

MAINE STATE LEGISLATURE

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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

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

May 31, 1979
Senate called to Order by the President.

Prayer by Rev. Erle C. Morse, Fellowship Baptist Church of Augusta.

Reverend MORSE: Heavenly Father, we know that there's a kind of peace that the world cannot give. Jesus said: "Peace I leave with you, my peace I give unto you, not as the world giveth, give I unto you."

Father, we also know there's a kind of love that the world cannot comprehend for Paul said: "Though I speak with the tongues of men and of angels and have not love, I am as sounding brass or a tinkling cymbal, but God's love never fails."

James tells us that there is a wisdom that is from above that is first pure, then peaceable, gentle, easy to be entreated, full of mercy, good fruits without partiality and without hypocrisy.

Father we thank you that Jesus said "there was a way that was different from the ways of men." For he said, "I am the way, the truth, and life. No man cometh unto the Father, but by me."

We seek today God's peace, God's love, God's wisdom that is from above for this Senate, that it might know that Jesus is the way today and everyday. In Jesus precious name, we pray. Amen.

Reading of the Journal of Yesterday.

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

On Motion by Senator Conley of Cumberland, Recessed until the sound of the bell.

(Recess)

(After Recess)

The Senate called to order by the President.

Papers from the House
Non-concurrent Matter

Bill, "An Act to Increase the Good Time Deduction." (H. P. 1058) (L. D. 1308)

In the House May 23, Passed to be Engrossed as amended by Committee Amendment "B" (H-437) as amended by House Amendment "A" thereto (H-486).

In the Senate May 29, Passed to be Engrossed as amended by Committee Amendment "A" (H-436), 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 Knox, Senator Collins.

Senator COLLINS: I move the Senate Adhere.

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

Senator CONLEY: Mr. President, I move 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.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: 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 af-

firmative vote of at least one-fifth of those Senators present and voting.

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

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

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate: I hope that you will go along with this motion to allow a Committee of Conference. As you remember this bill deals with gain time and good time deductions. I think perhaps the two bodies could work out some type of a compromise.

The Bureau of Corrections is very interested in this. I feel that they can be instrumental in helping to work on a Committee of Conference also.

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

Senator COLLINS: Mr. President, the position which the Senate adopted last time this bill was debated is already a compromise. It represents a great deal of discussion between the Bureau of Corrections and our committee. It gives one meritorious day in addition to what now exists.

I do not feel we ought to move any further in that direction and this Committee of Conference would be a great waste of time. I urge you to vote No on the pending motion.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that the Senate Insist and Join in a Committee of Conference with the House.

A Yes vote will be in favor of the Motion to Insist and Join in a Committee of Conference.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

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

NAY — Ault, Chapman, Collins, Devoe, Emerson, Gill, Hichens, Katz, Lovell, McBreairty, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trotzky

ABSENT— Cote, Silverman

A Roll Call was had.

13 Senators having voted in the affirmative, and 17 Senators in the negative, with 2 Senators being absent, 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 Concerning Eligibility Under the Second Injury Fund Under the Workers' Compensation Statutes." (H. P. 825) (L. D. 1026)

In the House May 29, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-451).

In the Senate May 30, the Minority Ought Not to Pass Report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Adhered.

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

Senator CONLEY: Mr. President, I move the Senate Adhere.

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

Is this the pleasure of the Senate?

The motion prevailed.

Non-concurrent Matter

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)

In the Senate May 23, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-465), in concurrence.

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto (H-556), in non-concurrence.

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

Senator EMERSON: I move we Recede and Concur.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

Non-concurrent 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)

In the Senate May 29, Passed to be Engrossed as amended by Senate Amendment "A" (S-226), in non-concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-560), in non-concurrence.

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

Senator TEAGUE: I move we Recede and Concur.

The PRESIDENT: The Senator from Somerset, Senator Teague, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

Communication

COMMITTEE ON AGING, RETIREMENT AND VETERANS

May 30, 1979

The Honorable Joseph Sewall
President of the Maine Senate
State House

Augusta, Maine 04333

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the Joint Standing Committee on Aging, Retirement and Veterans has had under consideration the nomination of Nathan W. Watson to represent the Maine Retired Teachers Association on the Board of Trustees of the Maine State Retirement System.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following result:

Yeas:

Senators 3

Representatives 10

Nays:

Senators 0

Representatives 0

Absent

Senators 0

Representatives 0

Thirteen members of the Committee having voted in the affirmative, it was the vote of the Committee that the nomination of Nathan W. Watson to the position as a member on the Board of Trustees of the Maine State Retirement System be confirmed.

Sincerely,

Senator RALPH M. LOVELL, Chairman
Rep. MERLE NELSON, Chairman

Which was Read.

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

Senator LOVELL: Just a word. You will note that all 13 Representatives and Senators voted Yes. To show you how impartial we were, this

is Kathy Goodwin's father. We felt that he was very well qualified, even though he was a Democrat, all the Republicans voted for him.

Which was Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Aging, Retirement and Veterans has recommended that the nomination of Nathan W. Watson be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Aging, Retirement and Veterans be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — None

NAY — Ault, Carpenter, Chapman, Clark, Collins, Conley, Cote, Danton, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreaarty, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher, Sewall

ABSENT — None

No Senators having voted in the affirmative and 33 Senators in the negative, and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Nathan W. Watson is confirmed.

DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES

May 29, 1979

To: May M. Ross, Secretary of the Senate
Edwin H. Pert, Clerk of the House
From: H. Sawin Millet, Jr., Commissioner:
Re: Report of Advisory Committee on Medical Education

In accordance with the provisions of 20 M.R.S.A., Chapter 304, it is my duty to annually present to the Legislature and the Governor a plan relating to the participation of Maine contract students in medical education programs. It is my pleasure, therefore, to transmit herewith an initial status report prepared by the Advisory Committee on Medical Education which summarizes the Committee's activities and recommendations for the period August 4, 1978 to July 1, 1979.

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

Orders

On Motion by Senator Conley of Cumberland, Cosponsors Senators Clark of Cumberland, Gill of Cumberland and Trafton of Androscoggin,

ORDERED, that the Senate Rules be amended by adding a new Senate Rule 39 to read:

39. No smoking shall be allowed within the Senate chambers while the Senate is in session.

Which was Read.

On Motion by Senator Katz of Kennebec, tabled until later in today's session, pending passage.

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.

Committee Reports

House

Ought to Pass — As Amended

The Committee on Business Legislation on,

Bill, "An Act to Amend the Standard Nonforfeiture Law." (H. P. 726) (L. D. 913)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-550).

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

The Committee on Labor on, Bill, "An Act to Improve the Administration of the Second Injury Fund under the Workers' Compensation Laws." (H. P. 1260) (L. D. 1521)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-533).

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

The Committee on Health and Institutional Services on Bill, "An Act to Require a Study of a Single State Source for Funding and Reporting by Residential Programs for Youth." (H. P. 951) (L. D. 1220)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-535).

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

The Committee on Election Laws on, Bill, "An Act to Facilitate Absentee Voting in Foreign Jurisdictions." (H. P. 905) (L. D. 1126)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-537).

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

The Committee on Energy and Natural Resources on, Bill, "An Act to Authorize the Bureau of Public Lands to Lease Lands in the Intertidal Zone Adjacent to Permanent Structures." (H. P. 842) (L. D. 1044)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-544).

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 Clarify and Amend the Investment Provisions of the Maine Insurance Code." (H. P. 621) (L. D. 778)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-552).

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 Require Disclosure of Certain Information to Prospective Purchasers of Life Insurance." (H. P. 1276) (L. D. 1555)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-551).

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.

Under Suspension of the Rules, the Bills were Read a Second Time, and Passed to be Engrossed as amended, in concurrence.

Ought to Pass in New Draft

The Committee on Education on, Bill, "An Act to Abolish Compulsory Education." (H. P. 236) (L. D. 282)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Clarify Equivalent Instruction as an Alternative to Compulsory Education." (H. P. 1440) (L. D. 1642). (Representative Beaulieu of Portland Abstained)

Comes from the House, the Bill, in New

Draft, Passed to be Engrossed.

Which Report was Read.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: Prior to the acceptance of this report, I would like to call this particular redraft to the attention of the Senate. It appears to be basically an innovative idea we are going to institute here in the State of Maine.

In the first paragraph, I'd like to read into the record just for your edification. "A child shall be excused from attending a public day school if he obtains equivalent education at a private school, or in any other manner arranged for by the School Committee," or in any other manner arranged for by the School Committee is a key section of this particular bill. "or the Board of Directors. If the equivalent education is approved by the Commissioner of Education."

Now as you look at the Statement of Fact relevant to this, it's very very simple. But I think it's going to be very far-reaching. That's why I'm advising the Senate to look this over very closely, if you do accept the report, analyze it as it's moving through the Legislative Process.

The purpose of the new draft, "to provide that an appeal can be made to the Commissioner whenever a local School Committee or Board of Directors denies a request for a child to be excused from a public day school program." Two, "direct the Commissioner to review the request to determine if equivalent instruction is available, and to approve the request if he finds that equivalent instruction is available."

I just wonder if he has the understanding to make that determination of what equivalent instruction is, but I thought it would be worthwhile to bring it to your attention this morning, before this bill goes through the entire Legislative Process.

The Ought to Pass, in New Draft, Report of the Committee Accepted, in concurrence, and the Bill, in New Draft, Read Once.

Under Suspension of the Rules, the Bill was Read a Second Time, and Passed to be Engrossed, as amended, in concurrence.

The Committee on Agriculture on, Bill, "An Act to Regulate the Distribution, Labeling and Sale of Plant and Soil Amendments." (H. P. 585) (L. D. 772)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1441) (L. D. 1643)

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

Which Report was Read and Accepted, in concurrence, and the Bill, in New Draft, Read Once.

Under Suspension of the Rules, the Bill was Read a Second Time, and Passed to be Engrossed, in concurrence.

Divided Report

The Majority of the Committee on Energy and Natural Resources on, Bill "An Act to Determine what Environmental Laws Apply to Radioactive Waste Materials." (H. P. 799) (L. D. 1004)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-549)

Signed:

Sensors:

McBREAIRTY of Aroostook
O'LEARY of Oxford

Representatives:

BLODGETT of Waldoboro
JACQUES of Waterville
HUBER of Falmouth
HALL of Sangerville
MICHAEL of Auburn
PELTIER of Houlton

DEXTER of Kingfield
DOUKAS of Portland

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

Signed:

Representatives:

AUSTIN of Bingham
KIESMAN of Fryeburg

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

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee, Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" Read.

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

Senator O'LEARY: Mr. President, I present Senate Amendment "A" to Committee Amendment "A" and move its adoption.

The PRESIDENT pro tem: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "A" to Committee Amendment "A", and moves its Adoption.

Senate Amendment "A" (S-258) Read and Adopted.

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

Under Suspension of the Rules, the Bill Read a Second Time, and Passed to be Engrossed, as amended, in non-concurrence.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Provide for Licensing of Bottle Clubs." (H. P. 469) (L. D. 576)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-529).

Signed:

Senator:

FARLEY of York

Representatives:

DUDLEY of Enfield
McSWEENEY of Old Orchard Beach
DELLERT of Gardiner
STOVER of West Bath
GAVETT of Orono
CALL of Lewiston
MAXWELL of Jay
BROWN of Gorham

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

Signed:

Senators:

SHUTE of Waldo
COTE of Androscoggin

Representatives:

VIOLETTE of Van Buren
SOULAS of Bangor

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "B" (H-562).

Which Reports were Read.

The PRESIDENT pro tem: The Chair recognizes the Senator from Waldo, Senator Shute. Senator SHUTE: Mr. President, I move the Ought Not to Pass Report.

The PRESIDENT pro tem: The Senator from Waldo, Senator Shute, moves that the Senate Accept the Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: I request a Division, and speak briefly on my motion.

The PRESIDENT pro tem: The Senator has the floor.

Senator FARLEY: I would hope that we would not accept the Ought Not to Pass Report on this piece of legislation. In Committee Amendment "A", the Ought to Pass Report, there is a mistake in the Committee Amend-

ment. At the present time the Committee Amendment as before you, under Filing H-529 says that Bottle Clubs will have to close at 1 o'clock, unless by local option, the club can stay open until 6 o'clock. I'm sorry. It says they can stay open between. There are 2 different conflicting amendments here, that's why. They now close at 1 o'clock, unless the local town decides or votes to keep them open between 1 and 6.

I think it was the intention of the Committee, I think Senator Shute will support me, that the Committee Amendment "A" was supposed to state that they are supposed to stay the way they are presently, but if the town or city decides to close through referendum at 1 o'clock, then that would be the case, in any town or city. So I would hope that you would not support the pending motion, accept the Ought to Pass Report. I would get an amendment prepared for Second Reading to correct the mistake made in the Committee Amendment.

The PRESIDENT pro tem: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President and Members of the Senate: The Legal Affairs Committee had quite a few work sessions on this bill and it was one of the more difficult bills we had in committee we had to deal with and the reason it is so difficult to deal with the Bottle Clubs is that a lot of Bottle Clubs in the State are operated in dry towns, and even if they are in wet towns they're still operating without a license because there is no provision in the statutes for referendum to open Bottle Clubs.

There are quite a lot of Bottle Clubs operating in dry towns and if you pass this bill and I think there has to be a real good provision in the law to allow these towns at least a reasonable length of time to have a referendum vote and allow those clubs to continue to stay open, but this bill doesn't really do anything. This bill merely sanctions Bottle Clubs in the State. It makes it legal to have Bottle Clubs without Bottle Clubs being licensed and we're putting on the statutes here a law that says that it's alright for people in the State to operate Bottle Clubs. They don't have to be licensed and in the second part of the amendment, it also says in Section 2, "Bottle Clubs are exempt from the public drinking law."

Now why should Bottle Clubs be the only places in the State to be exempt from the public drinking statutes? Taverns aren't exempt from it, hotels aren't exempt from it, restaurants aren't exempt from it; why should you have Bottle Clubs exempt, the only ones exempt, and they're not even licensed, and here you have licensed places in the State that come under the public drinking laws.

Now there are quite a lot of Bottle Clubs in the state. I have several in my district. What they are, are dance halls and you bring your own liquor, you are not a club member, you bring your own liquor and you have a table for the evening, and most of these are in dry towns. Now how are you going to start this process here? I think there has to be a little lead time if you're going to adopt anything like this. Even though you're not licensing them, you're just putting on the statutes that it's alright to drink in Bottle Clubs and you can go in there and you can do whatever you want, but you won't be picked up for drinking, because the bill prohibits that. But if you go into a place that is licensed, you probably will be picked up for public drinking if you're out of order at all. So, Mr. President, I would hope the Senate would go along with the Ought Not to Pass Report.

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

Senator CONLEY: Mr. President, I pose a question through the Chair to the good Senator from Waldo, Senator Shute, and I would ask him what would prevent a Class "A" Restaurant, under this bill presently before us, not to

renew its license for a Class A Liquor License and just call itself a Bottle Club?

The PRESIDENT pro tem: The Senator from Cumberland, Senator Conley poses a question to the Chair, and the Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: I think the only difference that I know of is a Class "A" Restaurant, as I understand it, they serve liquor. They have liquor on the premises for sale. Bottle Clubs don't sell liquor, you bring your own liquor with you, and as far as I know that's the difference between the restaurants and the Bottle Clubs.

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

Senator DANTON: Mr. President and Members of the Senate: This Bottle Club Bill has been here term after term, that I have been in the Maine Senate, and it's always been a problem and both Senators are right, and Senator Conley is right, if a Class "A" Restaurant wanted this year to say we don't want a license anymore, they could at that point start being a Bottle Club.

Now I think that the Legal Affairs Committee has been moving in the right direction, the only thing is they haven't gone far enough. What you actually need, now we talk about local control, what we need if we really want to do something, you see we have three Maines; we have a Maine from Kittery to Lewiston; we have a Maine from Lewiston to Bangor; a Maine from Bangor to Van Buren. That's why many times it is difficult to get anything passed here because of the different sections, and that different problems that we all face in these different sections of the State.

What we should do with this bill here and perhaps we can do it, is make it enabling legislation. If we want Bottle Clubs in our communities, let's allow the town or city council to make that determination.

If we want liquor enforcement to go and check those Bottle Clubs let's let those cities and towns make that determination, that they want Liquor Enforcement. Now we can put an amendment on here, and we'll send it right back to the towns, it will be local control and I think we can take care of this Bottle Club situation once and for all.

We will never deal with that situation here in Augusta because there are some Bottle Clubs in some areas that are very good and they serve a need, there's nowhere else for people to go on a Saturday night or a Friday night to have a few dances and enjoy themselves. Then again, you have the Bottle Clubs that have become a haven for your teenagers now, because they can't get into the bars anymore. So it all depends on what section of the State you live in.

If you want to take and correct this bill, let's take and correct the hours of operation, let's take and put in the amendment that we want liquor enforcement, but let the local officials on a town and on a city level, handle the whole problem.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: I happen to reside in one of the wetter communities in the State of Maine and it is not predicated upon our present weather conditions. We operate this on a basis of local ordinances for our Bottle Clubs. Presently that particular ordinance is in dispute and I think we have 3 different Bottle Clubs bringing suits against the City of Lewiston because we are compelling them to close at 1:15 a.m. in the morning and my point this morning on this is I would not want to see this regulated here from Augusta as to what local communities can or cannot do. I think basically if we do that it would interfere with the present suit that is pending in our municipality which is causing our taxpayers substantial dollars to address.

