of Conference is rigged with a closed mind, or you can presume that we're going to have men and women of good faith who will look at this amendment and I expressed an interest in presenting this amendment to the Committee of Conference for their consideration, along with anything else they wish to consider. I think that is the appropriate road for the Senate to

pursue. On that basis I ask for a Division on the Motion to Recede and ask the Senate to vote against it.

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

Senator CONLEY: Mr. President and Members of the Senate: I appreciate the remarks made by the good Senator from Kennebec, Senator Katz. He's really struck the nail with the hammer right on the head.

The problem is that many of us have been debating this bill now, it seems to me, almost since last January 4th. Many of us are concerned for some of the senior citizens around this state, who use very little electricity, but because of the structure of the PUC, they have to come up front with their money, which only encourages people to use electricity.

We've sought different avenues to compromise on this particular bill. When we reviewed the amendment that the good Senator from Kennebec, Senator Katz, was willing to offer this morning, we observed it, studied it, and we felt that it was another compromise in trying to pass this piece of Legislation.

You and I, all of us have been around here long enough. We know that when one body and the other are not in concurrence, and we get this late into the session, I've seen it. Year after year I saw it with lifeline a few years ago when a group of people went out to supper, we came back from supper and we found out we lost the bill.

We don't want to lose this one. We feel it's important. The good Senator from Kennebec, has already stated that people have to become more conscious of the conservation of electricity. I would ask if you have any feeling whatsoever with trying to encourage some conservation with electricity, then to support the motion to Recede and put this amendment on and allow it to go back into the other body. Mr. President, when the vote is taken, I request it be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President and Members of the Senate: During the last several hours, I've checked the Legislative debate on a bill that was enacted on July 8, 1977. It was "An Act to Encourage Energy Conservation by Means of Reform of Utility Rate Design."

That bill had no debate in the House, had very little debate in the Senate. But I would like to remind the good Senator from Cumberland, Senator Conley, that on July 8, 1977, he said and I quote: "It just seems to me that to make an attempt to abort this bill at this late hour, in the Enactment state, leads me to think that there is something devious going on by the lobby in the background, and I would hope that the Senate would vote against the pending motion to enact this bill."

Now the original L. D. was originally submitted in 1977 as L. D. 873, cosponsored by Representative Davies from Orono and cosponsored by Representative Mitchell of Vassalboro. It came out of the Public Utilities Committee in New Draft L. D. 1774. I quote to you the second sentence in the first paragraph of that bill: "It is the purpose of this chapter to require the Public Utilities Commission to relate the electric rates more closely to the costs of providing electric service."

This is now law of this State. It was law, I submit to you Members of the Senate, that was enacted by the urging of the good Senator from Cumberland. Now it may be convenient to forget what he said 2 years ago, but I would just like to submit to Members of the Senate, that this Electric Rate Reform Act, which was passed at the urging of the Senator from Cumberland, Senator Conley, who is resisting a motion by the good Senator from Knox, Senator Collins, that the bill be Indefinitely Postponed,

was in keeping with Congressional Legislation that was then being considered and that was later enacted as the Public Utility Regulatory Policies Act of 1978.

This Act established 11 rate-making and utility regulatory standards. The first standard enacted by the Congressional Act was and I quote: "Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed to the maximum extent practicable to reflect the costs of providing electric service to such class as determined under Section 115A." Now, it was this federal law that the Electric Rate Reform Act of 1977, that the good Senator urged this body to enact.

The Public Utilities Commission, following the law that was enacted by this body on July 8, 1977, then proceeded to redesign electric rates in keeping with the Legislative mandate.

Now just so that we can refresh our memories once again, the law says it is the purpose of this chapter to require Public Utilities Commission. It doesn't say we think the Commission ought to do it. The Legislature is telling the Commission that we are requiring you to relate electric rates more closely to the cost of providing electric service.

You recall the debate we had a week ago or several days ago in this body, where we discussed the components of the Minimum Customer Service Charge. This is exactly what the Commission did. It followed the mandate that this Legislature gave it. Now the Senator from Cumberland, finds it convenient to forget the provision of that law, that 2 years ago he urged this body to enact. Thank you very much, Mr. President.

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

Senator KATZ: Mr. President, I have in innate unease when somebody reads from the Legislative Record from a previous session, maybe because I've been bruised so very badly myself. I've missed so many magnificent opportunities to shut up.

The bill before us in its original form, I consider to have been a very, very bad bill. Somebody got hold of a figure that pertained to Central Maine's basic cost, and they put it in the bill to pertain to all public utilities in the State. I don't know what the appropriate figure for Bangor Hydro is, and I don't know what the appropriate figure for the other utilities may be. But I'll guarantee it would be a coincidence to end all coincidences if the \$3.75 that the proponents of this bill put in this bill, was appropriate for all utilities.

I don't think that the amendment, which may be proposed, is a compromise. I don't think it's a compromise at all. I think it's an amendment which will give at least some legitimacy to an outrageously inappropriate piece of Legislation, which got the Legislature into setting rates on all the utilities in the state, using the figures for one particular utility.