Presently, this is handled through local ordi-

nances and I don't see where there are people here under the assumption that we do not have local ordinances to address this particular situation.

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

Senator HICHENS: Mr. President, in answer to the question asked by the good Senator from Cumberland, Senator Conley, I don't think there is any danger of your Class "A" restaurants not renewing their license and becoming Bottle Clubs. If they became Bottle Clubs they wouldn't be able to sell any liquor and that is where their profit comes from so there is no danger in that whatsoever.

In response to the good Senator from York, Senator Danton, about the teenagers drinking it's just as much against the law for them to drink at a Bottle Club as it is to drink anywhere else in the State, so I don't think we've got any problem there. When the vote is taken, Mr. President, I ask for a Roll Call.

The PRESIDENT pro tem: A Roll Call has been requested.

The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: Mr. President and Members of the Senate: The original bill that came before the Committee licensed Bottle Clubs and made it very stringent. There was no support in the Committee for that particular piece of legislation, during the hearing and work session afterward the problem did come up about the City of Lewiston as the good Senator from Androscoggin, Senator Minkowsky, mentioned and other towns. It only made sense to me that if a guy spends a thousand dollars for a liquor license and has a business that has to close at one o'clock, why should some unlicensed place have a place open until six o'clock in the morning. The Committee Amendment I mentioned that came out, which is in error, was supposed to have said that Bottle Clubs will close at one o'clock just like the licensed tap rooms and cocktail lounges, unless the city or town votes to keep them open until six o'clock in the morning. That would have resolved the problem in the City of Lewiston and maybe some other community. I think that's the only shot we had with this piece of legislation in Committee, that's why we voted it out that way, but there was no support for licensing Bottle Clubs in the Committee at all.

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

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate: Very briefly I would like to evidence my support of this bill. I had brought to my attention several times by the State Liquor Enforcement gentlemen in our area the problems that they have with Bottle Clubs in not having any guidelines for them to go by. I think that we do need to do something to keep this kind of tenuous situation a little bit more in line. I don't think we ought to make too many mandates, but I think we do need to give some guidance.

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 York, Senator Danton.

Senator DANTON: Mr. President and Members of the Senate: The good Senator from York, Senator Hichens says that drinking in public is against the law and it may be so, but he has to remember that a Bottle Club is a private club and liquor enforcement people cannot get on the premises, which gives to the problem the good Senator from Oxford, Senator Sutton has. This bill here, the only way it can work, and

will never work from here, is to make it enabling legislation to allow the communities to set their own guidelines to say that we do not want Bottle Clubs from 1 a.m. to 6 a.m. We want liquor enforcement to go into our Bottle Clubs to enforce the liquor laws, and whatever the guidelines they want that's the only way you get anything through. Other than that we'll do nothing here like we've done in the past and the Bottle Clubs will continue to operate.

The PRESIDENT pro tem: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate: In response to the remarks from the Senator from Oxford, Senator Sutton. If he wants to strengthen the liquor laws he doesn't want to pass this bill. If he reads the Committee Amendment, the last sentence on the first page, "drinking liquor in a Bottle Club shall not be a violation of Title 17, Section 2003, which prohibits drinking in a public place." It merely allows drinking in a public place, that is what the bill does, and you're not licensing the Bottle Clubs you're just recognizing Bottle Clubs.

There's no license to this. They said the license would come next year after you get this on the books then next year the bill would come in to license them. So how can you weaken your liquor laws like this? Right now you can go in and arrest people in Bottle Clubs. Now the good Senator from York, Senator Danton said that Bottle Clubs are private places. You can't tell me that a public dance hall is a private place where you can't go in and arrest somebody. I have two of them over in my district. All you have to do is pay \$3.00 to go in for the evening. There's no club membership. You don't even get a stamp on your hand; you pay \$3.00 and you walk in the door with a bottle in your pocket, sit down and drink and they might come and arrest you and they might not. If you pass this bill they certainly won't come in and arrest you cause it prohibits it.

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

Senator DANTON: Mr. President. I'm surprised at the good Senator from Waldo, Senator Shute when he says that at a Bottle Club anyone can go in. You can go in, but you sign your name when you pay the \$3.00 and you become a member. Now he knows fully well that liquor enforcement cannot go into a Bottle Club, and I don't disagree with that. There are uses for Bottle Clubs in some sections of the State, and other sections of the State, let me tell you they're bad. I talked about three sections, take your pick. I'm not going to tell you where they are, but I'll tell you right now, liquor enforcement right now, can do absolutely nothing as far as Bottle Clubs are concerned. If anyone doesn't believe me, let's just recess for five minutes and get on the phone and call Chief Martin over at Liquor Enforcement and he'll give you the answer anytime you want it. Thank you.

The PRESIDENT pro tem: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate: When we had the hearing on this bill, John Martin, the Enforcement Officer for Liquor Control told us that if we didn't pass a bill to license bottle clubs, make them come under the liquor statutes he was going to start going in and arresting people. That's what he told us at the hearing. He said it's a civil violation.

There are bills in here to make it a Class E Crime even, I think the good Senator from York has a bill in here to make drinking in public a liquor Class E Crime.

Now this bill merely allows drinking in public. I can tell you that Bottle Clubs in my area of the State you don't have to be a member of any Bottle Club or any association or anything. All you have to do is drive up from York, drive into the dance hall, pay your \$3.00, go in, sit down, enjoy your evening. There's no

stamp, there's no signature, there's no nothing. So if you want to sanction Bottle Clubs, and you won't allow drinking in public so that there'll be no chance of any arrest, no matter what happens in those clubs, pass this bill, that will do it.

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'm sorry. I just wanted to ask a question through the Chair. Anyone who might answer. Is this the only Bottle Club Bill we have and if we don't do something with this, is the Bottle Club Issue done for this session? Should we pass this, I'm confused by the things that I'm hearing here. I would like to see something done with Bottle Clubs but I don't want to condone drinking but I do want to help some things and I'm either go brush my teeth unless somebody helps me.

The PRESIDENT pro tem: The Senator from Oxford, Senator Sutton, poses a question through the Chair.

The Chair recognizes the Senator from York, Senator Farley.

Senator FARLEY: Thank you, Mr. President and Members of the Senate: This is the only bill in response to the good Senator from Oxford, Senator Sutton. I ask the question here, if we accept the motion that's before us now we have, exactly what we have now, which is chaos, and nothing. I admit that if we defeat this motion and accept the Committee Amendment or the other report we will get our foot in the door. I think that answers the question of the good Senator from Oxford, Senator Sutton.

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

The pending question before the Senate is the motion by the Senator from Waldo, Senator Shute, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of Accepting the Minority Ought Not to Pass Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Chapman, Collins, Cote, Devoe, Emerson, Gill, Hichens, Katz, Lovell, Martin, McBreairty, Minkowsky, Perkins, Shute, Silverman, Teague, Trotzky, Usher

NAY — Carpenter, Clark, Conley, Danton, Farley, Najarian, O'Leary, Pierce, Pray, Redmond, Sutton, Trafton

ABSENT — Huber, Sewall

A Roll Call was had.

19 Senators having voted in the affirmative and 12 Senators in the negative, with 2 Senators being absent, the motion to accept the Minority Ought Not to Pass Report of the Committee in non-concurrence, does prevail.

Sent down for concurrence.

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

Divided Report

The Majority of the Committee on Energy and Natural Resources on, Bill, "An Act to Promote Woodlot Cooperative Marketing." (H. P. 875) (L. D. 1082)

Reported that the same Ought to Pass.

Signed:

Senator:

O'LEARY of Oxford

Representatives:

BLODGETT of Waldoboro

AUSTIN of Bingham

HUBER of Falmouth

DEXTER of Kingfield

DOUKAS of Portland

MICHAEL of Auburn

PELTIER of Houlton

HALL of Sangerville

JACQUES of Waterville

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

Signed:

Senator:

McBREAIRTY of Aroostook

Representative:

KIESMAN of Fryeburg

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

Which Reports were Read.

On Motion by Senator McBreairty of Aroostook, the Minority Ought Not to Pass Report of the Committee, Accepted, in non-concurrence. Sent down for concurrence.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act Relating to Municipal and State Purchase of Products of Maine Farms and Fisheries." (H. P. 285) (L. D. 350)

Reported that the same Ought to Pass in New Draft under new title, "An Act Relating to State Agency Purchase of Products of Maine Farms and Fisheries." (H. P. 1436) (L. D. 1638)

Signed:

Sensors:

AULT of Kennebec

SUTTON of Oxford

MARTIN of Aroostook

Representatives:

BARRY of Fort Kent

DAMREN of Belgrade

KANY of Waterville

CONARY of Oakland

MASTERTON of Cape Elizabeth

PARADIS of Augusta

REEVES of Pittston

BACHRACH of Brunswick

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

Signed:

Representatives:

LANCASTER of Kittery

LUND of Augusta

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

Which Reports were Read.

The Majority Ought to Pass, in New Draft Report of the Committee, Accepted in concurrence, and the Bill Read Once.

Under Suspension of the Rules, the Bill in New Draft was Read a Second Time. The Bill, in New Draft, Passed to be Engrossed, in concurrence.

Divided Report

The Majority of the Committee on Agriculture on, Bill, "An Act Relating to License Fees for Dogs." (H. P. 775) (L. D. 977)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-515)

Signed:

Sensors:

HICHENS of York

MARTIN of Aroostook

CARPENTER of Aroostook

Representatives:

MAHANY of Easton

SHERBURNE of Dexter

NELSON of New Sweden

TOZIER of Unity

ROOPE of Presque Isle

TORREY of Poland

MICHAEL of Auburn

WOOD of Sanford

LOCKE of Sebec

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

Signed:

Representative:

ROLLINS of Dixfield

Comes from the House, the Bill Passed to be

Engrossed as amended by Committee Amendment "A".

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee, Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence.

Under Suspension of the Rules, the Bill, as amended, Read a Second Time, and Passed to be Engrossed, in concurrence.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to Access, Copying and Release of Medical Records." (H. P. 935) (L. D. 1165)

Reported that the same Ought Not to Pass.

Signed:

Sensors:

COLLINS of Knox

DEVOE of Penobscot

Representatives:

HUGHES of Auburn

CARRIER of Westbrook

JOYCE of Portland

SEWALL of Newcastle

SILSBY of Ellsworth

GRAY of Rockland

STETSON of Wiscasset

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-491).

Signed:

Sensor:

TRAFTON of Androscoggin

Representatives:

HOBBINS of Saco

LAFFIN of Westbrook

SIMON of Lewiston

Comes from the House, the Minority Report Read and Accepted, and the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "B" thereto (H-530).

Which Reports were Read.

The PRESIDENT pro tem: The Chair recognizes the Senator from Knox, Senator Collins. Senator COLLINS: I move the Senate Accept the Majority Ought Not to Pass Report of the Committee.

The PRESIDENT pro tem: The Senator from Knox, Senator Collins, moves that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

On Motion by Senator Conley of Cumberland, tabled until later in today's session, pending the Motion of the Senator from Knox, Senator Collins.

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Authorize the Administration of Medications by State Corrections Officials in Certain Cases." (H. P. 1025) (L. D. 1270)

Reported that the same Ought to Pass.

Signed:

Sensor:

CARPENTER of Aroostook

Representatives:

PAYNE of Portland

MATHEWS of Caribou

NORRIS of Brewer

BRODEUR of Auburn

CLOUTIER of South Portland

VINCENT of Portland

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-493).

Signed:

Sensors:

GILL of Cumberland

HICHENS of York

Representatives:

PRESCOTT of Hampden

BRENERMAN of Portland

MacBRIDE of Presque Isle

CURTIS of Milbridge

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

Which Reports were Read.

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

Sensor GILL: Mr. President, I move adoption of the Minority Report, Ought to Pass, as amended by Committee Amendment "A".

The PRESIDENT pro tem: The Senator from Cumberland, Senator Gill, moves that the Senate Accept the Minority Ought to Pass, as amended, Report of the Committee.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Sensor CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate: I would very strongly oppose the pending motion.

If you'll look at L. D. 1270, in its original form, this bill comes from the Department of Mental Health and Corrections, comes from Don Allen. The problem we are having at the State Prison is that there has to be a qualified medical person there to dispense medication. I don't feel that's necessary. I think that was a feeling of the majority of the committee. There was some question on the committee among committee members as to whether medication would be handed out willy-nilly by the janitor and whoever happened to be around at night.

I think these fears have been placated. If you'll look at the bill, Page 2 of the bill, it talks about corrections officers. I would point out to you that presently in county jails, deputies can hand out medication. They can hand out prescription medication. They have to log it in, state the time, who gave it, what was given, and all the rest of the information.

This same privilege is not extended to the Maine State Prison. There's a tremendous cost involved with having a qualified medical person available to hand out prescription medication. The difference between the 2 reports is one says prescription and non-prescription and one says non-prescription only. Non-prescription being aspirin, Bengay, other topical items of medication.

I don't have a problem with having a qualified trained corrections officer taking a bottle that says take 1 pill every 4 hours, and every fourth hour handing 1 pill to prisoner X, logging it in with his or her name, date, time, type of medication. I don't see the fear that we're going to be pumping up the prisoners or something, some of the fears that were expressed on the committee.

I would very much oppose the pending motion, and hope that we could accept the Majority Ought to Pass which was the original bill.

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

Sensor GILL: The Committee did take into consideration the fact that the personnel as it says in the original bill, that the warden or superintendent can delegate the authority to any correctional officer.

Sensor Carpenter alluded to the dispursing and the correctional officer being trained to do this. This person has not had any training in dispensing. There are courses that are available in this area. These people have not had that training. I maintain that in the crowded conditions that exist in the prison situations and in the correctional institutes and the limited personnel they have there, that the recording that's necessary, as far as prescriptive items being dispensed would not have the proper recording done on them. So it would be done in a willy-nilly fashion, if you will.

The Minority of the Committee did go along on allowing non-prescriptive and topical oint-

ments to be given by any personnel. That would be alka-seltzer, anything that you could buy over the counter in any drug store will be allowed to be given by any personnel there. When it comes to prescriptive items, we think that the nurse or the medical person on duty should be the one to dole those out.

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

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: I think if you extend the argument of the good Senator from Cumberland to its logical conclusion, that there isn't a person in this Chamber who should be allowed to give medication to their child or to themselves, unless they have medical training. That's what we're talking about. When I talked about trained corrections officers, I did not mean to imply that they had medical training, because obviously they don't.

In terms of their training as a corrections officer, they have a lot more training than the deputy sheriffs in your county jails.

I would point out to you again that county jails are allowed this privilege. We have not seen, to my knowledge any cases where this privilege has been mis-used. How many of you have medical training to take a bottle of pills and hand one every 4 hours to your child? You don't have any. You have concern, you have love for that child, obviously. What about these people, these same people that we're concerned with, that we're protecting in the jails? Who hands them the medication when they're out on the street? Who hands them medication? What percentage of criminals in the Maine State Prison are there for alcohol related crimes? We see many statistics that there are many of them there for alcohol related crimes.

Now you take a guy on the street or a gal. They're drinking too much and they're taking medication. I know what I'm talking about. I would much rather have the janitor at the Maine State Prison handling their medication than themselves. Are we going to require that all have to have medical training before we can take prescription medication?

I really think this is a really ridiculous situation. I think the fears, I think the skeletons of what might happen are being rattled very loudly here this morning. Mr. President, I would request the Yeas and Nays.

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

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate: I regret that the good Senator from Aroostook, I fear over-simplifies the problem. Had not the State Prison had a history of drug trafficking from within, I don't think we would have had this problem and the bill presented in the first place.

It comes to mind that the real problem is and has been historically with some of those employees within the prison. Therefore, I urge you to go with the good Senator from Cumberland, Senator Gill.

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

Senator HICHENS: Mr. President and Members of the Senate: I would re-affirm the statements that have just been made by my fellow colleague. We are dealing with a whole different 'breed of cats'. We're talking about people in the State Prison receiving prescription drugs.

I as a parent, had to use discretion when my children were growing up, following the directions on the bottles of the prescription drugs that I gave to them. I had a love for those children of mine, for their welfare. But the guards in our prisons do not have any love for the prisoners who are under their jurisdiction. They are human. They can be bought off. As the good Senator has just said, we have had a lot of drug

problems in our prison and I think this would just add to it.

The PRESIDENT pro tem: The Chair recognizes the Senator from Aroostook, Senator Chapman.

Senator CHAPMAN: I apologize, Mr. President, to belabor this item. I don't want you to base your vote on this issue based on whether you're for or against drug trafficking.

What we have here is very simple. I take one pill as a corrections officer and I hand it to one prisoner and I see that prisoner take the pill, or you have a nurse do exactly the same thing. Now if I want to hide that pill under my tongue and take it back out and sell it to somebody, I can do that just as well if that pill was given to me by a corrections officer, as if it were given by a nurse.

This does not mean that they're going to be handed the bottle, and say O. K. now folks, take your pills once every 4 hours. Not at all. So if you're concerned about the drug trafficking argument and that they might be selling these bottles of pills around the Maine State Prison, that is not the way it would happen. They would be given 1 pill whenever they were supposed to take it, depending on what the prescription on the bottle said. The corrections officer would stand there and watch them take that pill. So let's not cloud the issue. I think the issue's very clear here.

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

Senator GILL: The one difference between the corrections officer and the nurse is that the nurse is a professional. She's trained. She knows what she's doing. Going back to a parent, doling out pills to their children when they need them. A parent has usually had the physician tell them just exactly how that's to be handled. The prison guard hasn't had the opportunity to talk to the physician of the prisoner to see just how he's supposed to do that. So I think there is a difference.

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

Senator LOVELL: Mr. President and Ladies and Gentlemen of the Senate: As a pharmacist for some 60 years, I've counted quite a few pills and poured out quite a few bottles of medicine. I do feel as Senator Gill does, that we should have experienced people such as guards, who have worked there a certain length of time or nurse, or pharmacist, be able to read.

Now if they could read and it says one pill every 4 hours, if they could read, I'd say probably it would be all right. If they were in the prison 6 months or so, they will know where the bottles of medicine are. The warden will know whether they're honest or not. I don't think they're getting any heroin and marijuana through the drug department in the prison.

So I would say that Senator Gill is probably right, in her estimation of this bill. That we should have a pharmacist at the Thomaston State Prison and at all prisons, and possibly 2 nurses around the clock. Now that would cost quite a bit. We've had to have a price on this bill. But I have found in recent years, I haven't had to make up capsules or pills which I used to in the old days, make up all kinds of things, back 40, 50, 60 years ago. Now I just find that I've got to be able to count to a 100. Be able to type 1 every 4 hours or 1 every 3 hours, as directed by the doctor.

So I think that Senator Gill is right in allowing the prisoners to take their pills.

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

Senator CONLEY: Mr. President, I'm not sure if I heard what I thought I heard. Did the good Senator from York, Senator Lovell, imply that the guards at Thomaston can't read?

Secondly, after listening to this debate, I'm wondering who's on the pills around here?

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 pending question before the Senate is the Motion of the Senator from Cumberland, Senator Gill, 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 Report.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Chapman, Gill, Hichens, Katz, McBrearty, Perkins, Pierce, Sutton, Teague
NAY — Carpenter, Clark, Collins, Conley, Cote, Danton, Devoe, Emerson, Farley, Lovell, Martin, Minkowsky, Najarian, O'Leary, Pray, Redmond, Silverman, Trafton, Trotzky, Usher
ABSENT — Huber, Shute, Sewall
A Roll Call was had.

10 Senators having voted in the affirmative, and 20 Senators in the negative, with 3 Senators being absent, the motion to Accept the Minority Ought to Pass, as amended, Report of the Committee does not prevail.

The Majority Ought to Pass Report of the Committee, Accepted, in non-concurrence, and the Bill Read Once.

Under Suspension of the Rules, the Bill Read a Second Time, and Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

On Motion by Senator Teague of Somerset, the Senate voted to reconsider its action whereby on Bill, "An Act to Amend Certain Property Tax Exemption and to Require Continuing Periodic Review of Tax Exemptions" (H. P. 768) (L. D. 855), the Senate voted to Recede and Concur with the House.

On Motion by Senator Teague of Somerset, tabled for 1 Legislative Day, pending Consideration.

Divided Report

The Majority of the Committee on Energy and Natural Resources on Bill, "An Act to Establish a Silvicultural Review Board." (H. P. 1187) (L. D. 1486)

Reported that the same Ought Not to Pass.

Signed:

Senators:

McBREARTY of Aroostook
O'LEARY of Oxford

Representatives:

HUBER of Falmouth
PELTIER of Houlton
KIESMAN of Fryeburg
DEXTER of Kingfield
AUSTIN of Bingham

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

Signed:

Representatives:

BLODGETT of Waldoboro
MICHAEL of Auburn
DOUKAS of Portland
HALL of Sangerville
JACQUES of Waterville

Comes from the House, Bill and Papers Indefinitely Postponed.

Which Reports were Read.

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

Senator O'LEARY: Mr. President, I note that I have signed the Ought Not to Pass Report of the Committee on the Majority Side, however, I have an amendment to offer to this

bill that removes most of the objections. I would now move the Minority Ought to Pass Report of the Committee.

The PRESIDENT pro tem: The Senator from Oxford, Senator O'Leary, moves acceptance of the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Aroostook, Senator McBreairty.

Senator McBREAIRTY: Is it in order to move the Majority Ought Not to Pass Report at this time?

The PRESIDENT pro tem: The pending question is to accept the Ought to Pass Report of the Committee.

Senator McBREAIRTY: I would hope that you wouldn't accept this Ought to Pass Report. We already have a bill that is if we pass it, L. D. 1571. There's absolutely no need for this bill that we're discussing right now.

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

Senator O'LEARY: Mr. President and Members of the Senate: This is L. D. 1486, "An Act to Establish a Silvicultural Review Board." If you look at the bill that the good Senator has referred to, L. D. 1571, they compliment each other.

I think that what I will propose in this amendment, if I am successful in my endeavors to accept the Minority Report, is offer an amendment that will really compliment and further enhance L. D. 1571.

Maine's biggest natural resource is our forests. I think that the amendment I have is one that will be acceptable to the Forest Industry. L. D. 1571, which will be coming along, requires the Department of Conservation to hire people to make an inventory of our natural resources and our forest products. Whereas, L. D. 1486, which I shall attempt to amend, will be in cooperation with the largest landowners and a lot of this information will be forthcoming from them at no additional expense.

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

The Chair will order a Division.

Will all those Senators in favor of Accepting the Minority 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.

14 Senators having voted in the affirmative, and 11 Senators in the negative, the motion to Accept the Minority Ought to Pass Report of the Committee does prevail.

The Minority Ought to Pass Report of the Committee, accepted in non-concurrence, and The Bill Read Once.

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

Senator O'LEARY: Mr. President, is it possible to Suspend the Rules so this Bill may be given its Second Reading at this time, so I may offer the amendment.

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

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

Senator O'LEARY: Mr. President, I present Senate Amendment "A" to L. D. 1486 and move its Adoption.

The PRESIDENT pro tem: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "A", and moves its Adoption.

Senate Amendment "A" (S-259) Read and Adopted. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Election Laws on, Bill, "An Act to Redefine the Term 'Political Committee' Under the Election

Laws." (H. P. 1332) (L. D. 1579)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-547).

Signed:

Senators:

PIERCE of Kennebec
FARLEY of York

Representatives:

TIERNEY of Lisbon
BERRY of Buxton
GOULD of Old Town
HALL of Sangerville
STUDLEY of Berwick
NADEAU of Lewiston
BENOIT of South Portland
SMALL of Bath

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

Signed:

Representatives:

WENTWORTH of Wells
SEWALL of Newcastle

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

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee, Accepted, in concurrence, and the Bill Read Once.

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

Under Suspension of the Rules, the Bill Read a Second Time, and Passed to be Engrossed, as amended in concurrence.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to the Acquisition and Ownership of Real Property by Aliens and Businesses of Foreign Countries." (H. P. 976) (L. D. 1261)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-548).

Signed:

Senator:

TRAFTON of Androscoggin

Representatives:

HUGHES of Auburn
HOBBS of Saco
LAFFIN of Westbrook
SILSBY of Ellsworth
CARRIER of Westbrook
SIMON of Lewiston
JOYCE of Portland

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

Signed:

Senators:

COLLINS of Knox
DEVOE of Penobscot

Representatives:

GRAY of Rockland
SEWALL of Newcastle
STETSON of Wiscasset

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

Which Reports were Read.

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

Senator COLLINS: I move the Senate accept the Minority Ought Not to Pass Report of the Committee.

The PRESIDENT pro tem: The Senator from Knox, Senator Collins moves that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I request a Division on the Motion.

The PRESIDENT pro tem: A Division has been requested.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, I would appreciate it very much if somebody could explain exactly what this bill does, perhaps the Senator from Knox, Senator Collins could delineate his problems with the bill?

The PRESIDENT pro tem: The Senator from Aroostook, Senator Carpenter poses a question through the Chair.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President and Members of the Senate: This bill would prevent non-resident alien individuals from acquiring tracts of agricultural land in the State of Maine in excess of 5 acres. Agriculture land is defined in fairly broad terms so that it would include forest lands as well as what we normally think of as agricultural lands.

The thinking that prompted the bill, of course, is the fact that in some states, not in the State of Maine, as far as we know, but in some states that wealthy oil potentates have been buying up large tracts of agriculture land for investment, and apparently paying fairly good prices for it, which sometimes creates some economic abnormalities.

The original bill was fairly faulty and the lobby came in strong because there are a number of Canadian firms that invest in the State of Maine and do important business here, to whom agricultural lands are important. The amendment that was placed on the bill and is part of the Majority Report solves many of the concerns of Canadian investors in Maine enterprise. As you know we have paper companies, food processing and food production companies in Maine that are Canadian owned. Despite the attempts to modify the bill and to meet those objections, I still have a concern about the wisdom of it and that concern I will express in two parts.

Part 1, Americans all over the world are heavy investors in land in foreign countries and our State Department is trying everyday to help Americans hang on to the privileges that we have in foreign countries. When we as a State do something such as this, to prohibit non-resident aliens from owning property in Maine, we invite retaliation in foreign countries, because if some Arabian Sheik who wants a place in Maine is denied that privilege by our law, it will not be long before Americans investing in his country, whether it be in oil wells or agricultural lands, or whatever, will be denied rights in that foreign country. So that this problem really rises to the level of an international problem which is dealt with in Washington and not in Maine.

Some States have laws like this. some have had them a long time going back to the time when we feared oriental immigration and ownership. Others more recently enacted. There have been articles in magazines about this. If you read those articles carefully, I think you will conclude that the percentage of foreign ownership is so small, less than 1% that it really isn't the threat that some might suggest. So my first point is, what does this do to international relations and the investment of Americans abroad?

The second point is a Constitutional question and I open a book to debates and journals of the Constitutional Convention in the State of Maine, to the Articles of Separation from the Commonwealth of Massachusetts. I read Article VIII: "No laws shall be passed in the proposed State," (that's Maine) "making any distinction between the lands and rights of property for proprietors not residents in or not citizens of said proposed State, and the lands and rights of property of the citizens of the proposed State resident therein."

Then in the next Article "these terms and conditions shall be incorporated into and

become a part of any Constitution adopted by the proposed State."

Now all of this ancient history is not reprinted in the standard short performance of Maine's Constitution today. I have not personally researched this, but the people who have told me that this is still part of Maine's Constitution. If they are correct, and I believe they are, this sort of thing just doesn't belong in our laws because it isn't Constitutional. So I ask you to consider those two reasons. I have no emotional problems with the objectives of the bill, I don't particularly like the idea of large foreign investment in Maine, but I think we have to look a little bit further than the thumbnail Constitution that's in our desk and look at the original obligation that we undertook. Thank you Mr. President.

(Off Record Remarks)

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

Senator DEVOE: Thank you very much, Mr. President. I would like to supplement the remarks made by the good Senator from Knox. When I was home last weekend, I was told by my wife that some friends of ours who live on the same street about a half mile up the road from us, have recently been requested by the company that this man works for to move to Saudi Arabia for a year. Now it so happens that this friend of mine has been engaged for a couple of years in what has grown from a small enterprise to a very large enterprise dealing with the servicing and providing of services to hospitals and clinics in Saudi Arabia, of computers, business equipment, and business forms. The business has become so successful that the manager of the business who now works out of an office in Bangor and commutes on almost a monthly or every other month basis to Arabia, is now being required, due to the success of the business, to move to Arabia for a year, so this is a very immediate concern to me because of my constituent and because for my friend there is a real danger. Maybe not this year, maybe not next year, but this concept of retaliation, economic retaliation, is a very live one and my awareness of it was heightened to a considerable degree when I learned of my friends impending move in June to Arabia, to live for a year, to run the business over there as a resident manager instead of commuting as he has been doing for the last several months, on almost a monthly basis.

Now let's look at the bill again, which is now Filing H-548. I'm concerned about the very broad definition of agricultural land. The definition in the bill says any tract of land consist of more than 5 acres, which is capable of supporting, without substantial modification to the character of the land an agricultural enterprise. Well, if you stop right there, that's pretty all inclusive if you have a question of fact that leaves a lot of room for interpretation and that is, would any modification that you would make to the land be substantial? Some people might say yes, some people might say no. There's a real question of fact there that cannot be determined in my opinion, by any objective standard.

Let's continue with the definition of agricultural land, including the production of, and then there follows a list of agricultural crops, timber or forest products, livestock or livestock products, poultry or poultry products, milk or dairy products, fruit or other horticultural products. Then follows a sentence concerning the fact that it does not include any tract of land zoned by a governmental unit for use other than in non-conforming with agricultural use. I would like to point out to the members of the Senate that traditionally zoning has related to the use to which land may be put. I would suggest, even though a town may zone a tract of land to be in business or commercial,

or in an interstate zone, or whatever designation the town may have, that relates only to the use that is permitted under the zoning ordinance, it does not change the actual character of the land that the earlier part of the definition of agricultural land purports to deal with.

Let's go down further on page 2 of the bill where we deal with foreign business. You have a phrase, legal fiction should be disregarded. Now I suggest that the term legal fiction, is I as an attorney would refer to as a layman's term. Lay people and maybe some lawyers sometimes view corporations or partnerships or whatever other form of business association you may be engaged in is a legal fiction, but nevertheless, these forms of operating a business are all allowable under our statutes and in my opinion, the use of the phrase, legal fiction, is an inaccurate and misleading term to put in the statute, and that's exactly what this bill would purport to do.

Let's turn to page 3, where we have exceptions to prohibition and you have the provision that if any owner, who is not qualified under the statute, should in fact require an interest in agricultural land, he could be forced to divest himself within 5 years. I submit to you that if that did happen the result will be a forced sale when the property is being put on the market, traditionally you have a willing buyer and a willing seller, neither of which are forced to make a deal. But this bill as presently drafted, would in fact result in a forced sale, so its going to result in a loss, perhaps a severe loss to the seller.

Get down to the very bottom of page 3, of the bill. An interest acquired for manufacturing or commercial purposes. This is an extremely difficult thing to determine at the time a sale takes place. As I look at the bill, this is the time that the exception would come into play, at the time of purchase, and I suggest its going to be difficult at the time of purchase to determine whether or not the land actually is going to be used for manufacturing or commercial purposes. It may be intended at the time, but plans may change after purchase and another use may be found to be more desirable and therefore I question whether the exception would or would not apply.

Then we get down to the enforcement of this and the enforcement powers are with the Commissioner of Agriculture and provides that if the Commissioner has reason to believe that any person is in non-compliance with this subchapter he shall report the non-compliance to the Attorney General. I have a problem with this and so for these reasons, I support the Motion made by the good Senator from Knox, Senator Collins. Thank you very much.

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

Senator CARPENTER: Mr. President, ladies and gentlemen of the Senate. I looked over Committee Amendment A and I know although I am not an attorney and am certainly not skilled to debate the two gentlemen that happen to be on the other side of this particular issue. I would suggest that perhaps, since other States have done it and presently this type of legislation is presently pending in other States, that if we were to accept the Ought to Pass Report this morning, that some good Constitutional lawyer, or perhaps the Attorney General's Office could help us to work out some of the bugs. I would hope very much that when the vote was taken we would vote on the concept of protecting ourselves, I guess, against alien interests. I'm not terribly concerned that today there is a great influx of foreign people coming in here and buying up a lot of our farmland, although practically once a week we read an article in the newspaper or see something on television about this happening nationwide, and in some instances here in the State of Maine. I would much rather see the Maine Legislature move slowly in this area and begin to do some-

thing in this area, than act as we do all too often in a reactive manner, rushing down here to rush through some emergency legislation.

I think there is another area that hasn't been touched on and that is the area of taxation. I know in my area, many of my small towns, land that once was agricultural land has been bought up for astronomical sums. Sums, two, three, four times what any reasonable native Maniac would pay for this land. This in turn has sent property state valuation, skyrocketing in some of these areas in some of these small towns. I think this is another aspect to this whole thing that we have to look at.

I would hope that this morning we could vote on the concept of whether or not we want to protect our land a little bit. I have just finished taking a couple of courses in real estate and I think real estate is something very unique. Its not like talking about manufactured goods, its not talking about fish and game. We have so much real estate in the State of Maine there is no more being produced. There just ain't going to be any more and I would like to see us look after what we have.

Presently in this country we are the food basket of the world. Presently in this country we own that food basket. Someday, down the road, we may not, and don't think for a second that gold or oil or anything else keeps the world running. Its food. Now this is, hopefully, a long ways away that we would ever be in danger of losing the handle of that food basket, but let's take a look at this bill, let's get it through the first reading, see if we can amend it and make it palatable to my good friends the two attorneys who have already debated this bill and let's take a look at what might happen to some of our land 10 years down the road. It's something that very much concerns me and I think it ought to concern all the people in the State of Maine. Mr. President I would request a Roll Call.

The PRESIDENT pro tem: Is the Senate ready for the question? 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 Knox, Senator Collins, that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of accepting the Ought Not to Pass Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Chapman, Collins, Cote, Danton, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, Lovell, McBreairey, Minikowsky, Najarian, O'Leary, Perkins, Pierce, Redmond, Sutton, Teague, Trotzky, Sewall

NAY — Carpenter, Clark, Conley, Martin, Pray, Silverman, Trafton, Usher

ABSENT — Shute

A Roll Call was had.

24 Senators having voted in the affirmative, and 8 Senators in the negative, with 1 Senator being absent, the motion to accept the Minority Ought Not to Pass Report of the Committee in non-concurrence, does prevail.