I think we've got some more thinking. I am obviously, seriously and sincerely interested in conservation, and in this Legislature attempting to do something about the conservation of electrical usage, but I think there's a responsibility on us to do it in the best possible way, and not to create problems which may have been soluble by a little bit more deliberation. On that basis I will again ask you to oppose the motion to Recede and subsequently to support the motion to Insist and Request a Committee of Conference.

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

Senator TRAFTON: Mr. President and Members of the Senate: I think it's easy to go back into the Senate Record and try to make a case for someone seeming inconsistent. However, I think the remarks made by the good Senator from Penobscot, Senator Devoe, in no way show an inconsistency.

If you will recall the debate that we had just

the other day on this, we are not arguing that the minimum service charge should not reflect actual cost. What we're saying is that because in the last rate case, they allowed distribution costs to be fed into that rate, that it is not a true reflection of the cost of the customer services.

So that, I think, the good Senator from Cumberland, Senator Conley, is very much in keeping with his previous remarks made several years ago with his debate today.

I would like to give a great deal of credit to the Senator from Kennebec, Senator Katz. I think his amendment is a terrific amendment. I think it really does take care of the problem in a much more desirable way. I agree that it's probably not totally desirable to put specific figures into the statute. Obviously, these would have to be changed year to year as we go through different rate cases. He has addressed in his amendment which is now being offered in a similar form by the Senator from Cumberland, Senator Conley, the real heart of the issue. The heart of the issue is that distribution charges should not be figured into that customer service charge. I would hope you would Recede and allow this amendment to be placed on the bill.

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 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 No vote will be opposed.

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

ROLL CALL

YEA—Carpenter, Clark, Conley, Farley, Martin, Najarian, O'Leary, Pray, Silverman, Trafton, Usher.

NAY—Ault, Chapman, Collins, Devoe, Emerson, Gill, Huber, Katz, Lovell, McBreairty, Pierce, Redmond, Shute, Sutton, Trotzky.

ABSENT — Cote, Danton, Hichens, Minowsky, Perkins, Teague.

A Roll Call was had.

11 Senators having voted in the affirmative, and 15 Senators in the negative, with 6 Senators being absent, the Motion to Recede does not prevail.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, apparently there is only one thing left for us, and that is to go along with the Committee of Conference. I would request a Division on the Committee of Conference and would urge everyone to vote for the Committee of Conference hoping that wisdom may prevail somewhere down the line on the appointments to that Committee.

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

Senator KATZ: Mr. President, I want to express my deepest appreciation for the gentleman for not requesting a Roll Call on this. I think there's a heavy responsibility on us. The utilization of electricity and the reduced utilization of electricity, the reduced waste of electricity is important to all of us. I, too, would hope that the President would join all of us, and I'm sure he will in seriously and objectively joining together and looking at the proposal that would have been offered, if it had been offered, if he had been able to offer it.

The PRESIDENT: Is it now the pleasure of the Senate to Insist and Request a Committee of Conference with the House?

A Division has been requested.

Will all those Senators in favor of the Motion

to Insist and Join in a Committee of Conference, please rise in their places to be counted.

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

27 Senators having voted in the affirmative, and none in the negative, the Motion to Insist and Join in a Committee of Conference with the House does prevail.

The President would direct the Senate's attention to:

HOUSE REPORT — From the Committee on State Government — Bill, "An Act Establishing Mechanisms to Pinpoint Responsibility and Facilitate Coordination Between the Various Manpower Training and Economic Development Programs." (H. P. 714) (L. D. 887) Ought to Pass In New Draft in Same Title (H. P. 1418) (L. D. 1622)

Tabled—Earlier in the Day by Senator Ault of Kennebec.

Pending—Acceptance of Report.

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

The President would direct the Senate's attention to:

Bill, "An Act to Regulate Commercial Whitewater Outfitters." (S. P. 348) (L. D. 1094)

Tabled—Earlier in the Day by Senator Pray of Penobscot.

Pending—Passage to be Engrossed.

On Motion by Senator Pray of Penobscot, the Senate voted to reconsider its action whereby it adopted Committee Amendment "A" to L. D. 1094.

Senator PRAY: Mr. President, I would like to submit Senate Amendment "A" under Filing S-227, and speak briefly to it.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now offers Senate Amendment "A" to Committee Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-227) Read.

The PRESIDENT: The Senator has the floor.

Senator PRAY: Thank you, Mr. President, Mr. President and Members of the Senate: I'm sure that many of you are aware that whitewater rafting has become a big recreational activity in the State of Maine. The Senator from Kennebec, Senator Ault, and the Senator from Somerset, Senator Redmond, have put Legislation in which is the bill which is presently before us.

As it comes out of committee it has an emergency preamble on it. The amendment that I'm offering established the effective date as July 1, to give the Department time to print up some type of license and to check with the outfitters that we presently have in the state and give them a chance to meet the regulations of the statutes.

Senate Amendment "A" Adopted.