Sent down for concurrence.

Senate

Leave to Withdraw

Senator Ault for the Committee on Business Legislation on, Bill, "An Act to Require Life Insurers to Furnish Specified Disclosure Information to Purchasers of Life Insurance." (S. P. 116) (L. D. 216)

Reported that the same be granted Leave to

Withdraw.

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

Ought to Pass

Senator Trotzky for the Committee on Education on, Bill, "An Act to Clarify the Regionalization of Special Education." (S. P. 363) (L. D. 1110)

Reported that the same Ought to Pass.

Senator Chapman for the Committee on Business Legislation on, Bill, "An Act to Amend the Life Insurance Provisions Regarding Justices and Judges." (S. P. 345) (L. D. 1059)

Reported that the same Ought to Pass.

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

Ought to Pass — As Amended

Senator O'Leary for the Committee on Energy and Natural Resources on, Bill, "An Act Relating to the Protection of Ground Water." (S. P. 468) (L. D. 1479)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 256).

Senator Chapman for the Committee on Business Legislation on, Bill, "An Act to Increase Real Estate Broker and Salesman License and Examination Fees and to Eliminate Ambiguities." (S. P. 443) (L. D. 1381)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 262).

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.

Ought to Pass in New Draft

Senator Martin for the Committee on State Government on, Bill, "An Act to Permit the Maine State Housing Authority to Issue Bonds Backed by the Moral Obligation of the State." (S. P. 476) (L. D. 1451)

Reported that the same Ought to Pass in New Draft under New Title, "An Act to Permit the Maine State Housing Authority to Issue Certain Bonds not Backed by the Moral Obligation of the State and to Raise the Authority's Bonding Limit." (S. P. 585) (L. D. 1648)

Which Report was Read.

The PRESIDENT pro tem: Is it the pleasure of the Senate to Accept the Ought to Pass in New Draft Report of the Committee?

The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: I would like to ask through the Chair to the Committee Chairman or members of the Committee. We are now talking about raising from \$225,000,000 to \$275,000,000 the bonding authority of the State Housing Authority, which is to be secured by a moral obligation of the State. It also provides for an additional \$200,000,000 in bond authority of housing which is not to be secured by a moral obligation of the State.

Now we are talking about the big investment money, and I wish they would explain the difference between a moral obligation for \$275,000,000 and the no need of a moral obligation for another \$200,000,000.

The PRESIDENT pro tem: The Senator from Washington, Senator Silverman, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President and Members of the Senate: This bill divides the bonding authorization of the Maine State Housing Authority into two separate issues. The one that will continue to have the moral obligation of the State behind it is the Multifamily Housing Authority Program in which the federal government provides rental assistance to the

tenants up to 75% of the cost of the rent. The other part is the single family mortgage program, and while it does not require the moral obligation of the State there are provisions in here, under Section 4762 1 and 2 which insures, insurance coverage, okay "Privately insured mortgages, all such mortgages purchased shall be limited or interest bearing obligation which finance land and improvements on the one in four family owner occupied residential housing units."

I think that the moral obligation isn't needed because these units are insured by private insurance or by the federal government, which is adequate protection.

The Ought to Pass, in New Draft Report of the Committee, Accepted. The Bill, in New Draft, Read Once, and Tomorrow Assigned for Second Reading.

Senator O'Leary for the Committee on Transportation on, Bill, "An Act to Make Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1980, and June 30, 1981. (Emergency)" (S. P. 490) (L. D. 1527)

Reported that the same Ought to Pass in New Draft under same Title. (S. P. 586) (L. D. 1651)

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

Divided Report

The Majority of the Committee on Transportation on, Bill, "An Act to Appropriate Money for Public Fish Piers, Airports and other Transportation Improvements and to Authorize General Fund Bond Issue in the Amount of \$11,810,000. (S. P. 487) (L. D. 1549)

Reported that the same Ought to Pass.

Signed:

Sensors:

EMERSON of Penobscot
O'LEARY of Oxford
USHER of Cumberland

Representatives:

CARROLL of Limerick
HUTCHINGS of Lincolnville
STROUT of Corinth
HUNTER of Benton
JACQUES of Lewiston
BROWN of Mexico
McPHERSON of Eliot
McKEAN of Limestone
ELIAS of Madison

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

Signed:

Representative:

LOUGEE of Island Falls

Which Reports were Read.

The Majority Ought to Pass Report of the Committee, Accepted. The Bill Read Once, and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Transportation on, Bill, "An Act Coordinating Regional and Intercity Public Transportation Programs." (S. P. 495) (L. D. 1556) (Emergency)

Reported the same Ought to Pass as Amendment by Committee Amendment "A" (S. 255).

Signed:

Sensors:

EMERSON of Penobscot
O'LEARY of Oxford
USHER of Cumberland

Representatives:

CARROLL of Limerick
McPHERSON of Eliot
JACQUES of Lewiston
ELIAS of Madison
STROUT of Corinth
HUTCHINGS of Lincolnville
BROWN of Mexico
McKEAN of Limestone

The Minority of the same Committee on the same subject matter reported that the same

Ought Not to Pass.

Signed:

Representatives:

LOUGEE of Island Falls
HUNTER of Benton

Which Reports were Read.

The Majority Ought to Pass Report of the Committee, Accepted, and the Bill Read Once. Committee Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Establish an Office of Deafness and Communications Disorders." (S. P. 407) (L. D. 1265)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 260).

Signed:

Sensors:

GILL of Cumberland
HICHENS of York
CARPENTER of Aroostook

Representatives:

PRESCOTT of Hampden
BRODEUR of Auburn
NORRIS of Brewer
MATTHEWS of Caribou
CLOUTIER of South Portland
CURTIS of Milbridge
BRENERMAN of Portland

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "B" (S. 261).

Signed:

Representatives:

PAYNE of Portland
MacBRIDE of Presque Isle

Which Reports were Read.

The Majority Ought to Pass Report of the Committee, Accepted, and the Bill Read Once. Committee Amendment "A" Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act Providing for the Consideration of Solar Energy Requirements in Comprehensive Plans." (H. P. 800) (L. D. 996)

Bill, "An Act to Strengthen the State's Capability to Assess Maine's Forest Resources." (H. P. 1317) (L. D. 1571)

Bill, "An Act to Enable Consolidation of the State Water Discharge Licensing Program and the Federal National Pollutant Discharge Elimination System Permit Program." (H. P. 864) (L. D. 1071)

Bill, "An Act to Permit the Consideration of Solar Access Issues when Approving any Subdivision." (H. P. 1238) (L. D. 1491)

Bill, "An Act Concerning the Saco River Corridor Commission." (H. P. 797) (L. D. 967)

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

House — As Amended

Bill, "An Act Creating a State of Maine Trustees Advisory Board." (H. P. 1404) (L. D. 1617)

Bill, "An Act Relating to Withdrawal Penalties under the Tree Growth Tax Law." (H. P. 1003) (L. D. 1237)

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

Bill, "An Act to Clarify the Form of the Local Consent Resolution Regarding State Housing Authority Housing Assistance Allocation." (H. P. 402) (L. D. 508)

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

Sent down for concurrence.

Senate

Bill, "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine." (S. P. 581) (L. D. 1639)

Which was Read a Second Time.

On Motion by Senator Collins of Knox, Tabled, until June 5, pending Passage to be Engrossed.

Senate — As Amended

Bill, "An Act to Amend the Campaign Finance Law." (S. P. 78) (L. D. 167)

Bill, "An Act to Abolish the Legislative Council." (S. P. 86) (L. D. 171)

Bill, "An Act to Regulate the Sale of Franchises." (S. P. 465) (L. D. 1499)

Bill, "An Act Concerning the Accountancy Statutes." (S. P. 175) (L. D. 367)

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

Sent down for concurrence.

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

Senator DEVOE: Thank you very much, Mr. President, I apologize to you and to the Members of this Body. Regarding L. D. 508, I move Reconsideration.

The PRESIDENT pro tem: The Senator from Penobscot, Senator Devoe moves that the Senate reconsider its action whereby Bill, "An Act to Clarify the Form of the Local Consent Resolution Regarding State Housing Authority Assistance Allocation." (H. P. 402) (L. D. 508) was Passed to be Engrossed.

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

Enactors

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

An Act to Require Parental Notification of a Minor's Abortion. (S. P. 220) (L. D. 604)

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

Senator COLLINS: Mr. President, this matter has received our attention before, but I ask the Senate to listen once more to what it really means.

Once upon a time, we used to hear that there were 3 learned professions, law, medicine, and theology. Those 3 learned professions provided people in our society who were looked to for counsel and advice and treatment and aid when matters of special difficulty were encountered. As the centuries went on our English Law, which we inherited in this country and have developed here, built up a special privilege concerning communications between people and those professionals in those 3 areas of learning.

Today in this bill we are being asked to abrogate one of the most important aspects of the privileges that go to the learned professions. Three years ago as a result of a long study done by eminent citizens of this State, a new code of evidence was written and presented to the courts and adopted by the courts and given the approval of this legislature. That Code of Evidence provides 4 privileges, one of which is the privilege between husband and wife, that their communications are private between them. The other 3 relate to the 3 learned professions.

I think we're all acquainted with the privilege between lawyer and client. What the client says to the lawyer is in confidence between the 2 of them. The law safeguards that confidence with rules of law that says that it is confidential and privileged and not to be disclosed to anyone else without the approval of the client.

Likewise the clergyman, the religious privilege. The rule reads, "a person has a privilege to prevent another from disclosing a confidential communication by the person to a clergyman in his professional character, as spiritual advisor."

If we drive a breach into the similar privilege that exists between doctor and patient, will the next move be that we enact a law that says that the priest must report to the parents, after hearing in the confessional the sins of the child, before he can help that child with absolution, or with a program for working out his problems?

Is the next move going to be to say that when we go to our lawyer and tell him in confidence our problem, that he must report to the authorities the nature of that problem before he can give advice and help to the client?

I wonder if we really understand how serious a step we are taking, if we legislate that the physician must tell someone else before he can provide help to his patient. The law that now is on our books, approved by this Legislature only 3 years ago says this: "a patient has a privilege to prevent any other person from disclosing confidential communication made for the purpose of diagnosis or treatment of his physical or emotional condition, among himself, his physician, and persons who are participating in the diagnosis or treatment under the direction of the physician. We're being asked to drive a very big hole through that law today.

We have 3 choices today. This bill is before us as an Enactor. We can enact it as it is; we can defeat it; or we can amend it to preserve some of that sacred discretion of confidentiality that now prevails between the physician and the patient.

There has been prepared Senate Amendment "C" which is on our desks, under Filing S-263. In order for that amendment to be offered, we have to Suspend the Rules, take a couple of parliamentary maneuvers to back up and then that amendment could be offered.

This amendment I plead with you has great value, because it says: "If after professional consultation with the minor and in the professional medical judgment of the physician there is the serious probability that the notification would result in physical abuse to the minor, the notice under subsection 2 shall not be required."

Now in order to help keep track of what is going on with respect to abortions with teenagers, there is a further provision that if that be the case, the physician must report the statistical data in anonymous fashion to the Department of Human Services so that we will have a chance to monitor that kind of activity and see what is really happening.

I ask you is there really anyone in this Chamber that would want a teenage girl to have to go home to physical abuse, to serious physical abuse? I know many of us are emotionally committed to voting against abortion as we see it, but this issue is much bigger than abortion. You can be against abortion, you can have all kinds of religious scruples about it, and you can still have humanity and the compassion to prevent a child from being beaten up.

I wish that the Senator from Cumberland, Senator Conley, would be able to sit down with his very capable son who graduated from Law School last Sunday and talk with him about the reasons that we have these privileges in our law. How are we going to preserve the confidence and the trust, between the priest and the penitent; between the lawyer and the client; between the patient and the physician, if we put this kind of stuff into our laws and take away the judgment and the discretion that these people have when they're trying to help people in trouble?

These rules didn't come out of thin air. They're the product of centuries of human experience. So I speak today for the teenage child, who has no voice here. This bill in amended form will still give parents an unusual privilege, an exception from all the other privileged materials that we have.

So the bill, in its amended form, would still do much to help those who feel that they have a righteous position of 'right to know' about their

children's activities. We are only asking you to not put on the books something which will require a teenage girl to face the physical wrath and abuse of a drunken brute of a father, or an alcoholic mother. There are such people, I'm sorry to say, because I've seen it happen.

I have had in my professional experience to counsel family members who have come when it's too late, when their child has committed suicide. I've had to put young men in jail on bastard actions. I've been a magistrate, who had to sign papers to get people in and out of jail on these problems. I've talked with many doctors and nurses and social workers who really know what's going on. It's very easy for us to sit here and say well, the parents ought to know, yes, they ought to. But the realities are quite different in these few cases where the teenager in trouble does not have the kind of parents that are willing to help. In fact, some of those parents ought never to know about this problem with their child.

So I ask you as you make your choice to keep this in mind. I would much prefer to completely defeat the bill, but if it must pass, and I know that the votes are probably very close to passage, let's put on it that last bit of human discretion on the part of the trained physician. Let's go along with Senator Emerson's motion to Suspend our Rules, to put on this amendment, and then if you feel you must, to pass this bill.

Thank you, Mr. President.

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

Senator GILL: I feel that there has been a lot of talking about this bill, there has been a lot of deep emotion about the bill. We all have our feelings on how it should go, I too, have strong feelings. It's my bill. I wouldn't have put it in, if I didn't have such strong feelings but I am troubled by the professional counseling that does exist. I happened to have come across the Torlane Law Review and in this there is an article on Planned Parenthood vs. Danforth and in that case Justice Stewart who was one of the Justices involved, referred to the record in question, "where a girl of tender years under emotional stress would receive adequate counsel and support in an Abortion Clinic. The counselling that occurs in these clinics is entirely on the day that the abortion is to be performed. It lasts for two hours, in this particular case, and it takes place in groups that include both minors and adults who are strangers to one another. Counselling is typically limited to a description of abortion procedures, possible complications and birth control techniques."

It goes on to say that the abortion itself takes five to seven minutes. The physician has had no prior contact with the minor and on the day that the abortions are performed at the clinic, the physician may be performing abortions on many other adults and minors. On busy days patients are scheduled in separate groups consisting usually of five patients. After the abortion the physician spends a brief period with the minor and others of the group in a recovery room. This is hardly the setting for counselling, for sensitive, caring, personal counselling.

I also came across some questions that were asked of a physician who performs abortions. He was asked about how much he charges for abortion. The fee is on a sliding scale it can go anywhere from free to up to \$150. In the case where \$150 is charged they asked him, this all happened in Court, it's all documented, what does he receive in that instance? The physician said usually a third. The Judge asked him, was it paid on a monthly basis? He said no it is paid on a daily basis, I'm given a check at the end of the day. What was the amount of the last check that you received from Parent's Aid Society? The doctor said I honestly don't recall the figure, I believe it was in the area of \$600. The Judge asked him, have you received checks higher than that amount? Higher and lower

Yes. Does that constitute reimbursement for 2 days work? That's correct. So I maintain that where these abortions are being held where the professional so-called counselling is taking place, it's nothing but a business enterprise.

I value life. I think there's nothing important, I just don't know how to express it, I just feel very strongly about it. I picked up a comment that Michael Petit, who is our new Commissioner of Human Services, a speech that he gave last week at a "Keep Me Healthy Conference" He realized the problem that we have with teen-age pregnancies. I would like to quote from what Michael Petit said at that conference. He said "For example we are beginning to assess the teenage pregnancy problem in Maine and all its implications. Its hard to believe but—out of every 10 teenage girls in Maine will become pregnant in 1979. It's staggering to think that there were an estimated 5,000 pregnant girls under 20 years of age in Maine last year. Maine has yet to get a clear Statewide policy and program that comes to grips with a myriad of social and economic costs created by this problem", but as he mentioned earlier on "I am prepared to see that the Department of Human Services assumes a position of aggressive leadership in the development of a positive health strategy on these issues.

I too am concerned about the possible abuse of certain girls in certain home situations. But the Department of Human Services now has a Protective and Abusive Agency all set up to take care of these situations. Everyone who comes in contact with girls that might be in a possible abusive situation by law, has to notify the Department of Human Services now, so that something can be done to get that girl out of that situation. I suggest that girls are not going to be abused for the first time when they come home and tell their parent that they are pregnant. If abuses are going to happen, they have happened from the time that child has been a small child. This is not going to be a first abusive situation. I would urge that you vote against Reconsideration. I don't think we need this amendment on, I think we should go along with the bill as it is now. Thank you.

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

Senator NAJARIAN: Mr. President and Members of the Senate: I'm glad that Senator Gill can speak with such authority about what is going to happen for the first time to a child and has been happening before. I can see in this situation where a parent could completely lose control of their emotions when they are informed of this for the first time and it could happen for the first time that they abuse their child. I think this the most cruel and inhumane bill that I have seen come before this Legislature.

You quoted Mike Petit from United Way and he did a study again on child abuse, the teenage suicides by the young continue to increase and are frightening even to those who are professionally trained to deal with the problem. Teen-age pregnancies continue to increase, etc. etc.

My God, I just wonder if you people realize the suffering you're causing in families after you passed that thing on family violence and the impact of certain laws on the family then you turn around and pass something like this. I'm just appalled, that's all.

The PRESIDENT pro tem: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you Mr. President. Mr. President, Men and Women of the Senate. I've served 7 years in the Maine Legislature and I have never stood and addressed either body on an issue such as we have before us today. I have deliberately refrained, because I'm a public school teacher and I deal with teenage girls and boys. I have to admit this, I think sometimes some of you people ought to

recognize what the the real world is out there. Teenagers are sexually active, pregnancies occur. This bill would require parental notification, prior to abortion violating one of the basic tenants of confidentiality between physician and patient. I recognize and acknowledge the bill will ultimately pass, but it's our responsibility as elected people to pass it in the form that has and maintains integrity and responsibility, maturity and good judgment. How do you tell a parent one of which impregnated the girl, that the child is pregnant, and the mother denies it and so does the father? How do you notify parents that a young girl is seeking an abortion who has been raped by her three brothers and asked her parents and pleaded with them not to leave her home again alone with them and the parents leave repeatedly every weekend and she's pregnant and seeks to abort? Have you no human decency?

The good Senator from Cumberland, Senator Gill, for whom I hold sincere affection and respect, refers to the Child Abuse Laws under Chapter 1056. A doctor of great eminence and reputation in my Senatorial District said to me, "Nancy, I reported two documented cases of child abuse, it took the Department 4 weeks in one instance and 6 weeks in another to investigate and conclude those complaints."

Have you read the red tape and reporting procedures? Are you totally insensitive to the lack of staffing in the Department of Human Services? Do you know what you're doing to indeed to a minority of girls? Please, I beg you support the pending Motion.

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

Senator EMERSON: In order to present an amendment I move Suspension of the Rules.

The PRESIDENT pro tem: Is it the pleasure of the Senate to Suspend its Rules?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: I request a Roll Call.

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 was ordered.

The pending question before the Senate is the Motion by the Senator from Penobscot, Senator Emerson that the Senate Suspend the Rules.

A Yes vote will be in favor of Suspending its Rules.

A No vote will be opposed.

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

ROLL CALL

YEA — Ault, Chapman, Collins, Clark, Emerson, Farley, Huber, Katz, Lovell, Najarian, Perkins, Pierce, Shute, Sutton, Teague, Trafton, Trotzky, Sewall

NAY — Carpenter, Conley, Cote, Danton, Devoe, Gill, Hichens, Martin, McBreaity, Minkowsky, O'Leary, Pray, Redmond, Silverman, Usher

ABSENT — None

A Roll Call was had.

18 Senators having voted in the affirmative, and 15 Senators in the negative, with no Senators being absent, and 18 being less than two-thirds of the membership present and voting, the motion to Suspend the Rules does not prevail.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, this leaves us with only the 2 alternatives, Passage or Defeat. I earnestly hope that the Senate will vote No on the motion for Enactment.

The PRESIDENT pro tem: The Chair recog-

nizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate: This has been difficult for all of us.

I agree with the good Senator from Knox, Senator Collins, that we have 4 privileges in the Code of Evidence, but we had the parent-child family relationship hundreds and hundreds of years before we had The Code of Evidence. It's difficult for us to sit here on this Matter. It's not easy.

I agree with the good Senator from Cumberland, Senator Clark, who is deeply troubled by the information given her by a physician in her community, but the remedy to that problem may be a legislative visit to the Department of Human Services to find out what happened, and why it took them 4 weeks on the basis of a complaint like that. I submit that that is not sufficient reason to vote against this bill today.

Even though we have a lawyer-client privilege in the Code of Evidence, a lawyer is still, by law, not able to tolerate a client's intention to commit perjury if he finds out about it. The lawyer is under an affirmative duty to come forward to the court. It's difficult to separate the legality of what we're doing from the morality and the emotional part of what we're doing.

If the Department of Human Services needs to have some legislative attention on why it takes them so long to respond to a complaint or 2 complaints that were submitted by the doctor, maybe the remedy is for concerned Legislators to visit the Department and find out and ask them to consider changing their procedures.

What this bill purposes to do, the concept of it has been supported by several Justices of the Supreme Court. As I stated about a week ago, it's ironic that some of the justices that voted back in 1973, I think it was or '75, when the abortion statutes of 46 States were struck aside, it's ironic that the people cheered so loudly when that decision was rendered, now find it easy and convenient to ignore the words of some of the justices who voted on that case, who have spoken in subsequent cases. That case opened the door, and opened the way for states to go forward and to Enact laws in this field.

I submit we have tried, very scrupulously to follow the limitations that were laid down by the Supreme Court in subsequent cases, in which the concept of parental notification was discussed and I submit to you, approved. So I would ask you to keep that in mind, when we're voting on the pending motion. Thank you very much, Mr. President.

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

Senator CONLEY: Mr. President and Members of the Senate: I've sat here and listened to this debate, not only today on this particular bill, but on several days in the past.

I share those same concerns as spoken by the good Senator from Knox, Senator Collins, I think my record in the legislature will clearly show there has been no one more concerned about the abuse of children within our State than I.

I look at this bill, and I look at the bill as a father, not as a Roman Irish Catholic, but as a father, as a parent. We're talking about a child who is 17 years of age or younger. I'm concerned about the vast majority of parents in this State who do have some concerns, some very serious concerns, who love their children. I ask you, as I stated earlier in this Chamber, that under the law as a parent, we are mandated to house, feed, clothe, and educate. I certainly believe whether you're pro or anti the abortion issue, I ask you in all honesty, should not a parent have that given right to have knowledge of what is going to happen to a juvenile, who happens to be their daughter?

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

Senator PIERCE: Mr. President and Members of the Senate: We have debated at great length the series of so-called Abortion Bills. They've been well debated by people on both sides of the issue, far better qualified, the people who have done a far better job than I would have debating them.

My record on this issue has not been a hazy one. It's been very clear: I have voted consistently for what I guess is called the 'pro-life side.' If you don't believe that, just ask Senator Huber, he'll tell you very quickly what my position has been.

The only exception to that is that I have, because I think it's an important issue, I have always voted to reconsider, to look at the issue again. I've voted to allow us to look at the amendments, such as Senator Trotzky's, which I did not support, but I thought we should at least look at it.

Today this is another amendment which we should look at before we finally enact this bill. Whether you agree with the amendment or whether you don't. Before we finally enact this bill, this amendment should be looked at. Maybe this bill will be enacted today, and maybe it won't; but I want the record clear. It won't be enacted with my vote today, if it is enacted, until we have looked at this amendment.

What the bill addresses, what it proposes to do, conceptually I agree with wholeheartedly, but I cannot vote to enact a bill today, which is an important piece of legislation without fully addressing all sides of the issue.

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

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, I would request a Roll Call.

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 pending question before the Senate is the Enactment of L. D. 604.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Conley, Cote, Danton, Devoe, Farley, Gill, Hichens, Martin, McBreairty, Minkowsky, O'Leary, Pray, Redmond, Silverman, Teague, Usher.

NAY — Ault, Chapman, Clark, Collins, Emerson, Huber, Katz, Lovell, Najarian, Perkins, Pierce, Shute, Sutton, Trafton, Trotzky, Sewall.

ABSENT — None.

A Roll Call was had.

17 Senator having voted in the affirmative, and 16 Senators in the negative, with no Senators being absent, L. D. 604 is Passed to be Enacted.

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

The President pro tem would ask the Sergeant-at-Arms to escort the Senator from Penobscot, Senator Sewall, to the rostrum, where he may assume his duties as President.

The Sergeant-at-Arms escorted the Senator from Penobscot, Senator Sewall, to the Rostrum where he assumed his duties as President.

The Sergeant-at-Arms escorted the Senator

from Kennebec, Senator Katz, to his seat on the Floor of the Senate.

The PRESIDENT: The Chair thanks the Majority Floor Leader for his usual competent job.

Orders of the Day

The following matters, in the consideration of which the Senate was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 25.

The President laid before the Senate the First Tabled and specially assigned matter for May 30:

Bill, "An Act to Establish a Marijuana Therapeutic Research Program." (H. P. 523) (L. D. 665)

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

Pending—Consideration.

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

Senator GILL: I have been trying to get an amendment prepared from the department on what it might cost to have the program. They're trying to reach people in New Mexico who already have the program in existence. I'd ask this to be tabled for a couple of days or until later on in the day. I asked the department this morning and they still haven't received word on this. I would ask that someone may table it again.

On Motion by Senator Katz of Kennebec, Tabled until later in today's session, pending Consideration.

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

Senator KATZ: Is the Senate in possession of a Senate Order presented yesterday repealing Senate Rule 39?

The PRESIDENT: The Chair would answer the Senator in the affirmative.

Senator KATZ: Mr. President, I move that the Senate reconsider its action whereby we Passed this Senate Order.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that the Senate reconsider its action whereby the Senate repealed Senate Rule 39, "No Smoking shall be allowed within the Senate Chamber while the Senate is in Session."

Is this the pleasure of the Senate?

It is a vote.

Senator KATZ: Mr. President, I offer Senate Amendment "A" to the Senate Order and move its Adoption.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "A" to Senate Order repealing Rule 39, and moves its Adoption.

Senate Amendment "A" (S-268) Read.

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

Senator KATZ: Mr. President, after the extraordinary debate we just completed maybe we can keep this in its proper perspective. It is not an occasion for confrontation.

This just says for the next few days the matter is not repealed, it is just suspended. I hope that we can draw together and defer any final decision until we meet again in January.

Senate Amendment "A" Adopted.

Which was Passed, as amended.

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

On Motion by Senator Pierce of Kennebec, Recessed until 2 o'clock this afternoon.

(Recess)

(After Recess)

The Senate called to order by the President.

The President laid before the Senate the Second Tabled and specially assigned matter for May 30:

Bill, "An Act to Make Drinking in an Unlicensed Public Place a Class E Crime." (S. P. 2) (L. D. 2)

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

Pending—Passage to be Engrossed.

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

Senator FARLEY: Mr. President, I present Senate Amendment "A" to L. D. 2, under Filing Number S-257, and move its Adoption.

The PRESIDENT: The Senator from York, Senator Farley, offers Senate Amendment "A" to L. D. 2, and moves its Adoption.

Senate Amendment "A" (S-257) Read.

The PRESIDENT: The Senator has the floor.

Senator FARLEY: Mr. President and Members of the Senate: As we mentioned yesterday this merely changes the present bill and spells out the public drinking to highways, streets, lanes or sidewalks. Also has an emergency enactor on it.

Senate Amendment "A" Adopted.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the Third Tabled and specially assigned matter for May 30:

Bill, "An Act Concerning Persons Exposed to Diethylstilbestrol." (H. P. 499) (L. D. 635)

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

Pending—Enactment.

Which was Passed to be Enacted, and 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 for May 30:

Bill, "An Act to Correct Obsolete References in Title 30 of the Maine Revised Statutes." (S. P. 307) (L. D. 903)

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

Pending—Enactment.

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

The President laid before the Senate the Fifth Tabled and specially assigned matter for May 30:

Bill, "An Act Relating to the Purchase of Railroad Rights of Way." (H. P. 1042) (L. D. 1275) (Emergency)

Tabled—Earlier in the Day by Senator Redmond of Somerset.

Pending—Enactment.

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

Senator REDMOND: Am I correct? Is this L. D. 1275?

The PRESIDENT: The Chair would answer the Senator in the affirmative.

Senator REDMOND: Mr. President and Members of the Senate: The reason I was holding on to this bill was because this bill involved purchasing Railroad Right of Ways in Eastport and Bingham. Bingham is in my district. The people of Bingham did not want the State to purchase the railroad for them.

So I spoke to Mr. Mallar of the Department of Transportation last week and he agreed if the people of Bingham do not want the Department of Transportation to purchase the Railroad Right of Way from Bingham to North Anson, he would not do it. He asked me to get a letter from the people from Bingham to him, I have a copy of the letter here, I don't know

whether Mr. Mallar received it yet or not.

This letter indicates the people of Bingham do not want them to purchase the right of way. I also noticed on the Highway Allocation Act that had its first reading this morning in the Senate, L. D. 1594, that there's some monies there for the purchase of the right of way in Eastport and Bingham. I'm hoping to be able to present an amendment to L. D. 1549 tomorrow or when it gets its second reading.

If you'll bear with me I'd like to read this letter from the Office of the Selectmen, Assessors and Overseers of the poor municipality of Bingham to Mr. Roger Mallar.

"It's our understanding that the Department of Transportation's final plan is to acquire the abandoned railroad right of way from the Maine Central Railroad, after the track is removed. We further understand that such acquisition will require \$20,000 of State matching funds and \$80,000 of federal funds to be paid to the Maine Central Railroad.

The Bingham-Moscow area Chamber of Commerce, along with the Bingham Office of Selectmen feel that little will be accomplished of positive value to our area by the State's acquisition of this abandoned trackless right of way.

We, therefore, request that you do not spend state and federal funds in this manner, but rather allow the right of way to be disposed of along with the track as part of the normal process of abandonment."

This being an emergency measure and having received the affirmative votes of 22 members of the Senate, with 1 Senator voting in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate the Sixth Tabled and specially assigned matter for May 30:

Bill, "An Act to Prohibit Drinking in Public Under the Criminal Code." (H. P. 562) (L. D. 709)

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

Pending—Passage to be Engrossed.

On Motion by Senator Katz of Kennebec, retabled for 1 Legislative Day.

The President laid before the Senate the Seventh tabled and specially assigned matter for May 30:

SENATE REPORTS — from the Committee on Appropriations & Financial Affairs — RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit the Amount of State Expenditures which may be made from Undedicated Revenues without Voter Approval." (S. P. 96) (L. D. 182) Report A — Ought to Pass; Report B — Ought to Pass in New Draft under New Title of An Act to Limit the Amount of State Expenditures During any Fiscal Year." (S. P. 579) (L. D. 1641); Report C — Ought to Pass in New Draft under New Title of RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit the Amount of State Expenditures which may be made without Voter Approval." (S. P. 580) (L. D. 1640)

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

Pending—Acceptance of a Report.

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

Senator HUBER: I move acceptance of the Majority Ought to Pass, Report "A".

The PRESIDENT: The Senator from Cumberland, Senator Huber, moves the Senate accept the Majority Ought to Pass Report of the Committee Report "A".

Is this the pleasure of the Senate?

The Senator has the floor.

Senator HUBER: Mr. President and Members of the Senate: I'm sure this is not a new

subject to anyone within this Senate, except for perhaps some of the people who were not in the last Legislature. I'm sure it's not a new subject to them either.

This bill in Report "A" is the same as Report "C", which failed of initial passage in the House of Representatives, by only 4 votes in the disastrous Special Session at the latter part of the last year. The only change is the deletion of some words in the emergency section, which were objected to by a then Senator, and the change of the effective date.

Basically this deals with limitation of the State Government spending. I think the choices that have to be made or have to be considered are: should there be a limitation or a yardstick against the expenditures of State Government or should there be no limit? This would apply a yardstick against State Expenditures. If there should be a limit, should this be Constitutional or Statutory? This provides a Constitutional limitation. I would object to a statutory provision, as being too easily changed by the Legislature.

A third decision should be, should such an expenditure limitation deal with State Government, alone or other levels of government such as Counties, SAD's, Municipalities, etc. This deals only with the State level of government. Within State Government deals only with undedicated revenues. It does not deal with the dedicated revenues such as the Highway Fund, Fish and Game, etc. Specifically it also does not deal with Spruce Budworm Funding, which I for my own particular reasons have left for clarification by the Legislature one way or the other.

Spruce Budworm Funds are sort of in limbo. They're neither strictly dedicated or undedicated. I think if the Legislature considers this legislation it should clarify this one way or the other.

This would be a first step toward limitation of undedicated revenue expenditures, with State Government. Last year I think the last Legislature proved quite conclusively that a broker bill was incapable of passage. I do think the limitation should be considered a yardstick, rather than a cap or firm limit on State spending, and a yardstick beyond which the Legislature should explain its spending recommendations to the satisfaction of the people it represents.

Again this has been discussed at great lengths. I don't think it needs too much more discussion at this time. I would point out there are 2 other Reports. Report "B" signed by 3 Members of the Appropriations Committee, in the form of L. D. 1641 would provide a Statutory Expenditure Limitation requiring a 3/4 vote of the Members elected to each branch of the Legislature to exceed that limitation. Again, I would object to the statutory limitation as being still too easy to change by the Legislature.

Report "C" would include certain dedicated revenue accounts. This is something that certainly may be considered by the Legislature, but I think really the item presented in Report "A" is the simplest first step to an effective limitation of State expenditures. I hope the Senate would consider it favorably.

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

Senator NAJARIAN: Mr. President and Members of the Senate: I think Senator Huber from Cumberland, has pointed out some of the major differences between Report "A" and Report "B".

I would just say that it's my own feeling that we ought to have some experience with an expenditure limitation before we put it into the Constitution. Report "B" does require that exceeding the limit is more difficult than a simple 2/3's majority. It does require 3/4's of both branches present and voting, rather than a referendum. I feel that the Legislature could, if they wanted to, play games with this referendum on what they send out to referendum by

excluding things that they know would be popular for the voters and taking that out from under the limit, and sending that out to referendum.

Report "B" also includes all dedicated revenues except those that come from excise taxes collected under the Revised Statutes. I think that includes all things like the Professional Boards, the Blueberry Excise Tax, Potatoes, etc. But it would include the Highway Fund, I think if you're going to have expenditure limits, certainly the Highway Fund ought to be included and Fish and Game.

So I think you have 2 pretty clear choices here. You have expenditure limit, one that's constitutional and excludes certain things, and another that's statutory and tries to include everything that the Legislature normally considers.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of Accepting the Report "A", please rise in their places to be counted.