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

Senator TROTZKY: Mr. President, I present Senate Amendment "B" to Committee Amendment "A", filing number S-229 and move its adoption, and would like to speak to my motion.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky now offers Senate Amendment "B" to Committee Amendment "A" and moves its adoption.

Senate Amendment "B" (S-229) Read.

The PRESIDENT: The Senator has the floor.

Senator TROTZKY: Mr. President and Members of the Senate: A while back the Legislature in its wisdom eliminated the log drives on the Kennebec River, at that time it opened up what they call the Kennebec Gorge from Moosehead Lake down to the Forks the possibility for rafters to come in and open businesses in the State of Maine.

Right now I believe there are approximately 4 outfits that have opened businesses in the State. What this Committee Amendment does is states that there shall be a fee of \$500 in

order to get a license to run commercial Raft Trips down the river. It's my feeling that when the river was opened up for recreational purposes at that time, it was not meant that only 4 outfitters or those who have a great deal of money should be able to monopolize the rafting business.

So what this amendment does, it reduces the fee from \$500 down to \$250, because my understanding from Members of the Committee that the administrative costs are somewhere a little over \$200 to check on these people and grant these licenses. So I would feel that the more rafters that get on the river, the lower the price will probably be for the public, competition will be encouraged.

Senate Amendment "B" (S-229) Adopted.

Committee Amendment "A" as amended, Adopted, in non-concurrence.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

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

Senator CARPENTER: Mr. President, is the Chair in possession of L. D. 1343?

The PRESIDENT: The Chair would answer in the affirmative, the Bill having been held.

Senator CARPENTER: Mr. President, and Ladies and Gentleman of the Senate: This is the bill that we defeated rather resoundingly this morning. I guess based on my objections and that of the good Senator from Hancock, Senator Perkins, the bill has wonderful intent and lousy wording. I am going to move that this bill be reconsidered. I would hope that somebody could table it for 1 day, so that perhaps we can work out the problems with the wording of it.

I'm doing this since the Senator from Hancock, Senator Perkins is not here, Mr. President, I would move that the Senate Reconsider its action whereby it accepted the Minority Ought Not to Pass Report.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, moves that the Senate reconsider its action whereby on Bill, "An Act to Provide a Grant to Community Health Services, Inc. for a Long-term Care Demonstration Project." (H. P. 1087) (L. D. 1343)

It accepted the Minority Ought Not to Pass Report of the Committee.

On Motion by Senator Pierce of Kennebec, Tabled for 1 Legislative Day, pending the Motion by Senator Carpenter of Aroostook.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Communication

HOUSE OF REPRESENTATIVES

May 23, 1979

Honorable May M. Ross

Secretary of the Senate

109th Legislature

Augusta, Maine 04333

Dear Madam Ross:

The House voted today to Adhere to its action whereby it passed as amended by (H. "A" H-479) Joint Order Relative to Committee Cloture (S. P. 563)

Respectfully,

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Place on File.

Orders

An Expression of Legislative Sentiment recognizing that: Jenny Jory of Brunswick has been awarded the 22nd Annual Citizenship Award by the Brunswick Area Chamber of Commerce for her "unselfish acts toward those less fortunate," (S. P. 571) is presented by Senator Clark of Cumberland, cosponsored by Representatives Martin and Bachrach of Brunswick.

An Expression of Legislative Sentiment rec-

ognizing that: John P. Bibber, Town Manager of Brunswick, has been awarded the Annual Valued Member Award by the Brunswick Area Chamber of Commerce for "distinction in public affairs." (S. P. 572) is presented by Senator Clark of Cumberland, cosponsored by Representatives Martin and Bachrach of Brunswick.

Which were Read and Passed.
Sent down for concurrence.

Committee Reports Senate

Leave to Withdraw

Senator McBreairty for the Committee on Energy and Natural Resources on, Bill, "An Act to Require an Advisory Referendum on the Dickey-Lincoln Hydroelectric Power Project." (S. P. 427) (L. D. 1296)

Reported that the same be granted Leave to Withdraw.

Senator Clark for the Committee on Taxation on, Bill, "An Act to Increase State Aid to Towns for Fighting Forest Fires." (S. P. 367) (L. D. 1114)

Reported that the same be granted Leave to Withdraw.

Senator Chapman for the Committee on Business Legislation on, Bill, "An Act to Require Conversion of Group Medical Coverage and Extension of Benefits." (S. P. 514) (L. D. 1575)

Reported that the same be granted Leave to Withdraw.

Which Reports were Read.

On Motion by Senator Pray of Penobscot, the Leave to Withdraw Reports Accepted.
Sent down for concurrence.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Communication HOUSE OF REPRESENTATIVES

May 23, 1979

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

Dear Madam Secretary:

The House voted today to Adhere to its action whereby it accepted the Minority "Ought Not to Pass" Report of the Committee on Judiciary on Bill "An Act to Permit Nonprofit Legal Service Organizations" (H. P. 642) (L. D. 797)

Respectfully,

EDWIN H. PERT

Clerk of the House

Which was Read and Ordered Placed on File.

On Motion by Senator Pierce of Kennebec, adjourned until 1 o'clock tomorrow afternoon.