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

16 Senators having voted in the affirmative, and 9 Senators in the negative, the motion to Accept Report "A" does prevail.

The Ought to Pass Report "A" Accepted, and the Bill Read Once.

The PRESIDENT: Is it now the pleasure of the Senate to Suspend its Rules?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: I would object to Suspending the Rules, because I believe that the bill that is currently before us is a very important bill. It would at least be my hope that we would take the opportunity of looking it over very seriously this evening and debate it very fully tomorrow in its Second Reading.

The Bill, Tomorrow Assigned for Second Reading.

The President laid before the Senate the Eighth Tabled and specially assigned matter for May 30:

SENATE REPORTS — from the Committee on Appropriations and 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—Earlier in the Day by Senator Katz of Kennebec.

Pending—Motion of Senator Huber of Cumberland to Accept Minority Report.

The Minority Ought to Pass, Report of the Committee Accepted, and The Bill Read Once.

Under the Suspension of the Rules, the Bill was Read a Second Time, and Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the First Tabled and specially assigned matter for May 31:

Bill, "An Act Concerning the Profession of Public Accountancy." (H. P. 234) (L. D. 280)

Tabled—May 30, 1979 by Senator Chapman of Sagadahoc.

Pending—Motion of Senator Lovell of York to Indefinitely Postpone Senate Amendment "A" (S-252) to Committee Amendment "A" (H-497).

On Motion by Senator Chapman of Sagadahoc, Retabled until later in today's session.

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

Bill, "An Act to Increase the Dollar Amount of an Accident that must be Reported to the Secretary of State from \$200 to \$300." (H. P. 636) (L. D. 787)

Tabled—May 30, 1979 by Senator Katz of Kennebec.

Pending—Enactment.

On Motion by Senator Chapman of Sagadahoc, the Senate voted to Suspend the Rules.

On Motion by Senator Chapman of Sagadahoc, the Senate voted to Reconsider its action whereby L. D. 787 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".

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

Senator CHAPMAN: Mr. President, I now offer Senate Amendment "C" to Committee Amendment "A" under Filing Number S-265 and move its Adoption.

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

Senate Amendment "C" (S-265) Read.

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

Senator CHAPMAN: Mr. President, by way of explanation this amendment, adds into the statutes for the reports of highway accidents an accident that will happen not only on the public highway but on a place where public traffic may reasonably be anticipated.

The Business Legislation Committee is revising the financial responsibility law in this same respect. It's necessary and desirable to have the accident reports tracked similarly with the changes in that Financial Responsibility Law, this amendment would authorize those changes.

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

Senator MINKOWSKY: Mr. President, just a point of clarification from the good Senator from Sagadahoc, Senator Chapman. Am I to understand now that accidents that take place or cause deaths in private parking lots and shopping centers will be included in this particular report?

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

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, in response to the Senator from Androscoggin, Senator Minkowsky's question. Yes, it is the desire to have the Financial Responsibility Law apply not just to those that happen on the public way, but also on those areas such as the parking areas with shopping centers, and service stations as well, as far as the implementation of the Financial Responsibility Law.

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

Senator MINKOWSKY: Mr. President, I really question the jurisdiction of the State of Maine getting itself involved in the private parking lots or in the shopping malls to address this particular situation. I think that before we adopt this amendment, that there should be some type of ruling by the Attorney General's Office to say if this is the right way to handle the entire matter. I really have a question at the present time as to the legality, that the State of Maine can involve itself in this particular area.

I would suggest to the Senator from Sagadahoc, Senator Chapman, possibly that a ruling from the Attorney General's Office before this amendment is adopted would be more in line with the bill itself.

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

Senator CLARK: Mr. President and Members of the Senate: I would attempt to respond to the concerns expressed by the Senator from Androscoggin, Senator Minkowsky, under L. D.

309, which is "An Act to Revise the Financial Responsibility Law." The Committee on Business legislation has reported that bill out unanimously and it has met the test of Constitutionality within the Department of Attorney General for they, in fact, helped us write it.

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

Senator MINKOWSKY: Mr. President and Members of the Senate: If that is the case, I think before this amendment is adopted, at least, I would like to see the ruling from the Attorney General's Office, more or less making that particular point very clear. I have not seen it, at least, if the good Senator from Cumberland, Senator Clark, has that particular letter from the Attorney General's Office, then I think it would be incumbent upon her to read it into the record.

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

Senator CONLEY: Mr. President and Members of the Senate: I've difficulty with the additional language in the Senate Amendment. It goes on to state "or any place where public traffic may reasonably be anticipated." That could be your own driveway, that bothers me. Is this broadening of the language as being proposed by the good Senator from Sagadahoc, Senator Chapman. It certainly doesn't restrict the limitations where traffic can be anticipated. That would mean anywhere that you can drive a car. I just wonder what has happened to the rights of people who own farms, I always like to talk about rural Maine, I love it.

Yet get out into the cow pasture, I think they still refer to them as that, it's private land. Is this also taking people who would be out on somebody's farm? Would tractors or farm equipment be subject to this now?

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

Senator CHAPMAN: Mr. President and Members of the Senate: It certainly wasn't the intent that this would apply in that detailed a sense that the good Senator from Cumberland, Senator Conley, has just outlined.

The Committee on Business Legislation was guided by the legal expertise of attorneys on this matter. This language was presented to the committee as necessary to accomplish the committee's desires. We had before our committee in addition to a bill addressing the Financial Responsibility Law, 2 other bills addressing compulsory automobile insurance. For a number of reasons the committee felt that the compulsory approach was not a desirable approach, very expensive to administer.

We did feel that we wanted to tighten up the Financial Responsibility Law to some extent. A lot of the complaints in the inability of the Financial Responsibility Law to apply where a lot of accidents do occur, specially in shopping centers, parking areas and so on. This was an attempt to extend that law into those areas.

So perhaps, in order to clarify some of the questions, the Senator from Cumberland, Senator Clark might table this until later in today's session.

On Motion by Senator Clark of Cumberland, tabled for 1 Legislative Day, pending Adoption of Senate Amendment "C".

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

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)

Tabled—May 30, 1979 by Senator Pierce of Kennebec.

Pending—Enactment.

On Motion by Senator Pierce of Kennebec, Retabled.

The President laid before the Senate the Fourth Tabled and specially assigned matter: Bill, "An Act to Make Substantive Changes in the Forestry Statutes." (H. P. 1126) (L. D. 1396)

Tabled—May 30, 1979 by Senator Pierce of Kennebec.

Pending—Adoption of Senate Amendment "B" (S-254) to Committee Amendment "A" (H-428)

Senate Amendment "B" 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.

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

Enactors

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

An Act to Increase the Term of Special Licenses under the Marine Resources Law. (S. P. 169) (L. D. 370)

An Act to Amend the Maine Consumer Credit Code. (S. P. 243) (L. D. 692)

An Act Relating to the Listing of Contracts Made by Real Estate Brokers and Salesmen. (S. P. 389) (L. D. 1200)

An Act Concerning the Coordination of Health Services Funded Through the State and Federal Funds. (H. P. 737) (L. D. 924)

An Act to Clarify the Statutory Requirements for Issuance of Maine Guides Licenses. (S. P. 374) (L. D. 1154)

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 Establishing Mechanisms to Pinpoint Responsibility and Facilitate Coordination Between the Various Manpower Training and Economic Development Programs (H. P. 1418) (L. D. 1622)

Comes from the House, Indefinitely Postponed.

Which was Passed to be Enacted, in non-concurrence and signed by the President.

Sent down for concurrence.

Emergency

An Act to Increase the Self-imposed Tax on Blueberries to Support Research and Extension Work as to the Effects of Inflation, the Shortages of Fuel Oil and Promotional and Marketing Aspects to Keep Maine Blueberries Competitive in North America. (H. P. 1340) (L. D. 1584)

This being an emergency measure and having received the affirmative votes of 25 members of the Senate, with 1 Senator voting in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

An Act to Incorporate Standards in the Motor Vehicle Inspection Law and to Provide for Legislative Review of Rules Promulgated to Implement the Inspection Program. (H. P. 1423) (L. D. 1628)

On Motion by Senator Usher of Cumberland, the Senate voted to Suspend its Rules.

Senator USHER: I move that we Reconsider whereby this Bill was Passed to be Engrossed.

The PRESIDENT: The Senator from Cumberland, Senator Usher now moves that the Senate reconsider its action whereby the Bill (L. D. 1628) was Passed to be Engrossed.

Is this the pleasure of the Senate?

It is a vote.

Senator USHER: Mr. President I now offer Senate Amendment "A" to L. D. 1628 under filing number S-245.

The PRESIDENT: The Senator from Cumberland, Senator Usher now offers Senate

Amendment "A" to L. D. 1628 and moves its Adoption.

Senate Amendment "A" (S-245) Read.
Senator USHER: Thank you Mr. President. Members of the Senate: This is the result of a work session we had the first of the week in Transportation to clarify a few matters in this inspection situation.

This clarifies the full time stations and the part time station. Part time stations are something new, there are many businesses that don't want to take it full time. So we are establishing a class of part time stations for inspection.

Anybody that has a station open under 35 hours, may be classified as a part time station. A lot of rural areas, small towns, it enables them to be open a small amount of time, and still provide their inspections.

Senate Amendment "A" Adopted. The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

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

HOUSE OF REPRESENTATIVES

May 31, 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 former action whereby it accepted the Majority "Ought Not to Pass" Report of the Committee on Election Laws on Bill "An Act to Prohibit Voter Registration on Election Day with Certain Exceptions" (H. P. 1051) (L. D. 1302)

Respectfully,
S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.
HOUSE OF REPRESENTATIVES

May 31, 1979

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

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Establish Special Retirement Provisions for CETA Employees" (S. P. 268) (L. D. 809)

Mrs. BERUBE of Lewiston
Mr. PAUL of Sanford
Mr. GARSOE of Cumberland

Respectfully,
S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

HOUSE OF REPRESENTATIVES

May 31, 1979

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

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature 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)

Mrs. NELSON of Portland
Ms. BENOIT of South Portland
Mr. BROWN of Livermore Falls

Respectfully,
S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

HOUSE OF REPRESENTATIVES

May 31, 1978

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

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on 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)

Mr. DAVIES of Orono
Mr. CONNOLLY of Portland
Mr. LOWE of Winterport

Respectfully,
S/EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File

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

Joint Orders

Expressions of Legislative Sentiment recognizing that:

Bonnie Gould, daughter of Mr. and Mrs. Richard Gould of Greenville, is valedictorian of the 1979 graduating class of Greenville High School . . . (H. P. 1454)

May 28th through June 3rd is Vietnam Veterans Week in recognition of the great service performed for this country by citizens who served under difficult circumstances in the Vietnam War . . . (H. P. 1455)

Susan Higgins, daughter of Mr. and Mrs. William Higgins of Greenville, is salutatorian of the 1979 graduating class of Greenville High School . . . (H. P. 1453)

Ellen Berry, daughter of Mr. and Mrs. Edwin Berry of Brownville, is the valedictorian of the 1979 graduating class of Penquis Valley High School . . . (H. P. 1452)

Reuben T. Lumbra, son of Mr. and Mrs. Reuben W. Lumbra of Derby, is the salutatorian of the 1979 graduating class of Penquis Valley High School . . . (H. P. 1451)

Florence "Floss" Haskell of Limerick is retiring after 30 years of teaching in School Administrative District 57 . . . (H. P. 1450)

Charles H. Milan, III, of Bangor, former world candlepin bowling champion, has won the men's state candlepin championship for 1979 and his 18th Maine State Candlepin Association crown . . . (H. P. 1446)

Come from the House, Read and Passed.

Which were Read.

On Motion by Senator Conley of Cumberland, Passed, in concurrence.

(Off Record Remarks)

Joint Resolution STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-Nine

JOINT RESOLUTION RECOGNIZING THE NEED TO TRAIN WELFARE RECIPIENTS FOR PRODUCTIVE WORK

WHEREAS, for the past several years Maine has been in the demoralizing grip of severe unemployment; and

WHEREAS, many Maine children through divorce or death have been left with only one parent; and

WHEREAS, it is extremely difficult for the single parent to care properly for children and to also find work which will provide necessary income; now, therefore, be it

RESOLVED: That we, the members of the 109th Legislature, hereby record our strong

belief that more and better work opportunities are the most effective ways to remove the necessity of welfare payments to families with single parents; and be it further

RESOLVED: That we, as a Legislature, do hereby encourage all training programs and job development efforts designed to allow a single parent to both work and properly care for his children.

(H. P. 1458)

Comes from the House, Read and Adopted.
Which was Read.

On Motion by Senator Katz, Tabled for 1 Legislative Day, pending Adoption.

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

Papers from the House Non-concurrent Matter

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

In the Senate May 23, Passed to be Engrossed as amended by Senate Amendment "A" (S-216) and Committee Amendment "A" (H-438), in non-concurrence.

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-554), in non-concurrence.

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House? The Motion Prevailed.

Non-concurrent Matter

RESOLVE, Authorizing Aiden Redding, Victorian Villa, Maplewood Lodge, Mildred DeCoster, the Personal Care Boarding Home Association, Inc., et al, to Bring Civil Action against the State of Maine. (S. P. 424) (L. D. 1310)

In the Senate May 30, the Minority Ought Not to Pass Report Read and Accepted.

Comes from the House, the Resolve Passed to be Engrossed as amended by Committee Amendment "A" (S-248), in non-concurrence.

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

Senator FARLEY: I move we Recede and Concur, with the House.

The PRESIDENT: The Senator from York, Senator Farley, moves that the Senate Recede and Concur, with the House.

The Chair recognizes the Senator from Androscoggin, Senator Cote.

Senator COTE: This bill is not any better today than it was yesterday. It could cost the State some 5 millions of dollars. We killed it yesterday. I hope we defeat this motion so that we can Adhere.

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

S Senator FARLEY: Mr. President and Members of the Senate: I apologize for not being in the Senate yesterday when this bill came in on the calendar, was heard, but I'd like to today explain just what the bill is.

The purpose of L. D. 1310 is to simply allow a court test on whether or not the Department of Human Services Reimbursement Principles affecting boarding homes are consistent with State Law and with contracts entered into with these homes. It is important to note that the Committee Amendment limits total recovery to any such law suit to a total of \$125,000. Now that's in all of these boarding homes, which is not the case, for the purpose of bringing the court suit you had to include them all.

I think the approximate cost, if the courts did come out, is somewhere near about \$60,000. That prior to any liability whatsoever would be necessary for a court to determine that the State violated statutes enacted by this Legislature or contracts with regard to reimbursement principles therein.

Further enacting this Resolve we are in no way dictate to a court the outcome of any law

suit. Without this Resolve, however, it is quite possible that the boarding homes would be deprived of their opportunity to test these issues in a court of law due to application in the principle sovereign immunity which generally bars any law suits against the State.

This past summer in the case of Drake vs. Smith the law court overturned a find by the Superior Court that an individual nursing home had been unfairly penalized in reimbursements solely on the basis of application of this doctrine. By a margin of 11 to 2 the Committee on Legal Affairs reported this measure out Ought to Pass.

I would hope today that we would Recede and Concur, with the House, make a final determination on this at the time of Final Enactment. Thank you very much.

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

Senator COTE: Mr. President and Members of the Senate: I don't have any canned speech given to me by some lawyer. All I know is common sense. There's 102 of those homes. If they're allowed to sue the State for \$125,000 a piece, it could cost the State a lot of money.

My understanding they already have gone to court, and the court told them this: 'Well, get permission from the State. That's why they're here.' I don't think that at the time, there was no money available, that's why the money was not given. I don't think there's any more money available today, with all those L D's that are on the Appropriations Table.

So I think if we allow this to go through, I think it's very ridiculous, and I don't think we should. I hope that we defeat this motion, so that we can Adhere.

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

Senator FARLEY: Mr. President and Members of the Senate: I repeat the total if all the boarding homes included in this suit could find in their favor, the total would only be \$125,000.

The possibility of the more realistic figure is somewhere near 65 or \$75,000. That's if the court acted in their favor. These people entered into contracts with the State. They're now allegedly under contract that the State reneged on the costs of the boarding home care. They changed their mind. What happened to these people. All this Resolve does is merely say that these people have the right to go to court. Let the court decide. Did the State in fact, renege? Are they right or wrong. That's all.

If the courts do find in the favor of the boarding home, the money will not be appropriated until the next legislation session. So it's nothing that's going to lay on the table this session.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Androscoggin, Senator Cote.

Senator COTE: I request a Division.

The PRESIDENT: A Division has been requested.

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

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

6 Senators having voted in the affirmative and 19 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 to Amend the Stream Alteration Act." (H. P. 267) (L. D. 385)

In the House May 23, Passed to be Engrossed as amended by Committee Amendment "A" (H-457) as amended by House Amendment "A" (H-506) thereto.

In the Senate May 30, Passed to be Engrossed as amended by Committee Amendment "A" as

amended by Senate Amendment "A" (S-243) and House Amendment "A" thereto (H-506), in non-concurrence.

Comes from the House, that Body having Adhered.

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

Senator O'LEARY: I move that the Senate Recede and Concur.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, moves that the Senate Recede and Concur.

The Chair recognizes the Senator from Aroostook, Senator McBreaity.

Senator MCBREAIRTY: Mr. President, I move that the Senate Adhere.

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

Senator TROTZKY: Mr. President and Members of the Senate: I would oppose the Motion to Recede and Concur, with the House.

This Bill, "An Act to Amend the Stream Alteration Act" redefines the definition of Great Pond. Great Pond, in the present law includes an inland body of water in its natural state, and also an artificially formed body of water. What this bill does in part of it, in one section, it removes from the definition of Great Pond those bodies of water which are artificially formed or increased in surface area.

Senator Collins of Knox put an amendment on eliminating that section and the House Adhered without the Senate Amendment on. So I think this puts a lot of artificially formed lakes in a state where people can change the shoreline without getting permits from the DEP. So I see this as a large change in the law, and would hope that we would not Recede and Concur with the House.

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

Senator O'LEARY: I request permission of the Chair to Withdraw my Motion.

The PRESIDENT: The Senator from Oxford, Senator O'Leary Requests leave of the Senate to Withdraw his Motion to Recede and Concur with the House.

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

It is a vote.

Is it now the pleasure of the Senate to Adhere?

The Motion Prevailed.

House Paper

Bill, "An Act Creating the Cornish Water District." (H. P. 1457) (L. D. 1650)

Committee on Public Utilities suggested.

Comes from the House, Passed to be Engrossed without reference to Committee, and Ordered Printed.

On Motion by Senator Katz of Kennebec, Tabled for 1 Legislative Day, pending Reference to Committee.

Committee Reports

House

Leave to Withdraw

The Committee on Agriculture on, Bill, "An Act to Control Brucellosis in Cattle." (H. P. 537) (L. D. 668)

Reports that the same be granted to Leave to Withdraw.

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

Ought to Pass — As Amended

The Committee on Election Laws on, Bill, "An Act to Clarify the Requirements Relating to Campaign Reports and Finances." (H. P. 1050) (L. D. 1301)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (H-545)

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

Which Report was Read and Accepted, in concurrence, and the Bill Read Once.

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

Under Suspension of the Rules, the Bill was Read a Second Time, and Passed to be Engrossed as amended, in concurrence.

The Committee on State Government on, Bill, "An Act Authorizing a Study to Determine the Feasibility of Establishing a System of Youth Hostels." (H. P. 1000) (L. D. 1235)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (H-527).

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

Which Report was Read and Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence.

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

Orders of the Day

The Chair laid before the Senate. Bill, "An Act Relating to Access, Copying and Release of Medical Records." (H. P. 935) (L. D. 1165), tabled earlier in today's session, by Senator Conley of Cumberland, pending the Motion of Senator Collins of Knox to Accept the Majority Ought Not to Pass Report of the Committee.

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

Senator DEVOE: Thank you very much, Mr. President: Mr. President and Members of the Senate this bill deals with the patient's right of access to Hospital Medical Records.

We presently have a statute that is found in Title 22, Section 1761. Basically that statute now provides that after a patient is discharged from a hospital, he may make written request for copies of his or her medical records. That those medical records will be made available within a reasonable time unless in the opinion of the hospital it would be detrimental to the health of the patient to obtain the records.

There's a further provision in existing statutes that if the hospital is of the opinion that the release of records to the patient would be detrimental to the health of the patient, the hospital would advise the patient that copies shall be made available to the patient's authorized representative upon presentation of an authorization signed by the patient.

The bill, in its present form, as I read it, as amended by the 2 amendments, would provide that while the patient is still in the hospital he would be entitled to receive immediately his medical records as long as they are requested by an adult representative of the patient.

It was the view of the majority of people on the committee that there was very little need for the request of change in the statute.

Furthermore, I think philosophically we felt that notations made in medical records by doctors, by nurses, by other staff people in the hospital could possibly be subject, to be misconstrued by the patient who may from time to time be under the influence of some kind of medication that's prescribed for him or her, so that he may not view things as clearly as he should.

We also felt that maybe some expressions or comments that might be written in the hospital records might be subject to be misunderstood by the patient. Instead of accelerating his recovery, might in fact have the opposite effect of impeding his speedy recovery.

Now it may not be a burning issue as with some others that we've been debating during this session, but these, I think, are a fair representation of the majority of the thinking of the Judiciary Committee, when we reported this out Ought Not to Pass. Thank you very much, Mr. President.

The PRESIDENT: The Chair recognizes the

Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate: I would hope that you would not Accept the Ought Not to Pass Report today, so that we might accept the Ought to Pass Report.

This bill does indeed make some changes with regard to patient access to hospital medical records. I would like to outline those for you today. First of all it would change the existing law so that it would not only apply to hospitals, but it would also apply to nursing homes. The Committee on Aging is particularly interested in this change, because it has been abused in nursing homes and they would particularly like to have access to those records.

Secondly, there's a provision that the hospital or nursing home facility would post a notice that medical records would be available to the patient as specified under the law. As the good Senator has already pointed out, it would provide that a patient would have access to his records within a reasonable time frame while she or he were currently in the hospital as opposed as to just after discharge.

I think that's reflective of a view that's very important for the patient to be involved in his or her medical treatment. It's important to understand the processes which you're undergoing in any kind of health care facility, and that it indeed shouldn't be just within the scope of what the doctor feels is appropriate, but also what you in consultation with him feels is appropriate. That a sharing of any official documents is certainly well within the scope of patient's rights.

Fourthly, it changes the representative who may receive your records. If the hospital feels it would not be in your best interests to receive the records yourself, that that specified representative would be an adult.

It again allows, as current law does for the purchase of copies of a portion or all of the records. Another change, which I think is very important. It specifies how the release of records will occur, with a patient's consent. As it is now the records can be released to many individuals and the patient does not have to give his informed consent that these records can be released to those individuals.

Also under the new law there would be an expiration date of 2 years from the time of signing of an informed consent form, so that it can be reviewed periodically both by the patient and the institution. In other words the patient would have the ability to say to whom and when his records would be released.

The hospital would be asked to keep a record of all those to whom the records were released. Then there would be a civil violation of not less than \$250, if there was a violation of this bill.

I don't believe that current law goes far enough in spelling out exactly how medical records would be handled. I think it's important that individuals have access to something which is of a very personal nature to them. I think these represent good improvements to existing law.

On Motion by Senator Lovell of York, Retabled for 1 Legislative Day.

The Chair laid before the Senate, Bill, "An Act to Clarify the Form of the Local Consent Resolution regarding State Housing Authority, Housing Assistance Allocation." (H. P. 402) (L. D. 508), tabled earlier in today's session by Senator Pierce of Kennebec, pending the Motion by Senator Devoe of Penobscot, to Reconsider Passage to be Engrossed.

On Motion by Senator Pierce of Kennebec, Retabled for 1 Legislative Day.

The Chair laid before the Senate, Bill, "An Act to Establish a Marijuana Therapeutic Research Program." (H. P. 523) (L. D. 665), tabled earlier in today's session by Senator Katz of Kennebec, pending Consideration.

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

Senator GILL: Mr. President, I have asked for this bill to be tabled many times because I've been working to try to get an amendment, Fiscal Note put on this bill. Everyone in the department recognizes that there should be money put on. They're having trouble trying to decide how much money whether it's purely for administrative costs, whether it's purely for other things that could become involved. I've heard anywhere from \$4,000 to 40 or \$50,000. But instead of asking the Senate to wait until a Fiscal Note, I'm prepared to offer my reason why I don't think the bill should pass in the first place.

I didn't approve of it. I signed it out of committee that it shouldn't pass. I feel I have good reasons for doing this. The bill was presented under the guise of humaneness to relieve suffering of those people who are cancer victims, who are wracked with nausea and vomiting and who are victims of glaucoma and the ocular pressure that is ever present with glaucoma.

This Therapeutic Marijuana Research Program is now before us. It is another particularly emotion issue, because all of us have been exposed to the horrors of cancer either through friends or loved ones. We would do almost anything to prevent that disease and that suffering. Medicine through research has come a long way in finding cures for many dread diseases of the past, and it continues to do it with its research in ridding us of these most dreaded diseases.

We look at this and it's a Therapeutic Research Program. I went to Webster's New World Dictionary to look up to see what he thought research meant, to see if it was the same thing I felt it meant. It is, "Research is a careful, systematic, patient study and investigation in some field of knowledge, undertaken to establish or discover facts". Therapeutic, what does that mean? Therapeutic means to "nurse or treat medically".

Marijuana is not a medical treatment. I tried to bring that home when I spoke about it, seems like 2 weeks ago now, but Marijuana is not a cure, we're talking about some relief, possible relief to some victims. All tests admit that release has not come to 100% nor 60% of the people involved in research in the past.

Along with this step we find information that tells us of side effects, above and beyond the cancer, the nausea and the vomiting.

I'd like to go back to the human aspect to relieve the suffering. I think this is permissive legislation from the word 'go'. I don't think we should kid ourselves. I don't think we should lull ourselves into the position that we're thinking this is a humane approach. This is the dangerous position to take.

I can see expansion of this permissive legislation. We talk about suffering. I know some arthritics who suffer, they might get some relief. I know of people who wake up in the morning, they may get some relief. I know of people who just wake up in the morning and decide it's a bad day they don't want to fact, they might get some relief.

I see an expansion here. I look at what problems we have with existing situations now. We're talking about all the money spent on social problems. We get involved in social drinking, for instance, and all the abuses that come because of social drinking, and the money that's spent in that area. We talked about therapeutic drugs, that have been used effectively for diseases in the past. Now we see the abuses and we're taking care of those abuses under programs.

I think it would be very easy to legalize, after all, so that we can say that we allow sick people to have Marijuana. I think you look at that and say well, sick people can handle it. Well people can handle it even better. I think if you're going to legalize it, legalize it. Don't put it under the guise of a Marijuana Research Program.

I bothered to find out from the State of New Mexico what they are involved in, in their re-

search program. This is why I'm looking for a Fiscal Note, because all the materials and all the questionnaires that are asked of patients who are involved in it are pages. They're trying to get data. They're trying to get facts and see whether it really worked. This costs somebody something. The Department of Human Services is not going to be able to do this without additional funding. As they say, they recognized that fact, but it's a matter of coming up with funding. I don't think we've got the money that we can spend in it when we don't know really that it's going to be effective with that many people. I move that we Recede.

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

Senator LOVELL: Mr. President and Ladies and Gentlemen of the Senate, and as a pharmacist for 50 years, I trust most pharmacists and most doctors. I don't think that this is going to cause any problem, any more than having morphine, codeine and other dangerous drugs in the store.

We have several thousand dangerous therapeutic drugs that an overdose will kill. Now I know that an overdose of Marijuana won't kill, it'll put you to sleep. So consequently, if Marijuana will help save somebody's life, if they have glaucoma, if it will save them so that they can see a few years longer, let them try it out. Let's try this process out.

They have this bill amended so that you can't go wrong. The doctor's got to pay a fee, the druggist has got to pay a fee, the doctor has to write a prescription, and be a registered M. D. The House Amendment "A" you can't miss. The doctor writes a prescription and he has to have special permission from the Board. Now most doctors aren't even going to bother with it unless they have a cancer patient or a glaucoma patient and that cancer patient or glaucoma patient wants to try Marijuana to see if it is going to do him any good and God bless 'em, let 'em try it, cause it might help. You can't cure cancer, you can't cure glaucoma. Glaucoma is going to make you blind. Cancer's going to make you die. So I say let's pass this bill and try it out and if it doesn't work you can always bring it up again and knock it off. I think definitely we should try this out and I appreciate your attentiveness and I hope that you will go along with this bill.

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

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate: My good friend and colleague from Cumberland, Senator Gill has, if you really weren't paying attention would find out that she has muddied the waters so much, that it's hard to really tell what we're talking about here. I think she even confused the good Senator from York, Senator Lovell there for a little while.

This bill is not a cure for cancer and hasn't been purported to be a cure for cancer, and to suggest that it's going to drift into migraine headaches and all the other things that were suggested, I think is really stretching the imagination a long way.

This bill is very simply to take people that are dying and have had Chemotherapy and especially treatments that leave them in a very, very miserable shape and possibly make the days after the Chemotherapy Treatment a little bit more tolerable. Nothing more than that. I don't think there is any suggestion whatsoever, or at least not in my mind that this bill is to try to cure cancer or glaucoma. It's nothing more than to try to help people that are in a miserable state be less miserable.

I don't see any possibility, 'never say never, and forever is a long time,' so I guess there is always a possibility, but it would seem very unlikely to me that anyone would try to stretch this into being a remedy for other aches and pains. It's not what its for and its not what the intention of the bill is for and I would certainly urge you to defeat this Indefinite Postpone-

ment so that we can Concur with the House.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: I'm sort of pleased now, looking back that this bill has been held around for a few days because there happens to have been a couple of other States that have enacted similar legislation, since we last debated this bill. I think all the facts on both sides of the issue have been pretty well delineated. The bill very specifically nails down two particular conditions, glaucoma and chemotherapy. It in no way relates to arthritis, migraines, sunburn or anything else. I don't consider it to be permissive legislation. I think it's a long, long ways to consider that we might use this bill as a step toward legalization. I for one, most of you know it, would be one of the first opponents to any attempt to legalize.

As far as the side effects, the good Senator from Cumberland, Senator Gill referred to, I don't know what she is referring to, quite frankly, because I don't know what side effects have been discovered. I do have some information as to some of the well known reputable doctors, research facilities, such as Dr. Steven Salom from the Director of Clinical Research, Sidney Faber Cancer Institute supports this type of legislation. The President of the American Cancer Society, Gladman Memorial Hospital, Oakland, Calif., UCLA Research Psychiatry Department, you know, there has been overwhelming evidence that this does alleviate, that's all we're saying, it alleviates a little bit of human suffering.

I think back to the days of not too long ago, the great laetril discussion in this country which is still going on. One of the arguments that the medical profession puts forward against laetril is that it will prevent people from taking legitimate therapy, Chemotherapy, radiation treatment, whatever. You're going to mask it by using laetril and they are going to think to be cured. There are documented cases in this country of people saying, hey, I know Chemotherapy is good for me, but I can't take it any longer. I can't stand this any longer.

Over the weekend I had occasion to talk to the son-in-law of a constituent of mine who passed away, weighing about 75 pounds, going down from about 150, due not to the cancer, but due to the terrible sickness that was associated with the Chemotherapy.

So I hope that you will take a good hard look at this bill it hasn't been before us for a few days. Look at the other States, look at the red tape and the situation that's involved right now. Practically an impossible situation. New Mexico had four persons who were able to wade through the bureaucracy over the many years and get this prior to the enactment of their program. They presently have 40 physicians licensed.

I know that some physicians in the State of Maine have been opposed to this bill and I don't understand that. There isn't one thing in this bill that says that Doctor X has got to take on this program. It is permissive legislation in that respect, Doctor X has got to come to the State and say, Yes I do have some chemotherapy patients, Yes, I would like to try to give them some relief. No doctor in the State of Maine is going to be forced to take this program on. If they're anti-marijuana, so be it, but if they happen to be cancer specialists, and have the patients, and if they want to take it on, they pay a fee to get licensed. Then they prescribe it, and the prescription goes to the pharmacy. Another control, from the pharmacy it goes to the patient. If you look at the amendment that was tacked on in the other body, the confidentially amendment which was drafted by the Attorney General's Office which has the confidentiality problems taken care of, confidentiality does not apply, if there is any evidence that the patient is selling the Marijuana, or giving it away to somebody else, or if there

is any evidence that the doctor or pharmacy are not complying with the strictest letter of the law. There's no Fiscal Note needed on this bill. I have a letter on my desk from Mr. Fulton, Office of Drug and Alcohol Abuse Prevention, says that he can absorb the costs. There's a fee and then there's a per diem payment to the doctors who make up the licensing board. It's a washout situation.

The bill doesn't require the type of statistical reporting that the good Senator from Cumberland, Senator Gill alluded to in the bill in New Mexico. It's mis-named, I'll accept that, I'll agree with my colleague from Cumberland on that particular issue. It's mis-named, it should have been named something else. It was never the intent of the Committee or the sponsor, I don't believe to set up some sort of a huge statistic gathering, research program. We are not research physiologists or research hospitals, we are not in this State.

We're trying to be able to dispense something that, everybody agrees, is much less dangerous than the substances that the good Senator from York, Senator Lovell has already alluded to. So Mr. President I would make a move that the Senate would Recede and Concur and ask for the yeas and nays.

The PRESIDENT: The Chair advises the Senator that the Motion to Recede has previously been made and does carry a higher priority than to Recede and Concur.

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

Senator GILL: Mr. President I just noticed in the back of the Chamber was the representative from the Department of Human Services who has been trying to get the information for me and he came back and he has the information. They can take care of the situation without any additional cost.

It just makes me a little more suspicious how they can do this, because there is in the bill, or in the Committee Amendment A, if Marijuana is not available from the Food and Drug Administration, the State can contract for confiscated Marijuana. I'm sure that confiscated Marijuana will have to be tested would have to be handled before it was put out into the hands of patients to use.

I was told also by the Department of Human Services that they don't have the equipment to do this testing now. When Police Law Enforcement Agencies want to test confiscated goods to see whether it is Marijuana or what grade it is, then they contract, this out, to private agencies. If the State is going to be involved, we're going to have to buy some equipment to do this, but I don't want to prolong this, I think it is a bad bill. I think the reason we're here today talking about this so long is because we're talking about an illegal substance and we're trying to legalize it.

I think the title of the bill probably should have read, "legalize Marijuana for cancer and glaucoma patients," period, because that's just exactly what we're going to do, is legalize Marijuana.

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

Senator LOVELL: Just a couple of more words. On the amendment, this bill ends in 2 years. In other words, if it is not effective, it ends in 2 years. As far as adulteration of Marijuana, Marijuana is a leaf, and I have carried it in my drug store years ago when it was legal, and I had it in a tincture, a 10% tincture dissolved in alcohol which they used at the time as an aphrodisiac, in the tincture.

So consequently, I don't think that there is going to be any problem on adulteration because the leaf is a distinctive leaf and any ordinary druggist with experience can recognize the Marijuana leaf. Thank you.

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

Senator CARPENTER: Parliamentary Inquiry, I made a request for a Roll Call, is that

still in order?

The PRESIDENT: The Chair understood the request for a Roll Call was the Recede and Concur Motion or was it on the Recede Motion?

Senator CARPENTER: That's correct. Mr. President, and Ladies and Gentlemen of the Senate: I would hope that we would go along with the Recede motion this afternoon, and get this bill in a posture that we can perhaps later Concur.

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

Senator CONLEY: Mr. President, a Parliamentary Inquiry, once we Recede, the Motion to Concur would be in order?

The PRESIDENT: The Chair would advise the Senator the Motion to Concur would be the highest priority.

Senator CONLEY: Thank you very much, Mr. President.

The PRESIDENT: The Chair will order a Division.

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

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

25 Senators having voted in the affirmative, and 3 Senators in the negative, the Motion to Recede does prevail.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I move that the Senate concur with the House.

The PRESIDENT: The Senator from Cumberland, Senator Conley, moves that the Senate Concur with the House.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: 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 Motion by the Senator from Cumberland, Senator Conley, that the Senate Concur, with the House.

A Yes vote will be in favor of the Motion to Concur.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Carpenter, Chapman, Clark, Conley, Cote, Emerson, Farley, Huber, Katz, Lovell, Martin, McBreairey, Minkowsky, Najarian, O'Leary, Pierce, Pray, Shute, Sutton, Trafton, Trotzky, Usher.

NAY—Danton, Devoe, Gill, Hichens, Perkins, Redmond, Silverman, Teague.

ABSENT—Collins.

A Roll Call was had.

23 Senators having voted in the affirmative, and 8 Senators in the negative, with 1 Senator being absent, the Motion to Concur does prevail.

The Chair laid before the Senate Bill, "An Act Concerning the Profession of Public Accountancy." (H. P. 234) (L. D. 280), tabled earlier in today's session by Senator Chapman of Sagadahoc, pending the Motion of Senator Lovell of York.

On Motion by Senator Chapman of Sagadahoc, Retabled for 1 Legislative Day.

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

"Senate Order relative to adding a new Senate Rule "39" tabled earlier in today's ses-

sion by the Senator from Kennebec, Senator Katz pending Passage.

Senator KATZ: I move this Senate Order be Indefinitely Postponed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves this Order be Indefinitely Postponed.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Kennebec, Senator Conley.

Senator CONLEY: I move this item lie on the Table.

The PRESIDENT: The Senator from Cumberland, Senator Conley, moves that this item be tabled.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, I request a Division, if indeed there was a Tabling Motion made.

The PRESIDENT: A Division has been requested.

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

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

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

Is it now the pleasure of the Senate to Indefinitely Postpone?

It is a vote.

Senator Hichens of York, was granted unanimous consent to address the Senate, Off the Record.

Senator Farley of York, was granted unanimous consent to address the Senate, Off the Record.

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

Bill, "An Act to Authorize Bond Issue in the Amount of \$22,000,000 for Highway and Bridge Improvements." (H. P. 1277) (L. D. 1529)

Tabled—May 17, 1979 by Senator Katz of Kennebec.

Pending—Passage to be Engrossed.

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

Senator KATZ: Mr. President, I now offer Senate Amendment "A" to L. D. 1529 under Filing S-269 and move its Adoption. I would like to speak to my motion.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now offers Senate Amendment "A" to L. D. 1529 and moves its Adoption. Senate Amendment "A" (S-269) Read.

Senator KATZ: Mr. President, it's been a long time since we started talking about the \$33,000,000 total needs of the Department of Transportation.

This bond issue which was proposed by the Governor as part of his program at a level of \$22,000,000 exceeds by about \$11,000,000 the number of bonds that we are going to probably be retiring during the next Biennium. The Statement of Fact on this amendment indicates that the purpose is to reduce the proposed bond issue to the approximate level at which existing bonds will be retired during the biennium.

I am concerned that there has been little movement in the Highway Program. Apparently a few solutions or alternatives or accommodations coming before us. My purpose in offering this amendment and moving its Adoption today is to at least start a debate as to how we're going to fund our Highway Program.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: Mr. President and Members of the Senate. I rise to take exception to the Majority Floor Leader's approach. He is right when he says eleven million dollars of retired bonding is what is taking place in the

Highway Department over this biennium. That this approach is for twenty-two million dollars worth of bonding. I don't think he is right to put an amendment on the Highway Funding Bill reducing it to twenty-two million dollars and then saying we're going to throw it in the Governor's lap, what are we going to do for a highway program.

What we have got before us, and I think we all should consider it, especially those from rural Maine. We've got in jeopardy the skinny mix program and that's the resurfacing program that many of our areas vitally need if we don't, our roads are going to be in terrible shape. That's worth 6 million bucks. The bonus to the towns for snow removal, sanding, and plowing, and so forth which my towns, and it has to be your towns too, I don't care, where you're from, are complaining now that its too low, way too low. That can be jeopardy for 2.7 dollars.

It's my opinion, that over the years, and I'd take and criticize the former Independent Governor on this, that we have neglected proper financing of our highway program. I realize in the Portland area it's not a problem. You have the very best of roads going in every direction. But when you start talking about Somerset, Aroostook, Piscataquis, Penobscot, Hancock, your talking a different ball game, we don't have.

I'm not saying that the Senator's approach in the final solution might merit recognition, but I am saying at this time, if we cut the bond issue in half we are starting to gamble on what our towns and rural roads are going to have for a highway program, and this is serious. I would hope on a Roll Call vote that we reject this amendment and the parties regardless, of course I'm only one here, that the two parties get together and come up with a properly administrative highway program that is needed in this State and not play politics with it.

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

Senator KATZ: Mr. President and Members of the Senate: Speaking for members of my party, we identify the need for funding a program to meet the needs of our Department of Transportation. Apparently it comes to 33 million dollars. We accept that figure and I believe, although we've never taken a formal vote, we support that figure.

What this amendment says is that we as a matter of policy are in no mood to go into a borrowing program for a continuing need that exceeds the amount of bonds that are being retired, and we feel that this is fiscally prudent.

Now it's all very easy for the Senator from Washington, Senator Silverman to suggest that two parties get together and solve this issue. Well, being a member of a party doesn't offer any magical abilities to solve an issue when your hands are tied. Under the best of circumstances it is extremely difficult to presume that two-thirds of both houses are going to raise 33 million dollars of new money, when one of the alternatives is not a viable alternative because the Governor has said that he will veto it if we propose, and if we enact it, and I respect him for being completely candid, and I accept his statement as gospel. Then it's all very, very much more difficult, and I think that our hands are tied and we're reflecting a policy here today with respect to how much we should borrow to meet this continuing highway need.

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

Senator CONLEY: Mr. President and Members of the Senate: I just think that these closing days of the Session would be an extremely bad thing for us to become polarized in any one given position with respect to the funding of this particular program.

The good Senator from Kennebec, Senator Katz, has clearly stated what the Governor's position is and he has certainly reiterated it

himself, that is, the Chief Executive, on many occasions long prior to him becoming Governor, that this administration would accept no type of a tax increase.

With respect to the retirement of eleven million dollars in bonds, I think it would probably be best for people to understand exactly what is being retired in the nature of bonds for this biennium. Its not eleven million, but it comes to the neighborhood of 47.2 million dollars that will be retired in this biennium.

There is a question as to whether or not we are going to fund a highway program that practically every member of this Legislature recognizes as being, not only vital, but an extreme need, an extreme need within this state.

All the members of leadership were invited to the Blaine House, just a week or so ago, with the Commissioner of Transportation, where he presented slides to the leadership of the problems that we are confronted with the number of bridges throughout the State. The number of highways that are deteriorating. There are many who are concerned today about the energy programs that are being brought about and the 15% cut back in gasoline that we are going to be faced with.

It wouldn't make any difference if they cut it back 25%, because the fact is that people are still going to be traveling the highways and those needs are still there to be met. I hope that the Senate will reject the proposed amendment, because I think it's imperative if we are going to have a highway program, unless there is some other viable means to bring forward to support the construction program that the highway department needs, then I would urge the Senate to reject this amendment.

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

Senator TROTZKY: Mr. President and Members of the Senate: During the Memorial Day Weekend I drove my family on some of the highways in the State. There were quite a few potholes on the highways, one of them which I hit very hard.

Today's cars don't cost \$3,000 any more, they cost \$6,000, \$7,000, \$8,000. When you start hitting these bumps and hitting some of the potholes on the highways today, it starts costing the people of this State quite a few dollars.

I do not believe the people of this State are opposed to legitimate taxes. I feel that the proper way to fund the Highway Program is by a legitimate gas tax. If we look at what's going, at least in my city, I see what's going on. The price of gasoline, I recall in the last few months has gone from something like 63¢ to 83¢, 20¢ it's gone up and everybody's racing to see whose going to reach \$1.00 first. Where does the money go? The money goes to Saudi Arabia, the money goes to Venezuela, the money goes out of the country, or also goes to the American Oil Companies. If we put whatever's needed, 2 or 3¢ tax on gas, that money at least goes into our own roads.

I feel that as Legislators that we have responsibility to do what each of us feels is right whether or not the Governor's going to veto the bill. That's his responsibility. If the Governor vetoes the bill, he has to face the consequences. I do not feel embarrassed in any way in voting for a gas tax and going back to the people in my city and say I voted for one.

So to me this is the appropriate way of funding the Highway Program. Also in bonding what we're doing is we're making future generations pay for our highways. In the gas tax we also take people coming in from out-of-state, for example, during the summer, tourists, they start paying for our highways.

So I hope that this legislature would consider the possibility of a legitimate gas tax. I think the people are not opposed to that, knowing what the conditions of the highways are today.

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

Senator LOVELL: Mr. President, and Ladies and Gentlemen: I might just as well get in the act too. The Maine Turnpike takes in \$13,000,000 and it costs \$5,000,000 to maintain it, we've got \$8,000,000 left over. So all we add is 50% of the money taken in by the Maine Turnpike pay for out-of-state people. So all we got to do is keep the Maine Turnpike on. After the first 2 years, we've got to pay \$5,000,000 to the government and we'll have \$3,000,000 over. After that we'll have \$8,000,000 a year to take care of the roads. We won't have to have any bond issues and won't have to pay any interest.

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

Senator O'LEARY: Mr. President, I think if what this amendment really does is leaves in Washington, D. C. \$47,000,000 that rightfully belongs to the people of Maine for our highways. I've described to you one of the roads in my area, the most scenic highway in the State of Maine, which will be not a road in another 3 years.

It disturbs me that our committee travels through the Boothbay Harbor area inspecting bridges, and down here through Hallowell, and the bridge that goes from Wiscasset to Edgcomb. These bridges are in deplorable condition. They look fine when you ride on top of them, but you get underneath and take a look. We have a serious problem here in the State of Maine. An \$11,000,000 bond issue isn't going to do the job.

I would even support a higher bond issue if I had the opportunity. I move for the Indefinite Postponement of this Amendment.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: Mr. President and Members of the Senate: I'd like to respond to the Senator from Penobscot, Senator Trotzky. If you think you can put a gas tax through this Senate and this House, then put it through. Let's see what happens, but don't go taking \$11,000,000 off this bill at this time, because you're going to have to have something to turn to if you can't do it.

You can Table this bill. You can leave it. You can have someone in the House put in a tax bill. I don't care how much you want 2, or 3¢ per gallon. See if you can override a Governor's veto. If you can everyone will be happy. If you can't you've got to come back to this bill. So there's no sense of watering it down at this time. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Katz.

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

Somehow the debate gets off track. No one's raising any questions about the need to repair the potholes that jar your teeth and hurt your car. No one is denying the need for a dependable transportation system in the State of Maine. There are 2 parts to this program. One for the on-going maintenance of our roads, which is about \$11,000,000 as I understand it. The bond issue has taken care of capital needs, bridges and others.

It's the business of the legislature to establish policy. Implicit in this single amendment is a single policy, that with respect to borrowing for capital construction, we choose not to borrow more to take care of our highway and bridge needs than those bonds which we are retiring from that department during the biennium. We're not saying anything about the \$11,000,000 on operations. We're not suggesting to you how the missing \$11,000,000 for capital construction should be raised.

There are other minds and other people and other efforts being made. What we're asking you to do today is not make the judgment on the total needs of the program, but just to establish the policy as to what extent we should go and

pay as you go, and what extent we should borrow.

I will tell you that it's my understanding that a \$22,000,000 bond issue is going to cost somebody in excess of \$13,000,000 in interest before it's paid off.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President and Members of the Senate: As I look at this issue, I become very concerned about some of the individuals who are addressing the issue. I quickly see something which I fear and hope is not establishing an urban vs. rural area.

We all know the size of the State of Maine, and how it compares with the rest of New England, and how important our highways become particularly to those of us from the Northern Part of the State or the rural areas of the State.

I think if we assess the position of bonding vs. a pay as you go capital outlay, if we adopted that throughout society, we'd have a lot less housing being built in this country. That's basically what we're doing. When an individual wants to build a home, he goes out and borrows the money and builds the home and has that to enjoy for the rest of their life, as long as they desire to live in that home or whatnot.

The question about the highways and the importance of it. The Senator from Somerset, Senator Redmond, is constantly talking about an attempt to bring in new industries, new business. One of the greatest expenses to businesses in the State of Maine is the transportation costs from the market.

If we do not address the situation and the need, and the Senator from Kennebec, Senator Katz, said the need is there. Nobody's arguing the need, he says, but the question as to how are we going to fund maintaining and the capital improvement and the capital cost of that highway. I disagree with the statement that because if we borrow the money today, then in the long run it's going to cost us a great deal more. All we have to do is stop and look at the cost in the Highway Department over the last few years, see how much those costs have increased.

Again I can very quickly go back to the Housing Industry, knowing some individuals who bought houses 10 to 15 years ago. Even at the rate of interest they were paying, they have come out ahead with just the increased cost in housing. The same thing is going to happen to the highways.

If we allow these highways to deteriorate to a worse condition, we're going to have a number of industries who are going to say that it's not feasible for them to come in here, because they have to transport to the Boston Market, or to the Coast, and the highways are not adequate to do so.

I think that if we're going to address this situation in a total perspective of the long range plan for a better Maine, and we have to address the total picture and not cut it in half and basically have no solution to the problem at hand.

The PRESIDENT: Is the Senate ready for the question?

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 Oxford, Senator O'Leary, that Senate Amendment "A" be Indefinitely Postponed.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

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

ROLL CALL

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

NAY—Ault, Chapman, Cote, Devoe, Emerson, Gill, Hichens, Huber, Katz, Lovell, McBreairty, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trotzky.

ABSENT—Collins.

A Roll Call was had.

13 Senators having voted in the affirmative, and 18 Senators in the negative, with 1 Senator being absent, the Motion to Indefinitely Postpone Senate Amendment "A" does not prevail.

Senate Amendment "A" Adopted. The Bill, as amended, Passed to be Engrossed, in non-concurrence. Sent down for concurrence.

There being no objection, all items previously acted upon were sent forthwith.

The Chair appointed on the part of the Senate as Conferees on "An Act to Provide a Grant to Community Health Services, Inc., Long Term Care Demonstration Project". (H. P. 1087) (L. D. 1343):

Sensors:

PIERCE of Kennebec
PERKINS of Hancock
COTE of Androscoggin

The Chair appointed on the part of the Senate as Conferees on "An Act Relating to Resident State Police Troopers" (H. P. 841) (L. D. 1069)

Sensors:

SHUTE of Waldo
PIERCE of Kennebec
CONLEY of Cumberland

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

Sensors:

DEVOE of Penobscot
EMERSON of Penobscot
FARLEY of York

The Chair appointed on the part of the Senate as Conferees on "An Act Concerning Arbitration Involving Municipal Fire and Police Departments". (H. P. 1191) (L. D. 1463)

Sensors:

SUTTON of Oxford
TROTZKY of Penobscot
DANTON of York

The Chair appointed on the part of the Senate as Conferees on "An Act to Assist School Administration Units in Addressing Problems Associated with Alcohol, Tobacco, and Drug Use and Abuse" (S. P. 209) (L. D. 582)

Sensors:

GILL of Cumberland
TROTZKY of Penobscot
NAJARIAN of Cumberland

The Chair appointed on the part of the Senate as Conferees on "An Act to Protect Management Personnel where Unjustly Discharged or Involuntarily Retired". (H. P. 748) (L. D. 957)

Sensors:

SUTTON of Oxford
LOVELL of York
PRAY of Penobscot

The Chair appointed on the part of the Senate as Conferees on "An Act to Establish Special Retirement Provision for CETA Employees" (S. P. 268) (L. D. 809):

Sensors:

LOVELL of York
SILVERMAN of Washington
CLARK of Cumberland

On motion by Senator Pierce of Kennebec,
adjourned until 2 o'clock tomorrow afternoon.